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Friday
July 5, 1996

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WASHINGTON, DC

[Two Sessions]

WHEN: July 9, 1996 at 9:00 am, and July 23, 1996 at 9:00 am.

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Presidential Documents

Title 3—

The President

Proclamation 6907 of July 1, 1996

Declaration of a State of Emergency and Release of Feed Grain From the Disaster Reserve

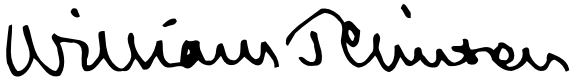
By the President of the United States of America

A Proclamation

WHEREAS, an extended drought and other natural disasters in feed grain-producing areas of the United States have caused significant reductions in feed grain supplies and severe hardship to livestock producers;

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a) (the ''Act''), do hereby find and proclaim that the extended drought in the Southwest and other natural disasters in other feed grain areas of the United States have resulted in a state of emergency and that the state of emergency warrants the release of the reserve established pursuant to section 813(a) of the Act (7 U.S.C. 1427a(a)). Accordingly, I hereby declare that such amounts of the reserve as determined necessary by the Secretary of Agriculture (''the Secretary'') should be disposed of by the Secretary as authorized by the Act.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of July, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.



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Rules and Regulations

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

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

DEPARTMENT OF ENERGY

5 CFR Chapter XXIII

10 CFR Part 1010

RINs 1990–AA04, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Energy

AGENCY: Department of Energy (DOE).

ACTION: Interim final rule with invitation for comments.

SUMMARY: The Department of Energy, with the concurrence of the Office of Government Ethics (OGE), is issuing a regulation for employees of DOE that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. This interim rule is a necessary supplement to the Standards because it addresses ethical issues unique to DOE. The supplemental regulation requires DOE employees to seek approval from management prior to engaging in certain outside activities. The supplemental regulation also requires employees to document recusals in writing. DOE is also revising its residual standards regulation in its own CFR title and adding a cross-reference to the new provisions.

DATES: These regulations take effect July 5, 1996. Comments must be received on or before September 3, 1996.

ADDRESSES: All comments concerning these regulations should be addressed to Susan Beard (Deputy Assistant General Counsel for Standards of Conduct), Office of the Assistant General Counsel for General Law, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Susan Beard (Deputy Assistant General Counsel for Standards of Conduct), Office of the Assistant General Counsel for General Law, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, telephone 202–586–1522.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published the Standards of Ethical Conduct for Employees of the Executive Branch. See 57 FR 35006–35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391 and 60 FR 66857–66858. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct applicable to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive agencies to publish agency-specific supplemental regulations that are necessary to implement an agency's ethics program. DOE, with OGE's concurrence, has determined that the following supplemental rules, being codified in new chapter XXIII of 5 CFR, consisting of part 3301, are necessary for successful implementation of DOE's ethics program.

II. Analysis of the Regulations

Section 3301.101 General

Section 3301.101 explains that the regulations contained in the interim rule apply to all employees of the Department of Energy, with the exception of employees of the Federal Energy Regulatory Commission, and are supplemental to the uniform executive branch standards at 5 CFR part 2635. The Federal Energy Regulatory Commission was established as part of DOE by sections 204 and 401 of the Department of Energy Organization Act (Pub. L. 95–91, codified at 42 U.S.C. 7134 & 7171). Section 401(d) of that Act specifies that employees of the Federal Energy Regulatory Commission shall not be subject to supervision or direction of any officer, employee, or agent of any other part of DOE. Accordingly, employees of the Federal Energy Regulatory Commission are not subject to these regulations.

This section also notes that DOE employees are subject to the executive branch financial disclosure regulations at 5 CFR part 2634, and additional rules of conduct published in 5 CFR part 735 and DOE's Conduct of Employees Regulation at 10 CFR part 1010. In addition, this section contains definitions of the terms used in this part. ''Agency designee'' is defined as an employee's immediate supervisor. This supplement to the definition of this term at 5 CFR 2635.102(b) is needed so that DOE employees know how to contact their agency designee. This section also defines the term ''counselor,'' a term that has historically been used at DOE, to identify the persons primarily responsible for providing counseling on ethics and standards of conduct matters.

Section 3301.102 Procedure for Accomplishing Disqualification

Section 3301.102 of the interim rule supplements the Standards for disqualification contained in 5 CFR part 2635 by requiring written notice of employee disqualifications under 5 CFR 2635.402(c), 2635.502(e) and 2635.604. In the past, it has been DOE's practice to require a written notice of employee disqualification. DOE has determined that it is necessary to the success of its ethics program to continue its procedures for written notice of employee disqualification. DOE recognizes the problems noted by the Office of Government Ethics in adopting a requirement for written notice of disqualification on an executive branch-wide basis. See 57 FR 35024. It is not DOE's purpose to impose an overly technical requirement that would result in disciplining an employee for failure to provide written notice by some arbitrary deadline. Thus, the notice requirement imposed by this regulation is phrased to give an employee flexibility in determining precisely when the employee will give notice of disqualification from a matter to which the employee has been assigned. Notice is to be given when the employee determines that he or she will not participate in the matter. In no way does the notice requirement affect the employee's obligation not to participate in the matter.

Section 3301.103 Prior Approval for Outside Employment

The Standards, at 5 CFR 2635.803, recognize that individual agencies may find it necessary or desirable to

supplement the executive branch-wide regulations with a requirement that their employees obtain approval prior to engaging in outside activities. Pursuant to 10 CFR 1010.204, which is being repealed in this rulemaking document, the Department of Energy has long required employees, other than special Government employees, to provide written notification, and in some cases, to obtain written permission before engaging in certain outside activities or employment. The Department has found this requirement useful in ensuring that employees' outside activities conform to all applicable laws and regulations, and, in accordance with 5 CFR 2635.803, has determined that it is necessary to the administration of its ethics program to require any employee of DOE who wants to engage in outside employment to obtain prior approval of such activity from the employee's supervisor and the counselor.

Accordingly, new § 3301.103(a) imposes a requirement on employees to obtain written approval from their immediate supervisors before engaging in such activities, and describes what must be contained in the approval form. To ensure that this provision is not itself construed as authority to deny permission to engage in any outside activity, § 3301.103(b) specifies that approval will be granted unless the activity is expected to involve conduct prohibited by statute or regulation. Section 3301.103(c) defines outside ''employment'' to include any non-Federal employment involving the provision of personal services by the employee.

III. Repeal and Revision of Department of Energy Conduct of Employees Regulations

On November 30, 1993, the National Defense Authorization Act for Fiscal Year 1994 was enacted. Pub. L. 103–160, sec. 3161. That statute repealed certain statutory conflict-of-interest provisions applicable to DOE employees. On February 10, 1996, the National Defense Authorization Act for Fiscal Year 1996 was enacted. Public Law 104–106. That statute repealed the remaining statutory conflict-of-interest provisions that were unique to DOE. Accordingly, DOE is repealing the regulatory provisions in 10 CFR part 1010 implementing the repealed statutory provisions. This repeal also applies to those provisions of part 1010 that were applicable to the Federal Energy Regulatory Commission (FERC). The FERC is an independent regulatory commission within the DOE and, to an extent, is subject to DOE rulemaking authority. 42 U.S.C. §§ 7134, 7171, & 7254. The FERC has agreed to DOE's repeal of this provision, and FERC has indicated its intention to publish its own supplemental regulations pursuant to its own regulatory authority.

Because much of the remainder of 10 CFR part 1010, DOE's Conduct of Employees regulation, is largely superseded by new chapter XXIII of title 5, as added by this rulemaking, and the provisions of 5 CFR part 2635, DOE is herewith amending part 1010 to remove the existing provisions, with the exception of the provisions concerning reporting fraud, waste, abuse, and corruption, cooperation with the Inspector General, and the conflict of interest waiver for widely diversified mutual funds. The latter provision will only remain in effect until the Office of Government Ethics publishes final regulations on 18 U.S.C. 208 (at which time DOE will repeal the residual waiver provision at § 1010.105). A new cross-reference provision is also being added to part 1010 to refer to the executive branch-wide Standards and financial disclosure regulation as well as the new DOE supplemental standards regulation.

Section 1010.101 General

Section 1010.101 explains that these regulations apply to DOE employees, excluding employees of the Federal Energy Regulatory Commission.

Section 1010.102 Cross Reference to Employee Ethical Conduct Standards and Financial Disclosure Regulations

Section 1010.102 provides cross-references to the executive branch-wide Standards at 5 CFR part 2635, to DOE's new supplemental regulation at 5 CFR part 3301, to the executive branch financial disclosure regulation at 5 CFR part 2634, and to the executive branch-wide employee responsibilities and conduct regulation at 5 CFR part 735.

Section 1010.103 Reporting Fraud, Waste, Abuse, and Corruption

Section 1010.103 assists employees in adhering to the general principle of ethical conduct at 5 CFR 2635.101(b)(11), under which an employee shall disclose waste, fraud, abuse, and corruption to appropriate authorities. It identifies the Department's Office of Inspector General as an authority to which it would be appropriate for an employee to disclose waste, fraud, abuse, and corruption. In addition, this section institutes a procedure by which appropriate authorities within the Department who receive such allegations that involve the ethical restrictions cross-referenced in § 1010.102 of this part shall refer those allegations to the designated agency ethics official or his delegatee, or the Inspector General.

Section 1010.104 Cooperation with the Inspector General

This section requires employees to cooperate with official inquiries. Section 2(1) & (2) of the Inspector General Act, 5 U.S.C. app. sec. 2, provides that the Inspector General shall be responsible for conducting investigative activities relating to the promotion of economy and efficiency in the administration of, or the detection and prevention of fraud and abuse in, programs and operations of the Department. This regulation is intended to facilitate such activities and those activities provided for in section 6 of the Inspector General Act, including accessing materials and information with respect to agency programs and operations.

Section 1010.105 Conflict of Interest Waiver

This section grandfathers an existing exemption to the prohibition of 5 CFR 2635.402(a). It exempts ownership of stock in a widely diversified mutual fund or other regulated investment company that in turn owns stock in, or bonds of, another enterprise. This provision will be repealed by DOE when the Office of Government Ethics publishes its final regulation on 18 U.S.C. 208.

IV. Matters of Regulatory Procedure

Review Under Executive Order 12866

Today's regulatory action has been determined by the Department of Energy not to be a ''significant regulatory action'' under Executive order 12866,

''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive order by the Office of Information and Regulatory Affairs.

Review Under the Regulatory Flexibility Act

Pursuant to section 605 of the Regulatory Flexibility Act (Pub. L. 96–354), it is hereby certified that the interim final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. It is related solely to internal agency organization, management, or personnel.

Review Under the National Environmental Policy Act

This rule revises DOE's regulations on standards of conduct. It will not change the environmental effects of the regulations being amended. The Department has therefore determined that the rule is covered under the Categorical Exclusion found at paragraph A.5 of appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings interpreting or amending an existing rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

Review Under the Paperwork Reduction Act

This interim final rule does not impose a ''collection of information'' requirement, as defined in 44 U.S.C. 3502(4).

Review Under Executive Order 12988

Section 3 of Executive order 12988 on Civil Justice Reform, 61 FR 4729 (February 7, 1996), instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in section 3(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that regulation describes any administrative proceeding to be available prior to judicial review and any provisions for the exhaustion of administrative remedies. The Department has determined that today's regulatory action meets the requirements of sections 3(a) and (b) of Executive order 12988.

Administrative Procedure Act

Since these interim final regulations relate to agency management and personnel, they are exempt from notice and comment rulemaking requirements under the Administrative Procedure Act. 5 U.S.C. § 553(a). Accordingly, DOE is neither giving prior notice nor providing for a 30-day hiatus between the date of publication and the date the regulations take effect. However, DOE will consider public comments made within 60 days after the publication of this interim final rule.

Congressional Notification

The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates. 5 U.S.C. 801. That reporting requirement does not apply to the interim final rule in this notice because it falls within a statutory exception for rules relating to agency management personnel. 5 U.S.C. 804(3)(B).

List of Subjects

5 CFR Part 3301

Conflict of interests, Government employees, Energy Department, Standards of conduct.

10 CFR Part 1010

Conflicts of interest, Government employees, Energy Department, Standards of conduct.

Issued in Washington, DC, June 28, 1996.

Robert R. Nordhaus,

General Counsel, Department of Energy.

Approved: June 28, 1996.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

For the reasons set forth in the preamble, title 5 and chapter X of title 10 of the Code of Federal Regulations are amended as follows:

TITLE 5—[AMENDED]

1. A new chapter XXIII, consisting of part 3301, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR Chapter XXIII—Department of Energy

PART 3301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF ENERGY

Sec.
3301.101 General.
3301.102 Procedure for accomplishing disqualification.
3301.103 Prior approval for outside employment.

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.402(c), 2635.502(e), 2635.604, 2635.802, 2635.803.

§ 3301.101 General.

(a) *Purpose.* The regulations in this part apply to employees of the Department of Energy (DOE), excluding employees of the Federal Energy Regulatory Commission, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. DOE employees are also subject to the regulations on financial disclosure contained in 5 CFR part 2634, and to additional regulations on responsibilities and conduct at 5 CFR part 735, and DOE specific provisions contained in 10 CFR part 1010.

(b) *Definitions.* Unless a term is otherwise defined in this part, the definitions set forth in 5 CFR part 2635 apply to terms used in this part. In addition, for purposes of this part:

Agency designee, as used also in 5 CFR part 2635, means the employee's immediate supervisor and, for purposes of the approval required by § 3301.103(a), includes the Counselor.

Counselor means the DOE's designated agency ethics official or his delegates.

§ 3301.102 Procedure for accomplishing disqualification.

(a) *Disqualifying financial interests.* A DOE employee who is required, in accordance with 5 CFR 2635.402(c), to disqualify himself from participation in a particular matter to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.402(c)(1) and

(2), provide written notice of disqualification to his supervisor and counselor upon determining that he will not participate in the matter.

(b) *Disqualification to ensure impartiality.* A DOE employee who is required, in accordance with 5 CFR 2635.502(e), to disqualify himself from participation in a particular matter involving specific parties to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.502(e)(1) and (2), provide written notice of disqualification to his supervisor and counselor upon determining that he will not participate in the matter.

(c) *Disqualification from matter effecting prospective employers.* A DOE employee who is required, in accordance with 5 CFR 2635.604(a), to disqualify himself from participation in a particular matter to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.604(b) and (c), provide written notice of disqualification to his supervisor and counselor upon determining that he will not participate in the matter.

(d) *Withdrawal of notification.* A DOE employee may withdraw written notice under paragraphs (a), (b), or (c) of this section upon deciding that disqualification from participation in the matter is no longer required. A withdrawal of notification shall be in writing and provided to the employee's supervisor and counselor.

§ 3301.103 Prior approval for outside employment.

(a) *Prior approval requirement.* Before engaging in any outside employment, whether or not for compensation, an employee, other than a special Government employee, must obtain written approval of his immediate supervisor and the Counselor. Requests for approval shall include the name of the person, group or organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment.

(b) *Standard for approval.* Approval shall be granted unless there is a determination that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) *Definition of employment.* For purposes of this section, ''employment'' means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes but is not limited to personal services as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, employee, advisor, or teacher. It does not include participating in the activities of a nonprofit, charitable, religious, public service or civic organization, unless such activities involve the provision of professional services or are for compensation.

TITLE 10—ENERGY

Chapter X—Department of Energy (General Provisions)

2. 10 CFR part 1010 is revised to read as follows:

PART 1010—CONDUCT OF EMPLOYEES

Sec.
1010.101 General.
1010.102 Cross-reference to employee ethical conduct standards and financial disclosure regulations.
1010.103 Reporting wrongdoing.
1010.104 Cooperation with the Inspector General.
1010.105 Conflict of interest waiver.

Authority: 5 U.S.C. 301, 303; 5 U.S.C. App. (Inspector General Act of 1978); 18 U.S.C. 208; and E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 1010.101 General.

This part applies to employees of the Department of Energy (DOE), excluding employees of the Federal Energy Regulatory Commission.

§ 1010.102 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of DOE are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the DOE regulation at 5 CFR part 3301 which supplements the executive branch-wide standards, the executive branch-wide financial disclosure regulations at 5 CFR part 2634, and the executive branch-wide employee responsibilities and conduct regulation at 5 CFR part 735.

§ 1010.103 Reporting wrongdoing.

(a) Employees shall, in fulfilling the obligation of 5 CFR 2635.101(b)(11), report fraud, waste, abuse, and corruption in DOE programs, including on the part of DOE employees, contractors, subcontractors, grantees, or other recipients of DOE financial assistance, to the Office of Inspector General or other appropriate Federal authority.

(b) All alleged violations of the ethical restrictions described in section 1010.102 that are reported in accordance with (a) of this section to an appropriate authority within the Department shall in turn be referred by that authority to the designated agency ethics official or his delegatee, or the Inspector General.

§ 1010.104 Cooperation with the Inspector General.

Employees shall respond to questions truthfully under oath when required, whether orally or in writing, and must provide documents and other materials concerning matters of official interest. An employee is not required to respond to such official inquiries if answers or testimony may subject the employee to criminal prosecution.

§ 1010.105 Conflict of interest waiver.

If a financial interest arises from ownership by an employee, or other person or enterprise referred to in 5 CFR 2635.402(b)(2), of stock in a widely diversified mutual fund or other regulated investment company that in turn owns stock in, or bonds of, another enterprise, that financial interest is exempt from the prohibition of 5 CFR 2635.402(a).

[FR Doc. 96–17115 Filed 7–3–96; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 734

RIN 3206–AH33

Political Activities of Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations regarding the political activity of Federal employees. These regulations will inform Federal employees of the political activities which are permitted and prohibited under the Hatch Act Reform Amendments of 1993. Covered employees also should refer to OPM's interim regulations as part 733, published in the Federal Register in the February 4, 1994 edition, which specifically address political activities connected with local elections in designated communities.

EFFECTIVE DATE: August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot at (202) 606–1700.

SUPPLEMENTARY INFORMATION: On October 6, 1993, the President signed the Hatch Act Reform Amendments of 1993. The Reform Amendments became

effective on February 3, 1994 and OPM has the authority to issue regulations under the Reform Amendments. On September 23, 1994, OPM issued interim regulations with a request for comments at part 734 concerning the political activities that generally are permitted and prohibited to Federal employees. OPM received comments from nine Federal agencies, two Federal employee labor organizations, and an individual before the comment period closed on November 22, 1994. OPM's observations about the comments follow the numerical order of the regulations starting at subpart A and ending with subpart G.

Comment on Supplementary Information Preceding the OPM Interim Regulations

One Federal agency commented that the supplementary information preceding OPM's interim regulations requires clarification of the language which makes it appear that § 734.208 applies exclusively to Federal employees who belong to a Federal employee labor organization. The agency noted that the language of § 734.208 clearly shows that the requirement of belonging to a Federal employee labor organization, or other Federal employee organization, applies only to the fundraising activities described in § 734.208(b)(4). OPM agrees. Every employee who is covered under subparts B and C of part 734 may participate in the activities described in § 734.208 (a) and (b) (1) through (3). The activities described in § 734.208(b)(4) are limited to members of the Federal employee labor organizations and Federal employee organizations that meet the requirements of 5 U.S.C. 7323(a)(2) and 5 CFR 734.103. Sections 734.404(c)–(d) and 734.410 describe permitted and prohibited fundraising activities for employees covered under subpart D.

Subpart A—General Provisions

Section 734.101 of the interim regulations provides definitions for certain terms used throughout the regulations. The regulations define ''accept'' and ''receive'' as the acts of accepting or receiving something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group. One Federal agency and one Federal employee labor organization commented that the language from the supplementary material preceding the interim regulations which noted that ''ministerial activities preceding or following the official acceptance and receipt are not covered under the definitions'' should be added to the definitions. OPM agrees that adding such language to the definitions of ''accept'' and ''received'' clarifies the definitions and has made the suggested changes.

OPM also received two comments on the definition of ''on duty'' in § 734.101. A Federal agency commented that the definition should contain language from the supplementary material preceding the interim regulations noting that it is not appropriate to grant excused absence (administrative leave) to participate in political activities. This agency also noted that the definition should note that it is not appropriate to request sick leave in order to participate in political activity. While OPM has the authority to regulate a covered employee's partisan political activity, the granting of excused absence is a matter of agency discretion. However, an agency's decision to grant excused absences for the purposes of engaging in partisan political activities or partisan political management would not be appropriate. Indeed, granting excused absences solely for the purposes of participation in partisan political activities might be a violation of the prohibitions against use of official authority or influence to interfere with or affect the results of an election. In addition, 5 U.S.C. 6307 and OPM's regulations at 5 CFR 630.401 prescribe the conditions under which an employee may use sick leave. It is not appropriate to permit the use of sick leave to participate in partisan political activities. Sick leave should be granted only under the conditions prescribed by 5 U.S.C. 6307 and 5 CFR 630.401.

Citing *Bureau of Alcohol, Tobacco and Firearms* v. *Federal Labor Relations Authority,* 464 U.S. 89, 105 (1983), a Federal employee labor organization commented that the definition of ''on duty'' should exclude ''official time'' given to employees who are labor organizations officials because employees on ''official time'' are not considered to be in duty status, except for purposes of being paid. Thus, the labor organization noted that, as a matter of statutory construction, official time is simply not time ''on duty.'' The Supreme Court concluded in this decision that Federal employees who negotiate on behalf of a labor organization are not conducting official business on behalf of the Government. However, the Supreme Court reached this conclusion for the limited purpose of determining whether Federal employees who represent their labor unions in collective bargaining with agencies are entitled to reimbursement from the Government for travel and per diem expenses.

Citing *National Federation of Federal Employees and U.S. Department of Veterans Affairs*, 47 FLRA 1118, 1124, (1993) (*NFFE*) and *American Federation of Government Employees and U.S. Department of Labor*, 39 FLRA 546, 553 (1991), (*AFGE*), the labor organization also noted that the Federal Labor Relations Authority (FLRA) has sanctioned the use of official time for union representatives to lobby Congress concerning working conditions. *NFFE* concerned a collective bargaining proposal to authorize the use of a reasonable amount of time as official time under 5 U.S.C. 7131(d) to lobby members of Congress in support of or opposition to pending or desired legislation which would affect the working conditions of employees represented by the union. The FLRA found that 5 U.S.C. 7102 contemplates that employees will express their views to Congress through their exclusive representative, and specifically grants employees functioning as labor representatives the right to present the views of the labor organization to Congress. It also found that the proposal concerned labor-management relations activities for which official time is authorized under section 7131(d). Although the FLRA concluded that the proposal was negotiable under section 7131(d), the FLRA reached its decision within the context of petitioning Congress regarding nonpartisan issues that generally affect employees' working conditions. It did not determine whether these statutory provisions also provide for official time to participate in partisan political activities on behalf of individuals who are candidates for partisan political office.

AFGE concerns an agency denial of an employee's request to use an agency automobile and to use official time for travel to and from a hearing regarding his claim for workers' compensation. The FLRA held that 5 U.S.C. 7131(d) did not preclude the parties in the case from agreeing to provide for official time in circumstances unrelated to labor-management relations activities, provided that granting such official time was consistent with the statute and other applicable laws and regulations. The FLRA cited attendance at hearings before the Equal Employment Opportunity Commission and responding to discovery requests in cases before the Merit Systems Protection Board as examples of circumstances unrelated to labor-management relations activities where use of official time might be authorized. Thus, this decision clearly was made

within the context of prehearing for and appearing at administrative hearings on behalf of employees, and does not address the use of official time to participate actively in partisan political activities.

The Federal Service Labor-Management Relations Statute (Labor Statute), at 5 U.S.C. 7101(a)(1)(A) provides that statutory protection of employee rights to organize, bargain collectively, and participate through labor organizations in decisions which affect them safeguard the public interest. It also provides at section 7102 that employees who represent labor organizations are entitled to present labor organization views to Congress in connection with matters regarding conditions of employment. However, none of the provisions in chapter 71 of title 5, United States Code, concern participation in partisan political activities.

The Hatch Act Reform Amendments of 1993, enacted subsequent to the Labor Statute, specifically address participation in partisan political activities and permit Federal employees to participate actively in most of the partisan political activities that previously had been prohibited to these employees under the original Hatch Act. In return for the opportunity for wider political participation, the Reform Amendments specifically prohibit Federal employees from engaging in *any* partisan political activities basically while on duty or on Federal premises.

The intent of Congress in enacting the Reform Amendments, a statute specifically intended to govern the partisan political activities of Federal employees, controls the previously enacted provisions on labor-management, at 5 U.S.C. Chapter 71, which clearly do not permit Federal employees to participate in partisan political activities while they are on duty or on Federal premises, and do not even address participation in partisan political activities. In contrast, the Reform Amendments, at 5 U.S.C. 7324(a), specifically prohibit most Federal employees from such participation and provide for only one exemption from the prohibition. The Reform Amendments, at 5 U.S.C. 7324(b), exempt employees whose official duties and responsibilities continue outside normal duty hours and while away from the normal duty post, and who are (1) paid from an appropriation for the Executive Office of the President, or (2) appointed by the President, by and with the advice and consent of the Senate, to positions that are located within the United States and involve determinations of policy to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws. If Congress had intended to exempt other employees from the prohibition, Congress clearly would have provided for such exemptions in the statute itself.

In addressing the question of whether the Reform Amendments prohibit Federal employees from making voluntary salary allotments to political action committees, an opinion issued by the Office of Legal Counsel at the Department of Justice to the Office of Personnel Management on February 22, 1995, also discussed at length the prohibitions against partisan political participation on duty or on Federal premises, and Congressional intent in enacting it. The opinion stated:

> It is evident from the statements of the (Reform Amendments') leading sponsors that Congress intended to create a bright-line rule, with no exceptions: Section 7324(a) prohibits covered employees from engaging in *all* on-duty and on-site political activity. As the principal Senate sponsor of the bill states, on-the-job political activity ''would be absolutely and unequivocally prohibited.'' 139 Cong. Rec. S8605 (daily ed. July 13, 1993) (statement of Senator Glenn). Thus, for example Congress intended to prohibit the wearing of political buttons on duty. Nor can covered employees stuff envelopes with political materials or send out campaign materials while they are on the job or in a federal building—such activities are permitted only off-site and ''off the job.''

Thus, Congress clearly intended to prohibit partisan political participation on duty, and on Federal premises, and exempted only one category of employees from these prohibitions. Consequently, for the purposes of the Reform Amendments, OPM cannot define ''on duty'' to exclude ''official time,'' as that term is defined in the Labor Statute.

In this connection, Example 5 in § 734.306 of the interim regulations, which issued September 23, 1994 (59 FR 48756, 48773–48774), provides that employees who are not on duty may engage in political activity in the office of their labor organization even if the space is provided by an agency or instrumentality of the United States Government. In view of the Office of Legal Counsel opinion of February 22, 1995, a subsequent intervening event, OPM found it necessary to revisit its initial review of the statutory scheme established through the Reform Amendments. Based on this further review, OPM has concluded that the Reform Amendments require it to treat the questions of time and space consistently in considering the activities which the Reform Amendments permit and prohibit. Moreover, it is clear both from OPM's statutory review and the Office of Legal Counsel opinion of February 22, 1995, that Congress intended to create a bright line prohibition against partisan political activities when conducted on duty or on Federal premises, or both. Consequently, OPM must remove Example 5 from § 734.306 of the interim regulations.

A Federal agency commented that the definition of ''political purpose'' should include non-partisan political purposes because many political purposes are non-partisan. In the interim regulations, the definition of ''political activity'' is limited to partisan political activity because OPM has interpreted the Reform Amendments as restricting Federal employees' participation in partisan political activities. The legislative history of the Reform Amendments shows that Congress was well aware that the Hatch Act prohibited active participation in partisan political activities and, in enacting the Reform Amendments, Congress was referring to partisan purposes and activities when referring to a political purpose or political activity. S. Rep. No. 57, 103rd Cong. 1st Sess. 2–6, 13–14, 24–39 (1993); 139 Cong. Rec. S8605–8606 (daily ed. July 13, 1993) (statement of Senator Glenn); *id.* at S8685–8686 (daily ed. July 14, 1993) (statement of Senator Roth); *id.* at S8701–8703 (daily ed. July 14, 1993) (statement of Senator Stevens); *id.* at S8946 (daily ed. July 20, 1993) (statement of Senator Durenberger); *id.* at S8947–8948 (daily ed. July 20, 1993) (statement of Senator Levin). *See* H.R. Rep. No. 16, 103rd Cong. 1st Sess. 16 (1993) (to accompany H.R. 20). President Clinton's remarks on signing the Reform Amendments, delivered October 6, 1993, the day on which he signed the Reform Amendments, reflect his understanding that the terms ''political purpose'' and ''political activity'' refer to partisan political purposes and partisan political activities. He stated:

> The Federal Employees Political Activities Act, which I'm about to sign, will permit Federal employees and postal workers on their own time to manage campaigns, raise funds, to hold positions within political parties. Still, there will be some reasonable restrictions. They wouldn't be able to run for partisan political office themselves, for example, and there will be some new responsibilities, which I applaud the Federal employees' unions for embracing and supporting.
>
> While we restore political rights to these millions of citizens, we also hold them to high standards. The Federal workplace, where the business of our Nation is done will

still be strictly off limits to partisan political activity.

Therefore, defining ''political purpose'' as a partisan political purpose is consistent with other definitions in the regulations, Congressional intent as reflected in the legislative history of the Reform Amendments, and President Clinton's understanding of the term ''political activities'' as reflected in his remark on signing the Reform Amendments.

Two Federal agencies and one Federal labor union commented that the interim regulations do not provide enough guidance concerning a ''room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof.'' The Federal labor organization noted that the regulations did not specify which areas in a ''room or building * * *'' encompasses. Another Federal agency noted that the regulations did not address use of areas such as recreational space in leased space or cafeterias, hallways, restrooms and employee lounges. In response to these comments, OPM has added a definition of ''room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof.''

The definition specifically excludes those rooms in the White House which are part of the Residence area or which are not regularly used solely in the discharge of official duties. This exclusion is based on the January 17, 1979, opinion of the Office of the Legal Counsel of the Department of Justice. The same principles that govern the White House also would apply to the residence of the Vice President which, historically, has been treated like the White House. Therefore, the same analysis and conclusions that apply to the White House also apply to the residence of the Vice President.

The Federal labor organization further commented that political activities in areas defined as ''public areas'' in the General Services Administration's (GSA's) Federal Property Management Regulations should not be prohibited because GSA's regulations create a protected public forum. OPM sought comment from GSA on the issue of ''public areas''. GSA noted that ''public areas'' remain ''rooms or buildings'' even when in use by the public for cultural, recreational, or educational activities governed by the Cooperative Use Act of 1976, 40 U.S.C. 490(a)(17), as implemented in the Federal Property Management Regulations at 41 CFR subpart 101–20.4. GSA provided that the Cooperative Use Act and the Reform Amendments should be read together. Accordingly, the definition of ''room or building'' incorporates the definition of ''public area'' in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003.

OPM also sought comments on this issue from the United States Office of Special Counsel (OSC), which noted that the GSA regulations at 41 CFR 101–20.003 define ''public areas'' as any areas of a building under the control and custody of GSA which ordinarily are open to the public, such as lobbies, meeting rooms, auditoriums, and similar areas not assigned to a lessee or occupant. OSC stated its belief that permitting political activities ''in such generally defined areas could lead to confusion and enforcement problems in trying to determine what parts of buildings remain 'off limits' for such activity.'' It noted further that ''allowing political activity in a hallway and courtyard but not a conference room, or in an auditorium but not a cafeteria, could result in confusing and possibly unenforceable interpretations.''

Moreover, the Supreme Court noted in *Cornelius* v. *NAACP Legal Defense and Education Fund, Inc.*, 47 U.S. 788, 802–903 (1985), a designated public forum is created in a Federal office building, or any other government property, only when there is a ''clear intent to dedicate the property for assembly, debate and speech.'' The Cooperative Use Act does not dedicate every public building as a public forum, but only authorizes the GSA Administrator to make certain spaces available ''on occasion'' and ''on such other terms and conditions as the Administrator deems to be in the public interest'' if such use ''will not disrupt the operation of the building.'' In *Cornelius*, the Supreme Court held that it will not ''infer that the government intended to create a public forum when the nature of the property is inconsistent with expressive activity'' and is reluctant to find a ''designated public forum,'' if expressive activity would disrupt the principal function of the property. *Id.* at 803–804. In addition, in *Greer* v. *Spock*, 424 U.S. 828, 831–836 (1976) the Court held that allowing some speech or expressive activity in a forum does not dedicate the property as a ''public forum'' for free and uninhibited expressive activity by the public. Accordingly, ''public areas'' are not ''public fora'' and employees are prohibited from engaging in partisan political activity in those areas. In view of this, OPM has deleted Example 11 from § 734.306 which provides that a Federal employee may engage in political activity in the courtyard outside of a Federal building when the employee is not on duty.

One Federal agency commented that the regulations did not specify whether an area leased to contractors such as a cafeteria or fitness facility is a ''room or building * * * .''. Pursuant to the discussion above, we have added an example in § 734.306 providing that employees may not engage in partisan political activity in space leased to contractors in Federal buildings.

Regarding § 734.306 of the interim regulations, a Federal labor organization commented that the regulations imply that the prohibition on political activities in rooms or buildings occupied in the discharge of official duties does not extend to areas not controlled by the Government, such as union offices and the leased offices of candidates. The labor organization suggested modifying Example 5 in § 734.306 to state that political activity is permitted in space, such as meeting rooms or other facilities, temporarily under the control of labor organizations or other non-government entities. In view of the Reform Amendments' prohibition against partisan political participation on Federal property, and the Office of Legal Counsel's interpretation of that prohibition, as described in the discussion relating to the definition of the item ''on duty'' in § 734.101, OPM must remove this example from § 734.306.

A Federal employee labor organization commented that the definition of ''subordinate'' in the interim regulations would suggest that it includes more categories of employees than the definitions of the terms ''supervisor'' and ''management official'' in 5 U.S.C. 7103(10) and (11). This organization suggested that, rather than defining the term ''subordinate,'' the regulations use the definition of ''supervisor'' in 5 U.S.C. 7103(10), because the definition of ''supervisor'' is familiar to many Federal employees. The interim regulations define ''subordinate'' as ''the relationship between two employees when one employee is under the supervisory authority, control or administrative direction of the other employee.'' OPM believes that the definition of ''subordinate'' is clear and relects the intent of Congress to prevent any coercion of subordinate employees by a supervisor or any other employee who may otherwise direct, control or exercise authority over an employee.

Section 734.102 outlines the authority of the Office of Personnel Management, the Office of Special Counsel, and the

Merit Systems Protection Board under the Reform Amendments and the implementing regulations. One Federal employee labor organization commented that this section should cite to the Reform Amendments as the underlying authority. OPM agrees and has added these citations.

One Federal agency and one Federal employee labor organization commented that the regulations do not specify whether the Office of Special Counsel and the Merit Systems Protection Board have exclusive jurisdiction. OPM agrees that the regulations need clarification. Individual agencies do not have authority to investigate suspected political activity violations or to impose administrative remedies. Therefore, OPM is changing the regulations to reflect that the Office of Special Counsel and the Merit Systems Protection Board have exclusive jurisdiction.

Section 734.104 prohibits further restriction on the political activities of covered employees except for employees who are appointed by the President by and with the advice and consent of the Senate, employees who are appointed by the President, non-career Senior Executive Service members, Schedule C employees (appointed pursuant to 5 CFR 213.3301, 213.3302) and any other employees who serve at the pleasure of the President. A Federal agency suggested adding a new subsection to cover United States Trustees appointed under 28 U.S.C. 581. The exceptions in § 734.104 are based upon a September 20, 1994 opinion of the Office of Legal Counsel of the Department of Justice issued to the Office of Personnel Management which provided that an Administration could impose additional restrictions on the specific groups of political appointees outlined in § 734.104. Accordingly, the President or his designee may further restrict the political activities of the specific employees described in § 734.104. However, pursuant to 28 U.S.C. 581, United States Trustees serve at the pleasure of the Attorney General, not the President, and do not fall within the exceptions provided by the Office of legal counsel Opinion. therefore, OPM does not have the authority to add the United States Trustees to the list in § 734.104.

Subpart B—Permitted Activities

Section 734.203 of the interim regulations permits employees under subpart B (Permitted Activities) to participate in nonpartisan political activities and describes various nonpartisan activities. A Federal employee labor organization noted that § 734.203 fails to reflect that 5 U.S.C. 7211 provides Federal employees with a statutory right to petition Congress. It further commented that this issue is confusing to Federal employees, and suggested adding another example to § 734.203 which illustrates that the Reform Amendments do not prohibit Federal employees from exercising their rights under 5 U.S.C. 7211. OPM agrees with this suggestion, and has added such an example to § 734.203.

Section 734.204 of the interim regulations concerns permitted participation in political organizations. A Federal agency suggested amending this section by adding another paragraph which specifies that an employee may serve as a delegate, alternate, or proxy to a political party convention. OPM agrees with this suggestion and has added such a paragraph to § 734.204.

Example 2 in § 734.204 specifies that an employee may serve as an officer of a partisan or nonpartisan political action committee, as long as the employee does not personally solicit, accept, or receive political contributions. A Federal employee labor organization suggested clarifying the example by stating that ministerial activities which precede or follow the official acceptance and receipt of contributions are not covered under the regulatory definitions of ''accept'' and ''receive.'' OPM agrees with this suggestion and has amended Example 2 accordingly. Example 2 also describes a political action committee as partisan or nonpartisan. This description does not accord with the definition of political action committee that OPM has added to its political activity regulations at 5 CFR part 734. The definition of this term does not distinguish between partisan and nonpartisan political action committees. Therefore, OPM has further amended Example 2 by removing the descriptive terms ''partisan'' and ''nonpartisan.''

Section 734.205 of subpart B (Permitted Activities) describes permissible political activities connected with participation in campaigns for partisan political office. Example 5 in this section specifies that an independent contractor is not covered under subpart B and may display a political button while performing his contractual duties. A Federal employee labor organization submitted several comments concerning the display of political buttons by employees who are covered under subpart B. OPM has discussed those comments in connection with its discussion of § 734.306, *infra,* which prohibits partisan political participation while on duty, in uniform, in any room or building occupied in the discharge of official duties, or while using a Government-owned or leased vehicle.

Section 734.207 concerns candidacy for public office and permits employees to run as independent candidates in the local partisan elections described in 5 CFR part 733, or as candidates in nonpartisan elections. A Federal agency proposed that OPM add an example to this provision specifying that employees may distribute campaign leaflets, even though the leaflets include information on where to send contributions. The Federal agency further noted that the example also should specify that the employee should refer to another campaign worker any questions concerning further information about contributions. OPM agrees with this suggestion, but has provided in the example that such questions should be referred to another campaign worker who is not a Federal employee. OPM also believes that it would be more appropriate to add the example to § 734.205, which concerns participation in campaigns for partisan political office, rather than to § 734.207.

Section 734.208 describes permissible activities connected with participation in fundraising. Subsection (b)(2) permits employees to accept and receive political contributions in a partisan election described in 5 CFR part 733, which pertains to the political activities of covered employees who reside in certain localities designated by OPM. A Federal agency stated its belief that subsection (b)(2) conflicts with the statutory definition of the term ''political contribution'' included in section 2(a) of the Reform Amendments and codified at 5 U.S.C. 7322(3), as amended, which does not refer to contributions for ''partisan'' political purposes. Therefore, the Federal agency suggested deleting subsection (b)(2) from § 734.208 of the OPM regulations.

Section 2(a) of the Reform Amendments, codified at 5 U.S.C. 7325, as amended, authorizes OPM to issue regulations permitting employees, ''without regard to the prohibitions in paragraphs (2) and (3) of section 7323(a) (of title 5, United States Code),'' to take an active part in certain local elections. Section 7323(a)(2) and (3), respectively, prohibit employees from knowingly soliciting, accepting, or receiving political contributions, and from running ''for the nomination or as a candidate for election to a partisan political office.'' Candidacy for partisan political office occurs within the context of partisan political elections. Accordingly, § 734.208(b)(2) of the OPM regulations does not conflict with the

definition at 5 U.S.C. 7322(3), as amended. Therefore, OPM has not deleted § 734.208(b)(2) from the final version of its regulations.

Section 734.208(b)(4)(ii) of the regulations provides that, under specified limited circumstances, an employee may solicit, accept, or receive political contributions from another employee who is not a subordinate employee. A Federal employers labor organization suggested including in the regulations the definition of the term ''supervisor'' stated at 5 U.S.C. 7103(10). This suggestion already has been addressed in the discussion of § 734.101 of the Regulations.

Example 5 in § 734.208 prohibits employees from making telephone solicitations for political contributions, even anonymously. A Federal employee labor organization noted that, if a telephone solicitation truly was anonymous, there would be no way of finding the employee who might have made the solicitation. The Federal employee labor organization further noted that a reference to anonymous telephone solicitations might even encourage employees to make such solicitations. Consequently, it suggested that OPM delete the reference to anonymous telephone solicitions in Example 5. OPM believes that this reference makes it clear to Federal employees that, except for solicitations made under the circumstances described in 5 U.S.C. 7323(a)(2), solicitations of political contributions, even anonymous telephone solicitations, are prohibited under the Reform Amendments. Therefore, OPM will retain the reference to anonymous telephone solicitations in Example 5.

Example 11 in § 734.208 provides that a Federal employee may solicit, accept, or receive the uncompensated volunteer services of any individual, except a subordinate employee, to work on behalf of a partisan political candidate or organization. A Federal employee labor organizations suggested deleting the phrase ''except a subordinate employee'' from Example 11. The labor organization said that the interim regulations clearly specify that a political contribution does not include the uncompensated volunteer services of an individual. Thus, the labor organization did not find any basis for the example prohibiting any employee from soliciting the volunteer services of another employee.

Although it is true that uncompensated volunteer service of an individual is not a political contribution, OPM believes that soliciting such services from subordinate employees is covered under § 734.302, which prohibits employees from using their official authority or influence for the purpose of influencing or affecting the results of an election. OPM further believes that removing the reference to subordinate employees in Example 11 would mislead employees into believing that part 734 permits employees to solicit, accept ore receive such services from subordinate employees. Therefore, OPM has retained the reference to subordinate employees in Example 11.

The labor organization also said that Example 11 is at odds with Example 4 in § 734.208, which permits employees to sign letters soliciting the contribution of uncompensated services of individuals. It noted that, in a mass mailing, an employee's subordinates might receive these letters. OPM agrees that Example 4 is confusing and requires clarification in this regard. Therefore, it has revised Example 4 to specify that an employee may not knowingly send such a letter to his or her subordinate employees. However, Example 4 also will specify that it is permissible to sign such letters as part of a general mass mailing, as long as the mailing is not specifically targeted to one's subordinate employees.

Another Federal employee labor organization noted that employees who are not members may contribute to the labor organization's political action committee, but Federal employees associated with the labor organization may not accept or receive the contribution. It suggested that § 734.208 might be clarified through an additional example stating that a Federal employee labor organization can receive contributions, independent of their receipt by Federally employed members of the labor organization, and describing procedures for making such contributions. OPM believes that the regulations clearly state that any employee may contribute to the multicandidate political action committee of a Federal labor or Federal employee organization, and that the Federally employed members of such organizations may not accept contributions from Federal employees who are not organization members. Therefore, OPM believes that it is not necessary to add the suggested example to § 734.208.

Finally, the Reform Amendments include an exception to the general prohibition on soliciting, accepting, or receiving political contributions. This exception permits employees to solicit, accept, or receive such contributions from other employees who are not subordinate employees and who are members of the same Federal labor organization or Federal employee organization for the multicandidate political committees of their organizations. It may not be clear to employees that this exception only extends to the general prohibition against soliciting, receiving, or accepting political contributions. It does not extend to the other prohibitions against engaging in partisan political activities either while on duty, or while on Federal premises, or both. Thus, employees may solicit, accept, and receive political contributions for the multicandidate political committees of their organizations from employees who are not subordinates and who belong to the same Federal labor or employee organization. However, they may not conduct such activities either while they are on duty, or while on Federal premises, or both. Accordingly, OPM has added an example to § 734.208 to clarify this matter. In addition, OPM notes that labor organizations certified by the National Labor Relations Board pursuant to 29 U.S.C. 151 et seq. to represent Postal Service employees are not covered under the definition of ''labor organization'' in 5 U.S.C. 7103(4) and, therefore, are not Federal labor organizations within the meaning of the Reform Amendments. However, these Postal Service labor organizations clearly qualify as Federal employee organizations for purposes of the Hatch Act Reform Amendments.

Subpart C—Prohibited Activities

Section 734.302 prohibits employees from using their official authority or influence in order to interfere with or affect the results of an election. A Federal agency commented that this section does not give adequate guidance and needs to be clarified. The agency noted that if the section intended to prohibit misues or coercion that it did not clearly do so. OPM agrees that the Reform Amendments intended to prevent employees from misusing their official authority or influence in order to interfere with or affect the result of an election. OPM is revising its regulations to clarify that § 734.302 not only prohibits the misuse of official authority such as the use of an official title, as distinguished from a general form of address such as ''The Honorable,'' while participating in partisan political activities, but also bans coercive actions such as awarding contracts on the basis of contributions to partisan political campaigns or soliciting subordinates for any partisan political purpose. OPM notes in this regard that the merit system principles, at 5 U.S.C. 2301(b)(8), provide that employees should be protected against arbitrary

action, personal favoritism, and coercion for partisan political purposes. Section 2301(b)(8) also provides that employees should be prohibited from using their official authority to interfere with or affect an election or a nomination for election. Moreover, 5 U.S.C. 2302(b)(3) makes it a prohibited personal practice to coerce the political activity of any person (including the providing of any political contribution or service), or to take action against an employee for his or her refusal to participate in these political activities. Thus, soliciting uncompensated volunteer services from a subordinate for a political purpose clearly falls within the prohibition against the use of official authority to interfere with or affect an election.

Accepting or receiving uncompensated volunteer services from a subordinate results in as great a potential for coercion, or the appearance of coercion, as soliciting such services from a subordinate. Although an employee might not directly solicit uncompensated volunteer services from a subordinate, he still could make it clear to the subordinate in more subtle ways that it would be in the subordinate's best interest to provide such services. In view of a superior's authority to promote, discipline, issue awards, or take other personnel actions affecting an employee's career, or to make recommendations regarding such actions to an official above him in the chain of command, and the potential for coercion that exists under such circumstances, accepting and receiving uncompensated volunteer services from subordinates also falls within the prohibition against the use of official authority to interfere with or affect the results of an election. Accordingly, OPM will retain the prohibition against accepting and receiving uncompensated volunteer services from subordinates.

Section 734.303 describes prohibited activities connected with fundraising. Subsection (d) prohibits employees from soliciting, accepting, or receiving uncompensated volunteer services from individuals who are subordinates. A Federal employee labor organization commented that, because the definition of ''political contribution'' does not include uncompensated volunteer services, employees should not be prohibited from soliciting, accepting, or receiving such services from their subordinates. For the reasons stated in its discussion of § 734,302, *supra*, OPM is retaining these prohibition in its political activity regulation at part 734.

A Federal agency noted that the regulations do not reflect specifically that, as long as an employee is not coerced, the employee may voluntarily donate uncompensated volunteer services to his supervisor. While OPM's regulations do not specifically prohibit an employee from voluntarily donating uncompensated volunteer services to his supervisor, § 734.303(d) of the regulations does prohibit a supervisor from accepting such services. Therefore, the concern expressed by this agency in its comment has been adequately addressed in the regulation.

This prohibition clearly would not apply to requests for volunteer services made by the President or the Vice-President to the employees specified in 5 U.S.C. 7324(b)(2) whose duties and responsibilities continue outside of normal duty hours and away from the normal duty post, and who are (1) paid from an appropriation for the Executive Office of the President, or (2) appointed by the President, by and with the advice and consent of the Senate, whose positions are located within the United States and who determine policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws. Congress recognized their special status in specifically excluding them from the prohibitions against political participation while on duty, in uniform, on Federal premises, or using a Government vehicle. Moreover, the President and Vice-President of the United States specifically are excluded from the definition of employee in 5 U.S.C. 7322(1) and, therefore, they are not subject to the prohibitions on political activity in Reform Amendments or part 734.

The agency also asked whether a subordinate employee may speak at a political event in place of his superior, a PAS employee, when the PAS employee suddenly learns that she cannot attend the event. The regulations generally permit covered employees to speak at partisan political events, but prohibit an employee who does not qualify for coverage under subpart E of the interim regulations from giving such a speech while on duty.

However, the ultimate answer to such questions depend on the facts and circumstances in each individual case, and also may involve issues related to the standards of ethical conduct for employees of the Executive Branch. Therefore, OPM has determined not to address in its regulatory examples the issues raised in the agency's comments, because such examples might be misleading. Individual detailed guidance on such fact based issues should be sought through an advisory opinion from the United States Office of Special Counsel and, if warranted, from the designated agency ethics official at the employee's agency.

Example 2 in § 734.303 states that an employee's name may not appear on an invitation to a fundraiser as a sponsor or a point of contact. A Federal employee labor organization commented that this example appeared to be inconsistent with Example 3 in § 734.208 which permits employees' names to appear on such invitations as guest speakers. It also commented that a point of contract on an invitation for a fundraiser would not necessarily be involved with soliciting, accepting or receiving political contributions in an official manner. Thus, it suggested amending Example 2 to provide that an employee's name could appear on an invitation as a point of contact for general information about a fundraiser.

OPM does not believe that these two examples are inconsistent. A person who is identified as a point of contact on a fundraising invitation clearly gives the appearance of being associated with soliciting, accepting, or receiving political contributions. Such is not the case with a person who is only identified on the invitation as a guest speaker. Thus, OPM has decided not to amend Example 2 in § 734.303.

Example 3 in § 734.303 provides that an employee may not ask a subordinate to volunteer on behalf of a partisan political campaign. Section 734.303 describes fundraising activities which are prohibited. A Federal employee labor organization suggested that OPM remove this example because individual uncompensated volunteer services are not political contributions. OPM has addressed the question of requesting subordinate employees to perform uncompensated volunteer services in § 734.302, *supra*.

Section 734.305 prohibits an employee from knowingly soliciting or discouraging the political participation of anyone who has matters pending before the employee's employing office or of anyone who is the subject of investigation or enforcement carried out by the employee's employing office. A Federal agency commented that the regulations should address soliciting or discouraging participation in non-partisan elections. As OPM stated above in response to comments on the definition of ''political purpose,'' the pertinent legislative history and the President's remarks on signing the Reform Amendments show that the Reform Amendments concern participation in partisan political activities. Consequently, the regulations do not address soliciting or discouraging participation in non-partisan political activities.

This same Federal agency further requested that this section address whether an employee may endorse a candidate for an elective office, the duties of which require the incumbent of that office to consistently transact business before the agency. In this instance, it is impossible to provide an example that would accurately answer this agency's inquiry because the answers to such questions depend on the facts and circumstances of each individual case.

This agency also asked whether employees appointed by the President by and with the advice and consent of the Senate (PAS) are prohibited from making political speeches in their personal capacity addressing issues related to agency business. The Reform Amendments and OPM regulations at part 734 generally do not prohibit a PAS from making a political speech in her personal capacity, providing that the President or his designee has not placed further restrictions on her political activities in accordance with § 734.104, and the speech is not made to solicit or discourage the political participation of certain persons described in § 734.305.

Depending on the facts and circumstances associated with the speech, however, such activity also may be government by provisions other than the Reform Amendments. Because determinations on whether this activity is prohibited ultimately rest on the facts and circumstances of each individual case, employees should consult the Office of Special Counsel and, if warranted, the designated agency ethics official for advice.

Section 734.305 requires that each agency or instrumentality of the United States or District of Columbia Government must determine when matters are pending and ongoing within the employing office of the agency or instrumentality. This same Federal agency also commented that the regulations should provide guidelines for agencies to follow in determining when a matter is pending or ongoing. Since there are great differences among agencies or instrumentalities, OPM disagrees with this comment and believes each agency and instrumentality should make its own determination.

Section 734.306 prohibits employees covered by subparts B and C from participating in partisan political activities while they are on duty, in uniform, in a room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, using a Government-owned or leased vehicle, or using a privately-owned vehicle in the discharge of official duties. An individual commented that, if OPM intended through its interim regulations to prohibit employees from wearing partisan political buttons while on duty, OPM should add a provision to subpart C, Prohibited Activities, explicitly stating that employees may not wear partisan political buttons while on duty. Two Federal agencies also suggested OPM might do this by adding an example to § 734.036 specifically stating that employees may not wear partisan political buttons while they are on duty or display partisan political materials at their work stations. OPM agrees with these suggestions and, through another example added to § 734.306, has prohibited employees from wearing partisan political buttons while on duty.

A Federal employee labor organization commented that the interim regulations permit SES members to wear partisan political buttons while they are on duty, but prohibit competitive service employees from wearing partisan political buttons under the same circumstances. The Reform Amendments' prohibition against partisan political participation on duty extends to all covered employees except for the two employee categories described in 5 U.S.C. 7324(b)(2) and covered under subpart E (Special Provisions for Certain Presidential Appointees and Employees Paid from the Appropriation for the Executive Office of the President). All other employees, including SES members, are prohibited from wearing partisan political buttons on duty.

One Federal agency asked whether the prohibition on employees wearing political buttons while on duty extends to items worn on duty, or displayed in the work place, relating to candidates in nonpartisan elections or to nonpartisan issues. The interim regulations provide that the prohibition against political participation on duty only extends to partisan political participation. Thus, the prohibition against wearing political buttons on duty or displaying political items in the workplace does not extend to nonpartisan candidates or to nonpartisan issue-oriented campaigns.

A Federal employee labor organization commented that wearing political buttons is an expression of speech guaranteed by the Constitution, as well as an expression of opinion about a political candidate that clearly is permitted under the Hatch Act and should continue to be permitted under the Reform Amendments. Citing *American Federation of Government Employees AFL-CIO* v. *Pierce,* 586 F. Supp. 1559 (1984), the labor organization said that the prohibition against wearing political buttons on duty and the illustrative examples are overboard, and do not appear to have a specific purpose such as protecting the efficient performance of official duties or preventing a conflict, or apparent conflict, of interest.

The legislative history of the Reform Amendments shows Congress was aware that, under the then-existing provisions of the Hatch Act, Federal employees were permitted to wear partisan political buttons while on duty. *See* 139 Cong. Rec. S8604–S8606 (daily ed. July 13, 1993) (statement of Senator Glenn). It also shows that Congress clearly intended to establish a bright-line rule prohibiting all political participation on duty, and that this rule extends to wearing partisan political buttons while on duty. S. Rep. No. 57, 103rd Cong. 1 st Sess. 14 (1993), *reprinted in* 1993 U.S.C.C.A.N. 1082, 1815; 139 Cong. Rec. S8684 (daily ed. July 14, 1993) (statement of Senator Glenn); *id.* at S8765, S8770, S8785–S8786 (daily ed. July 15, 1993) (statement of Senator Glenn); *id.* at S8805, 8808 (daily ed. July 15, 1993) (statements of Senators Boxer and Sarbanes); *id.* at S8929 (daily ed. July 20, 1993) (statement of Senator Glenn). *See* H.R. Rep. No. 16, 103rd Cong. 1st Sess. 16, 19–20 (1993) (to accompany H.R. 20).

The legislative history of the Reform Amendments further shows that Congress focused on wearing partisan political buttons on duty because this activity could result in subtle and unspoken coercion when done by a supervisor, the appearance of a conflict of interest, and the erroneous identification of the Government as a supporter of particular partisan candidates, parties, or groups. 139 Cong. Rec. S8604–S8605 (daily ed. July 13, 1993) (statement of Senator Glenn); *id.* at S8785 (daily ed. July 15, 1993) (statement of Senator Glenn); *id.* at S8926 (daily ed. July 20, 1993) (statement of Senator Glenn). *See* H.R. Rep. No. 16, 103rd Cong. 1st Sess. 16, 19–20 (1993) (to accompany H.R. 20). Thus, the regulatory prohibition against employees wearing partisan political buttons while on duty originates with the clear expression of Congressional intent in enacting these Amendments.

American Federation of Government Employees v. *Pierce* concerned a Veterans' Administration regulation prohibiting employees from wearing political buttons while on duty. The United States District Court for the District of Columbia struck down the prohibition as overboard, finding that the prohibition did not protect the

efficient performance of official duties or prevent a conflict or apparent conflict of interest.

Current circumstances differ from the circumstances which resulted in the district court decision. At that time, the Hatch Act prohibited Federal employees from participating actively in any partisan political activities, and Federal employees clearly could not be associated with partisan political candidates, parties, or groups. Now the Reform Amendments permit most Federal employees to participate actively in almost all partisan political activities and to become prominently identified with partisan political candidates, parties, or groups. The expansion of such opportunities for Federal employees to become involved in, and identified with, partisan politics, increases the danger of erroneous perceptions about coercion of Federal employees or individual citizens having business with the Government, identification of the Government with specific partisan candidates or groups, favoritism in administering Government programs, and conflicts of interest. A prohibition narrowly tailored to displays of partisan political buttons, pictures, signs, stickers, or badges on duty or in the workplace clearly promotes the efficient performance of official duties and prevents a conflict or apparent conflict of interest under current circumstances.

In a related matter, an individual, a Federal employee organization, and five Federal agencies commented unfavorably on the requirement to cover bumper stickers on personal vehicles, particularly during occasional use for official travel, such as driving the vehicle to the site of a training course. The labor organization commented that there was no rational basis for requiring employees to cover bumper stickers when they use their personal vehicles as incidental transportation, for example, in lieu of taking a taxi to or from another agency for a meeting. The labor organization stated that the requirement was not realistic and suggested that it should apply only when the private vehicle itself is used in the performance of official duties, such as delivering mail on a rural route or inspecting crops. The agencies and individual commented that the requirement to cover bumper stickers when using a personal vehicle for official business was excessive, unreasonable, unduly burdensome, and virtually unenforceable.

OPM agrees that a requirement to cover bumper stickers in every instance is not practical and would be difficult to enforce where employees use their private vehicles only occasionally, such as in driving to a meeting or training course. Imposing this requirement within the context of such occasional use of private vehicles would result in inadvertent violations by employees who easily may forget to cover the bumper stickers on their vehicles, and would be very difficult to enforce. Therefore, OPM has amended the examples in § 734.306 to reflect that the requirement to cover bumper stickers on private vehicles only applies when the vehicle is used for official business on a recurrent basis, or clearly is identified as being on official business, and does not apply to the occasional use of such a vehicle for official business. However, within this context, OPM also desires to make it clear to covered employees that they are prohibited from placing partisan political bumper stickers on any Government-owned or leased vehicle.

OPM accordingly has defined the terms ''recurrent'' and ''occasional'' in § 734.101. These definitions are based on common usage. The Random House Dictionary of the English Language (Unabridged), 2d Ed., 1987, defines ''occasional'' as ''occurring or appearing at irregular or infrequent intervals; occurring now and then; acting or serving for the occasion or only on particular occasions.'' Webster's Third New International Dictionary of the English Language (Unabridged), 1966 Ed., defines ''occasional'' as ''occurring or operating on a particular occasion; proceeding from the occasion; met with, appearing, or occurring irregularly and accordingly to no fixed or certain scheme; infrequent.''

The Random House Dictionary defines ''recurrent'' as ''occurring or appearing again, esp. repeatedly or periodically.'' Webster's Dictionary defines ''recurrent'' as ''returning from time to time; appearing or coming periodically; happening again and again.'' Finally, the Oxford English Dictionary (1933) defines ''recurrent'' as occurring or coming again (esp. frequently or periodically); reappearing.'' The regulatory definitions of ''occasional'' and ''recurrent'' incorporate these concepts.

Example 6 of § 734.306 of the interim regulations concerns political activities in a commercial building where Government agencies and instrumentalities lease office space, and where the headquarters of a candidate for partisan political office also are situated. The example provides that an employee of the Government agency or instrumentality may do volunteer work at the candidate's headquarters when the employee is not on duty.

OPM believes that this example is confusing because it suggests that employees may participate in political activities only in the candidate's headquarters, and not elsewhere in the building. Therefore, OPM has revised the example to clarify that, when employees are not on duty, the Reform Amendments do not prohibit them from participating in political activities in the other areas of the building that are not leased by the Government, including public areas that are shared by all of the tenants, such as the main lobby. Although the Reform Amendments would not prohibit employees from political participation in areas that are shared by all of the tenants, OPM notes that political activities in these areas may be restricted by the landlord.

For purposes of contrast and further clarification, OPM has included an additional example specifying that, where a Government agency or instrumentality leases all of the space in a commercial building, employees may not participate in political activity in any area of the building, including the public areas of the leased building.

OPM believes this distinction is in accord with the February 22, 1995 opinion of the Office of Legal Counsel at the Department of Justice to the Office of Personnel Management. That opinion stressed that Congress intended to create a bright-line rule against participating in partisan political activities while on Federal premises. To apply this prohibition to all areas of a commercial building, when the Government has leased only a part of the building, would undermine the bright-line rule described in the Office of Legal Counsel opinion. Accordingly, distinguishing between a commercial building in which the Government has leased part of the space and a commercial building in which the Government has leased all of the space accords with the Congressional intent of establishing a bright-line rule as described in the Office of Legal Counsel opinion.

Example 10 of § 734.306 of the interim regulations provides that Federal employees may participate in partisan political activities while they are sitting in the park on their lunch break, if they are not on duty during their lunch break. A Federal agency suggested that the regulations specify when Federal employees would not be on duty during their lunch breaks, and that individual agencies should determine whether employees are on duty at that time. In general, employees who are covered by title 5, United States Code, are not in a pay status during a bona fide lunch break and, therefore, they are not on duty. However, for the

purposes of these regulations, an employee still is considered to be on duty during his lunch hour when he is representing an agency or instrumentality of the United States in an official capacity during that time.

Example 1 of § 734.307 prohibits the Federally employed spouses of candidates for partisan political office from soliciting, accepting, or receiving contributions of money or personal services. A federal employee labor organization suggested deleting personal services from Example 1 because soliciting volunteer services is not prohibited. Although personal services are different from the uncompensated volunteer services of an individual, it is clear from the comment that use of the term ''personal services'' in Example 1 is confusing. To clarify the example, OPM has deleted the term ''personal services'' from Example 1, and substituted the phrase ''paid or unpaid services of a business or corporation.''

Subpart D—Employees in Certain Agencies and Positions

Subpart D of the regulations concerns the political activities of employees in the sensitive agencies and positions that are listed in § 734.401. Through section 501(k) of Pub. L. 103–359 (October 14, 1994), Congress added the Central Imagery Office to the sensitive agencies and positions listed in 5 U.S.C. 7323 (b)(2)(B)(i). Accordingly, OPM has added the Central Imagery Office to the agencies and positions listed in § 734.401(a) of the regulations.

Section 734.402 of subpart D describes permissible expressions of individual opinion for these employees. Subsection (b) of § 734.402 provides that they may display partisan political pictures, signs, stickers, badges, or buttons, as long as these items are displayed off duty and away from Federal premises in accordance with the provisions of § 734.408. Two Federal agencies suggested changing the cross-reference in subsection (b) from §§ 734.408 to 734.406. Section 734.408 generally prohibits active participation in partisan political management and partisan political campaigns. Section 734.406 prohibits political participation while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle. We agree with the suggestions that a cross-reference to § 734.406 would be more appropriate, and have changed § 734.402(b) to reflect this. OPM also has amended Example 5 in § 734.402 to reflect when it is permissible for an employee who is covered under subpart D to wear a partisan political button and, for purposes of clarification, has added another example providing that an employee may place partisan political signs on his or her private property.

Section 734.404 describes permissible participation in political organizations. Subsection (c) provides that employees may attend political conventions, rallies, fund-raising functions, or other political gatherings. A Federal agency noted that Example 1 appears to contradict, rather than to illustrate, this principle by prohibiting employees from participating in demonstrations or parades while they are attending a convention or rally. The Federal agency suggested that OPM should explain further exactly what activities are permissible, or define what is meant by attending a convention, rally, or other political gathering.

OPM agrees that Example 1 in § 734.404 should be clarified. Although employees may attend the conventions and rallies of political parties or partisan political groups, joining in the parades and demonstrations held at these functions is considered active participation in partisan political activity. Therefore, Example 1 in § 734.404 has been amended to reflect that employees may attend partisan political conventions or partisan political rallies solely as spectators, but they may not participate in demonstrations or parades at these partisan political functions.

Section 734.406 prohibits employees from participating in political activities while they are on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

Another Federal agency asked whether § 734.406 prohibits displays in the workplace or while on duty of pictures, signs, badges, or buttons for candidates in non-partisan elections or for ballot issues not specifically identified with a political party. The interim regulations provide that the prohibition against political participation on duty only extends to partisan political participation. Thus, the prohibition against wearing political buttons on duty or displaying political items in the workplace does not extend to displays for candidates in nonpartisan elections or to issues that are not specifically identified with a political party.

The same Federal agency requested clarification on the restriction in § 734.406(a)(4) of participating in political activities while using a privately owned vehicle in the discharge of official duties. The agency noted that, since political participation includes displays of partisan political bumper stickers, the restriction could be interpreted as barring employees from having such bumper stickers on their private vehicle if the employees use the vehicle for official travel. The agency further noted that enforcement of such a restriction would be impractical. We agree with this assessment, and have added clarifying examples to § 734.406 applying the restriction only to privately owned vehicles that are used for official business on a recurrent basis or clearly are identified as being on official business. The restriction does not apply to the occasional use of such a vehicle for official business. The terms ''occasional'' and ''recurrent'' are defined in § 734.101.

In a related matter, an individual and two Federal agencies generally commented in connection with subpart C that, if OPM intended through its interim regulations to prohibit employees from wearing partisan political buttons while on duty, OPM should add a provision explicitly stating that employees may not wear partisan political buttons while on duty. Two Federal agencies suggested OPM might do this by adding an example specifically stating that employees may not wear partisan political buttons while they are on duty or display partisan political materials at their work stations. OPM believes that these suggestions are instructive with regard to subpart D. Therefore, OPM has added to § 734.406 another example which specifies that wearing partisan political buttons while on duty or displaying partisan political items in the workplace is prohibited.

An agency commented that §§ 734.408 and 734.411(a) prohibit the same behavior, are duplicative and potentially confusing, and should be combined. Section 734.408 generally prohibits active participation in political management and campaigns, ''except as permitted by this part.'' Section 734.411(a) prohibits active participation in managing the political campaign of a candidate for partisan political or party office. Section 734.408 covers a broader range of political activities than § 734.411(a), which prohibits active participation in managing the political campaign of a candidate for partisan political office or political party office. Section 734.408 also prohibits activities described in §§ 734.409 and 734.410, as well as in the remaining subsections of § 734.411. Although OPM has not combined §§ 734.408 and 734.411(a), OPM believes that the phrase ''except as permitted by this part'' in § 734.408 is confusing because employees covered under this section are permitted to

participate only in the political activities described in subpart D. Therefore, OPM revised this phrase to include a reference to ''subpart D'' rather than to ''this part.''

Section 734.412(a) of the interim regulations provides that an employee covered under subpart D may not be a candidate for partisan political office except as described in § 734.403 which permits candidacy in *nonpartisan* elections. A Federal agency commented that the exception in § 734.412(a) should be eliminated because it is meaningless and confusing. OPM agrees with this suggestion; a nonpartisan election by definition cannot include *any* candidates for partisan political office. Therefore, OPM has removed from § 734.412(a) the reference to § 734.403.

Subpart E—Special Provisions for Certain Presidential Appointees and Employees Paid From the Appropriation for the Executive Office of the President

A Federal agency suggested that § 734.502(a)(2)(ii) include examples of, or a method for determining whether, an employee who is appointed by the President, by and with the advice and consent of the Senate, ''determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.'' OPM cannot devise a precise procedure that would apply to all positions that might be covered under § 734.502(a)(2)(ii) because each position has its own unique qualifications and duties. In view of this, providing examples of covered positions based on descriptions of their duties and responsibilities would not be of assistance is deciding whether a position meets the criteria in § 734.502(a)(2)(ii). Thus, determinations concerning the coverage of a specific position under § 734.502 must be made on an individual basis by the President or his appropriate designee.

Section 734.502(d) provides that an employee, to whom subpart E of part 734 does not apply and who is not on duty, may participate in political activities in rooms of the White House which are part of the Residence area or which are not regularly used solely in the discharge of official duties. In its discussion of the Residence area of the White House in connection with § 734.101, OPM noted that the same principles that govern the White House also should apply to the residence of the Vice President which, historically, has been treated like the White House. OPM also noted that the same analysis and conclusions that apply to the White House also apply to the residence of the Vice President. Therefore, OPM is amending § 734.502(d) to include the residence of the Vice President.

One Federal agency commented that all Inspectors General, including those appointed by the heads of designated Federal entities pursuant to the Inspector General Act of 1978, section 8G, should be prohibited from taking an active part in political management or political campaigns. We find no basis for this across-the-board restriction of all such Inspectors General. Section 3(c) of the Inspector General Act, which provides that for the purposes of section 7324 of title 5, United States Code, an Inspector General is not considered to determine policies to be pursued by the United States in the nationwide administration of Federal laws, applies only to an Inspector General who is appointed by the President by and with the advice and consent of the Senate. Section 8G(c) provides that an Inspector General in a designated Federal entity is appointed by the head of the designated Federal entity according to the laws and regulations governing appointments within that specific designated Federal entity. Therefore, the treatment Inspectors General, other than those appointed by the President by and with the advice and consent of the Senate, receive under the regulations depends on their appointment and the entities in which they serve.

Use of Official Title, Noncareer Members of the Senior Executive Service, Use of the Phrase ''in Concert With'' in the Final Regulations, and Political Signs

Two Federal agencies commented that the treatment of the use of official title in connection with political activities was not clear. In response, we have amended § 734.302 to include a prohibition on the use of official title in connection with any partisan political activity. However, a form of address, such as ''Honorable'' may be used on letters, invitations, or when introducing a covered employee at partisan political functions.

A Federal agency noted that although career Senior Executive Service (SES) employees are specifically mentioned in § 734.401, noncareer SES employees are not mentioned in the regulations. Noncareer SES employees who do not work in the agencies or positions described in § 734.401 are subject to the provisions of subparts B and C of part 734. OPM has added examples about these noncareer SES employees to the provisions in subparts B and C to make it clear that they are subject to the provisions of these subparts. Noncareer SES employees who work in the agencies or positions described in § 734.401 are subject to the more restrictive provisions of subpart D of part 734. Examples regarding noncareer SES employees also have been added to subpart D. Finally, all career SES employees also are subject to the provisions of subpart D.

A Federal agency noted that the phrases ''in concert with'' and ''in consultation or coordination with'' both appear in subpart D, and questioned whether the difference in language signifies any difference in meaning. Although these phrases were intended to express the same concept, the use of the two phrases is a source of confusion. Therefore, OPM has eliminated the phrase ''in consultation or coordination with'' and exclusively used ''in concert with'' in the final version of the regulations. OPM relies on the language in *Blaylock* v. *United States Merit Systems Protection Board,* 851 F.2d 1348 (11th Cir. 1988) and *Biller* v. *United States Merit Systems Protection Board,* 863 F.2d 1079 (2d Cir. 1988), which refers to political activity done ''in concert with'' political parties, partisan groups, or candidates for public office in partisan elections. *See Blaylock* v. *United States Merit Systems Protection Board,* 851 F.2d at 1354; *Biller* v. *United States Merit Systems Protection Board,* 863 F.2d at 1090–1091.

A Federal agency suggested that an example should be added to the regulations that clearly permits employees to place partisan political signs on their property. OPM has added such an example to § 734.205. In addition, another example in § 734.402 reflects that employees covered under subpart D also may display partisan political signs on their property.

Contributions to Political Action Committees Through Voluntary Salary Allotments

The final regulations also contain new provisions which result from the issuance, on February 22, 1995, of an opinion by the Office of Legal Counsel (OLC) at the Department of Justice to the Office of Personnel Management. The OLC opinion addresses the question of whether the Reform Amendments prohibit Federal employees from making voluntary salary allotments to political action committees (PACs). The OLC initially noted that ''PACs'' are not defined as such under Federal law. OLC noted further that 26 U.S.C. 9002(9) defined the term ''political committee'' and stated that, for the purposes of its opinion, ''PAC'' referred only to an organization that came within this

definition. OPM has incorporated into part 734 the definition of ''PAC'' that OLC used in its opinion. OPM notes that the definition does not make a distinction between partisan and nonpartisan PACs because, according to the OLC opinion, donating to a PAC that meets this definition would be considered political activity within the meaning of the Reform Amendments.

OLC noted in this regard that political activity includes actions sufficient to effect the making of a political contribution, such as taking steps to ensure that part of one's salary is contributed to a political campaign or a PAC. OLC noted that the OPM interim regulations on political activity confirmed its view that contributing to political candidates constitutes political activity within the meaning of the OPM interim regulations because it is directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. OPM has not revised this definition of political activity.

Moreover, OLC noted that Congress intended that making contributions to PACs would be considered political activity under the terms of the Reform Amendments. It noted that Senator Glenn, the leading Senate sponsor of the Reform Amendments, referred specifically to PAC contributions in describing examples of the political activities that the Reform Amendments would prohibit on duty. *See* 139 Cong. Rec. S8929 (daily ed. July 20, 1993). In view of this, OMP believes that it is not necessary to further refine the OLC definition of PAC. OPM has added to § 734.101, a definition of the term ''political action committee'' which tracks the definition of ''political committee'' in 26 U.S.C. 9002(9).

OLC opined that most Federal employees are not barred from using the salary allotment system to make contributions to PACs. Thus, Federal employees who are subject to subparts B through D of part 734 are not prohibited from making a voluntary allotment to a PAC.

OLC opined in addition that 5 U.S.C. 7324(a)(1)(4) prohibits Federal employees from taking steps sufficient to effect the making of a PAC contribution while they are on duty or in a Federal building. Thus, employees who are subject to subparts B through D of part 734 are prohibited from filling out direct-deposit forms for salary allotments to PACs while they are on duty or in a Federal building, and from personally delivering such forms to payroll employees who would process or administer these allotments. OPM has amended §§ 734,208, 734.306, 734.404, and 734.406 of its regulations to reflect the conclusions stated on the OLC opinion. OPM also has added to § 734.101, a definition of the term ''political action committee'' which tracks the definition of ''political committee'' in 26 U.S.C. 9002(9).

OLC also opined that Federal employees who are identified in 5 U.S.C. 7324(b)(2) may not use the salary allotment system to contribute money to PACs. Section 7324(b)(2) applies to employees whose duties and responsibilities ''continue outside normal duty hours and while away from the normal duty post'' and who are either employees (1) ''paid from an appropriation for the Executive Office of the President'' or (2) ''appointed by the President, by and with the advice and consent of the Senate, whose position(s are) located within the United States in relations with foreign powers or in the nationwide administration of Federal laws.'' Such employees are covered under subpart E of OPM's regulations. OLC opined that in the use of the salary allotment system, the costs associated with the transfer of contributions to PACs would be borne by the Federal Government, and 5 U.S.C. 7324(b)(1) of the Reform Amendments prohibits these employees form engaging in political activity using ''money derived from the Treasury of the United States.'' OPM has added to subpart E a new provision that reflects this prohibition.

Finally, the OLC opinion stressed that 5 U.S.C. 5525, the statutory provision governing allotment and assignment of pay, as well as the OPM allotment regulations at 5 CFR 550.311(b), provide that individual agency heads have the discretion to determine whether eligible employees of the agency may use the allotment system for particular purposes, such as making contributions to PACs.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 734

Political activities (Government employees).

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, the Office of Personnel Management interim rule adding 5 CFR part 734, published at 59 FR 48765 on September 23, 1994, is adopted as a final rule with the following changes:

PART 734—POLITICAL ACTIVITIES OF FEDERAL EMPLOYEES

1. The authority citation for part 734 continues to read as follows:

Authority: 5 U.S.C. 1103, 1104, 7325; Reorganization Plan No. 2 of 1978, 92 Stat. 3783, 3 CFR 1978 Comp. p. 323; and E.O. 12107, 3 CFR 1978 Comp. p. 264.

2. In § 734.101 the definitions of *accept*, and *receive*, are revised, and the definitions of *occasional*, *political action committee*, *recurrent*, and *room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof* are added in alphabetical order, to read as follows:

§ 734.101 Definitions.

* * * * *

Accept means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

* * * * *

Occasional means occurring infrequently, at irregular intervals, and according to no fixed or certain scheme; acting or serving for the occasion or only on particular occasions.

* * * * *

Political Action Committee means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

* * * * *

Receive means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Recurrent means occurring frequently, or periodically on a regular basis.

Room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or

any agency thereof includes, but is not limited to:

(1) Any Federally owned space (including, but not limited to, ''public buildings'' as defined in 40 U.S.C. 612(1)) or Federally leased space in which Federal employees perform official duties on a regular basis;

(2) Public areas as defined in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003 of buildings under the custody and control of the General Services Administration.

(3) A room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof does not include rooms in the White House, or in the residence of the Vice President, which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

3. In § 734.102 paragraphs (a) introductory text and (b) are revised to read as follows:

§ 734.102 Jurisdiction.

(a) The United States Office of Special Counsel has exclusive authority to investigate allegations of political activity prohibited by the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, prosecute alleged violations before the United States Merit Systems Protection Board, and render advisory opinions concerning the applicability of 5 CFR part 734 to the political activity of Federal employees and employees of the District of Columbia government. (5 U.S.C. 1212 and 1216. Advice concerning the Hatch Act Reform Amendments may be requested from the Office of Special Counsel:

* * * * *

(b) The Merit Systems Protection Board has exclusive authority to determine whether a violation of the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, has occurred and to impose a minimum penalty of suspension for 30 days and a maximum penalty of removal for violation of the political activity restrictions regulated by this part. (5 U.S.C. 1204 and 7326).

* * * * *

4. In § 734.203, Example 2 is added to read as follows:

§ 734.203 Participation in nonpartisan activities.

* * * * *

Example 2: An employee, individually or collectively with other employees, may petition or provide information to Congress as provided in 5 U.S.C. 7211.

5. In § 734.204, paragraph (f) is added, and Example 2 is revised, to read as follows:

§ 734.204 Participation in political organizations.

* * * * *

(f) Serve as a delegate, alternate, or proxy to a political party convention.

* * * * *

Example 2: A noncareer member of the Senior Executive Service, or other employee covered under this subpart, may serve as a vice-president of a political action committee, as long as the duties of the office do not involve personal solicitation, acceptance, or receipt of political contributions. Ministerial activities which precede or follow the official acceptance and receipt, such as handling, disbursing, or accounting for contributions are not covered under the definitions of *accept* and *receive* in § 734.101. Sections 734.208 and 734.303 describe in detail permitted and prohibited activities which are related to fundraising.

* * * * *

6. In § 734.205, Examples 8 and 9 are added to read as follows:

§ 734.205 Participation in political campaigns.

* * * * *

Example 8: While not on duty, a Federal employee may distribute campaign leaflets by hand to homes or parked cars even though the leaflet may contain information concerning where to send contributions among other factual material about a partisan political candidate. However, should a member of the public stop the employee and request further information about contributions, the employee should refer that request to another campaign worker who is not a Federal employee.

Example 9: An employee may place in his or her front yard a sign or banner supporting a partisan political candidate.

7. § 734.208, paragraphs (c) and (d) are added, Examples 12 and 13 are added, and Example 4 is revised, to read as follows:

§ 734.208 Participation in fundraising.

* * * * *

(c) Subject to the provisions of § 734.306, an employee may make a financial contribution to a political action committee through a voluntary allotment made under § 550.311(b) of this chapter, if the head of the employee's agency permits agency employees to make such allotments to political action committees.

(d) An employee who is covered under this subpart and is a payroll official in an agency where employees are permitted to make allotments to political action committees may process the completed direct deposit forms for voluntary allotments which have been made to such committees under section 550.311(b) of this title.

* * * * *

Example 4: When an employee of the Department of Transportation is not on duty, he or she may engage in activities which do not require personal solicitations of contributions, such as organizing mail or phone solicitations for political contributions. Activities such as stuffing envelopes with requests for political contributions also are permitted. However, he or she may not sign the solicitation letter unless the solicitation is for the contribution of uncompensated volunteer services of individuals who are not subordinate employees. An employee may not knowingly send to his or her subordinate employees a letter soliciting the contribution of their uncompensated services. However, he or she may sign a letter that solicits contributions of uncompensated volunteer services as part of a general mass mailing that might reach a subordinate employee, as long as the mass mailing is not specifically targeted to his or her subordinate employees.

* * * * *

Example 12: An employee who desires to make a financial contribution to a political action committee through a voluntary allotment personally may obtain blank direct deposit forms from his or her payroll office. However, he or she may not complete the form while he or she is on duty, on Federal property, or in a Federally owned or leased vehicle. Moreover, he or she may not personally deliver his or her completed form, or the completed form of another employee, to the payroll office. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

Example 13: Employees who are permitted to solicit, accept, or receive political contributions under the circumstances described in § 734.208(b)(4) may not solicit, accept, or receive such contributions either while they are on duty, or while they are on Federal premises, or both.

8. Section 734.302 is revised to read as follows:

§ 734.302 Use of official authority; prohibition.

(a) An employee may not use his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(b) Activities prohibited by paragraph (a) of this section include, but are not limited to:

(1) Using his or her official title while participating in political activity;

(2) Using his or her authority to coerce any person to participate in political activity; and

(3) Soliciting, accepting, or receiving uncompensated individual volunteer services from a subordinate for any political purpose.

Example 1: An employee who signs a letter seeking uncompensated volunteer services from individuals may not identify himself or

herself by using his or her official title. However, the employee may use a general form of address, such as ''The Honorable.''

Example 2: A noncareer member of the Senior Executive Service, or another employee covered by this subpart, may not ask his or her subordinate employees to provide uncompensated individual volunteer services for a political party, partisan political group, or candidate for partisan political office. Moreover, he or she may not accept or receive such services from a subordinate employee who offers to donate them.

Example 3: An employee may not require any person to contribute to a partisan political campaign in order to win a Federal contract:

9. In § 734.306, Example 3 through 13 are revised and 14 through 19 are added to read as follows:

734.306 Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

* * * * *

Example 3: An employee who uses his or her privately owned vehicle on a recurrent basis for official business may place a partisan political bumper sticker on the vehicle, as long as he or she covers the bumper sticker while the vehicle is being used for official duties.

Example 4: An employee who uses his or her privately owned vehicle on official business, must cover any partisan political bumper sticker while the vehicle is being used for official duties, if the vehicle is clearly identified as being on official business.

Example 5: A noncareer member of the Senior Executive Service, or any other employee covered by this subpart, who uses his or her privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, is not required to cover a partisan political bumper sticker on his or her vehicle.

Example 6: An employee may not place a partisan political bumper sticker on any Government owned or Government leased vehicle.

Example 7: An employee may place a bumper sticker on his or her privately owned vehicle and park his or her vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality.

Example 8: When an agency or instrumentality of the United States Government leases offices in a commercial building and that building includes the headquarters of a candidate for partisan political office, an employee of that agency or instrumentality may do volunteer work, when he or she is not on duty, at the candidate's headquarters and in other areas of the building that have not been leased by the Government.

Example 9: A Government agency or instrumentality leases all of the space in a commercial building; employees may not participate in political activity in the public areas of the leased building.

Example 10: An employee of the National Aeronautics and Space Administration (NASA) may not engage in political activities while wearing a NASA flight patch, NASA twenty-year pin or anything with an official NASA insignia.

Example 11: If a political event begins while an employee is on duty and continues into the time when he or she is not on duty, the employee must wait until he or she is not on duty to attend the event. Alternatively, an employee may request annual leave to attend the political event when it begins.

Example 12: Officials of labor organizations who have been given official time to perform representational duties are on duty.

Example 13: An employee may stuff envelopes for a mailing on behalf of a candidate for partisan political office while the employee is sitting in the park during his or her lunch period if he or she is not considered to be on duty during his or her lunch period.

Example 14: An employee who works at home may engage in political activities at home when he or she is not in a pay status or representing the Government in an official capacity.

Example 15: An employee who is appointed by the President by and with the advice and consent of the Senate (PAS) may attend a political event with an non-PAS employee whose official duties do not require accompanying the PAS as long as the non-PAS employee is not on duty.

Example 16: A noncareer member of the Senior Executive Service, or any other employee covered by this subpart, may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while he or she is on duty or at his or her place of work.

Example 17: An employee may not engage in political activity in the cafeteria of a Federal building, even if the cafeteria is in space leased by a contractor.

Example 18: An employee who contributes financially to a political action committee through a voluntary allotment made under § 550.311(b) of this title may not complete the direct deposit forms while he or she is on duty, in a ''room or building'' defined in § 734.101 or in a Federally owned or leased vehicle.

Example 19: An employee who contributes financially to a political action committee through a voluntary allotment may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer such forms. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

10. In § 734.307, Example 1 is revised to read as follows:

§ 734.307 Campaigning for a spouse or family member.

* * * * *

Example 1: An employee who is married to a candidate for partisan political office may attend a fundraiser for his or her spouse, stand in the receiving line, sit at the head table, and urge others to vote for his or her spouse. However, the employee may not personally solicit, accept, or receive contributions of money or the paid or unpaid services of a business or corporation, or sell or collect money for tickets to the fundraiser.

* * * * *

11. In § 734.401, paragraphs (a)(14) through (a)(16) are revised and paragraph (a)(17) is added to read as follows:

§ 734.401 Coverage.

(a) * * *

(14) The Central Imagery Office;

(15) Career Senior Executive Service positions described in 5 U.S.C. 3132(a)(4);

(16) Administrative Law Judge positions described in 5 U.S.C. 5372;

(17) Contract Appeals Board Member positions described in 5 U.S.C. 5372a.

* * * * *

12. In § 734.402, paragraph (b) is revised, Examples 4 and 5 are redesignated as Examples 5 and 6 respectively, newly redesignated Examples 5 and 6 are revised, and Example 4 is added, to read as follows:

§ 734.402 Expression of an employee's individual opinion.

* * * * *

(b) Display a political picture, sign, sticker, badge, or button, as long as these items are displayed in accordance with the provisions of § 734.406;

* * * * *

Example 4: An employee may place in his or her yard a sign supporting a candidate for partisan political office.

Example 5: An employee may stand outside of a political party convention with a homemade sign which states his or her individual opinion that one of the candidates for nomination is the best qualified candidate.

Example 6: An employee, including a career SES employee, may wear a button with a partisan political theme when the employee is not on duty or at his or her place of work.

13. Section 734.404 is revised to read as follows:

§ 734.404 Participation in political organizations.

(a) Each employee covered under this subpart retains the right to:

(1) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(2) Be a member of a political party or other partisan political group and participate in its activities to the extent consistent with other Federal law;

(3) Attend a political convention, rally, fund-raising function, or other political gathering; and

(4) Make a financial contribution to a political party, partisan political group, or to the campaign committee of a candidate for partisan political office.

(b) Subject to the provisions in § 734.406, an employee covered under this subpart may make a financial contribution to a political action committee through a voluntary allotment made under § 550.311(b) of this chapter if the head of the employee's agency permits agency employees to make such allotments to political action committees.

(c) An employee who is covered under this subpart and is a payroll official in an agency where employees are permitted to make allotments to political action committees may process the completed direct deposit forms for voluntary allotments which have been made to such committees under § 550.311(b) of this chapter.

Example 1: An employee, or a noncareer SES employee who is subject to subpart D of part 734, may attend a political convention or rally solely as a spectator. However, the employee and noncareer SES employee may not participate in demonstrations or parades which are sponsored by a political party, a partisan political group, or an individual who is running for nomination to be a candidate for partisan political office.

Example 2: An employee may attend a political party's annual barbecue, but he or she may not organize, distribute invitations to, or sell tickets to the barbecue.

Example 3: An employee who desires to contribute to a political action committee through an allotment personally may obtain blank direct deposit forms from his or her payroll office. The employee may not complete the direct deposit form while he or she is on duty, on Federal property, or in a Federally owned or leased vehicle. The employee also may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to his or her payroll office. However, the employee may mail the completed form to his or her agency payroll office.

14. In § 734.406, Examples 1 through 8 are added to read as follows:

§ 734.406 Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle; prohibition.

* * * * *

Example 1: An employee who uses his or her privately owned vehicle on a recurrent basis for official business may place a bumper sticker on the vehicle, as long as he or she covers the bumper sticker while the vehicle is being used for official duties.

Example 2: An employee who uses his or her privately owned vehicle on official business, must cover any partisan political bumper sticker while the vehicle is being used for official duties, if the vehicle is clearly identified as being on official business.

Example 3: An employee or career SES employee who uses his or her privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, if not required to cover a partisan political bumper sticker on his or her vehicle.

Example 4: An employee may not place a partisan political bumper sticker on any Government owned or Government leased vehicle.

Example 5: An employee may place a bumper sticker on his or her privately owned vehicle and park the vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality.

Example 6: An employee, or noncareer SES employee who is subject to subpart D of this part 734, may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while he or she is on duty or at his or her place of work.

Example 7: An employee who contributes financially to a political action committee through a voluntary allotment made under § 550.311(b) of this title may not complete the direct deposit forms while he or she is on duty, in a ''room or building'' defined in § 734.101, or in a Federally owned or leased vehicle.

Example 8: An employee who contributes financially to a political action committee may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer such forms. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

15. Section 734.408 is revised to read as follows:

§ 734.408 Participation in political management and political campaigning; prohibitions.

An employee covered under this subpart may not take an active part in political management or in a political campaign, except as permitted by subpart D of this part.

16. In § 734.412, paragraphs (a), (b), and (c) are revised to read as follows:

§ 734.412 Participation in elections; prohibitions.

(a) Be a candidate for partisan political office;

(b) Act as recorder, watcher, challenger, or similar officer at polling places in concert with a political party, partisan political group, or a candidate for partisan political office;

(c) Drive voters to polling places in concert with a political party, partisan political group, or a candidate for partisan political office;

17. In § 734.502 paragraph (d) is revised to read as follows:

§ 734.502 Participation in political activity while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

* * * * *

(d) An employee, to whom subpart E of this part does not apply, who is not on duty may participate in political activities in rooms of the White House or the Residence of the Vice President which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

* * * * *

18. Section 734.504 is added to read as follows:

* * * * *

§ 734.504 Contributions to political action committees through voluntary payroll allotments prohibited.

An employee described in § 734.502(a) may not financially contribute to a political action committee through a voluntary allotment made under § 550.311(b) of this title.

[FR Doc. 96–17006 Filed 7–3–96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96–016–7]

Karnal Bunt; Compensation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations to provide compensation for certain growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of Karnal bunt. The payment of compensation is necessary in order to reduce the economic impact of the Karnal bunt quarantine on affected wheat growers and other individuals, and to help obtain cooperation from affected individuals in Karnal bunt eradication efforts.

DATES: Interim rule effective June 27, 1996. Consideration will be given only to comments received on or before September 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–016–7, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road

Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–016–7. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a serious fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores. The spores can be carried on a variety of surfaces, including plants and plant parts, seeds, soil, elevators, buildings, farm equipment, tools, and even vehicles. Spores and the sporidia they produce also can be windborne. Although the sporidia are fragile and may be able to move only short distances, Teliospores are thought to move longer distances.

Karnal bunt is a serious disease that can affect both yield and grain quality when present at levels over 3 to 5 percent. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from heavily infested wheat. Wheat containing a significant amount of bunted kernels is reduced in quality. Karnal bunt does not present a risk to human or animal health.

On March 8, 1996, Karnal bunt was detected in Arizona during a seed certification inspection done by the Arizona Department of Agriculture. On March 20, 1996, the Secretary of Agriculture signed a ''Declaration of Extraordinary Emergency'' authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the States of Arizona, New Mexico, and Texas. In an interim rule effective on March 25, 1996, and published in the Federal Register on March 28, 1996 (61 FR 13649–13655, Docket No. 96–016–3), the Animal and Plant Health Inspection Service (APHIS) established the Karnal bunt regulations (7 CFR 301.89–1 through 301.89–11), and quarantined all of Arizona and portions of New Mexico and Texas because of Karnal bunt. The regulations define regulated articles and restrict the interstate movement of these regulated articles from the quarantined areas.

After the establishment of the regulations, Karnal bunt was detected in lots of seed that were either planted or stored in certain areas in California. On April 12, 1996, the Secretary of Agriculture signed a ''Declaration of Extraordinary Emergency'' authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within California. In an interim rule effective on April 19, 1996, and published in the Federal Register on April 25, 1996, APHIS also quarantined portions of California because of Karnal bunt (61 FR 18233–18235, Docket No. 96–016–5).

Under an extraordinary emergency, the Secretary is authorized, but not obligated, to compensate growers and other persons for economic losses incurred by them as a result of the quarantine or emergency action. This interim rule amends the Karnal bunt regulations to provide compensation for certain growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of actions taken by the Department regarding Karnal bunt. We are adding a new § 301.89–12 that lists classes of individuals who are eligible to receive compensation for actions taken or losses experienced because of actions taken by the Department regarding Karnal bunt. This section also sets forth the rates of compensation and explains how to make a claim for compensation, including what forms need to be filed and what documents need to be provided by the claimant to the United States Department of Agriculture (USDA).

Compensation for Destroyed Crops in New Mexico and Texas

Approximately 4,000 acres of planted wheat in New Mexico and Texas were traced back to seed produced in Arizona and known to be contaminated with Karnal bunt. Under an extraordinary emergency, the Secretary of Agriculture has the authority to order the destruction of crops (see 7 U.S.C. 150dd(b)). On April 1, 1996, the Secretary signed a memorandum authorizing APHIS to issue orders for the destruction by plowing of all wheat crops in New Mexico and Texas that were planted with seed known to be contaminated with Karnal bunt. Destruction of these crops was determined to be beneficial in preventing the spread of Karnal bunt because the crops in New Mexico and Texas were at an early stage of growth, before Karnal bunt infection of the current crop could occur.

The vehicle for issuing destruction orders is an Emergency Action Notification (PPQ Form 523) given by an APHIS inspector to the owner of the wheat crop that is to be destroyed. Pursuant to the Secretary's authorization, APHIS began issuing Emergency Action Notifications for the destruction of contaminated wheat fields in New Mexico and Texas on April 1, 1996.

Consequently, we are listing as eligible for compensation growers in New Mexico and Texas who have destroyed crops of wheat pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector. Compensation for these individuals has been set at the rate of $300 per acre of destroyed crop. The rate of $300 per acre includes a payment of $275 per acre compensation for expenses incurred by the owner of the wheat crop in planting and cultivating the contaminated wheat (this is based on the average cost of expenses such as seed, fertilizer, irrigation, and employee expenses) plus $25 per acre to pay for crop destruction and soil preparation for replanting the plowed acres with a new crop.

To receive compensation, the growers must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. ASCS Form 574 is a form used to request acreage or disaster credit, and will document a record of management practices for the crop and the reason for its destruction. ASCS Form 578 is a form used to document a farmer's total acreage and how the farmer uses that acreage. Most affected farmers will already have a copy of ASCS Form 578 on file with the USDA in connection with their enrollment in federal crop insurance or other USDA programs, but will have to revise this form to reflect that the crop on some or all of the acreage listed on the form has been ordered destroyed by an inspector because of Karnal bunt. FCI Form 73 will be used to certify the number of destroyed acres of wheat and the reason for their destruction.

Compensation for Lost Value of Wheat in the Quarantined Area

Most other wheat grown in the quarantined areas, especially in the quarantined areas outside of New Mexico and Texas, was past the early stage of growth at which plowing the

crop under would prevent infection of the current crop with Karnal bunt. Much of the wheat grown in the quarantined area is under contract with millers or grain handlers for processing or for use as seed. Under the Karnal bunt regulations, growers and handlers in the quarantined area are restricted from selling wheat for propagative purposes (seed) and from moving wheat outside of the quarantined area. This means that, in most cases, growers and handlers in the quarantined area cannot move their wheat to the market for which it was contracted.

Growers and handlers may export their wheat to another country or may market the wheat within the quarantined area, where it will most likely be processed as animal feed. The value for wheat to be used as animal feed is typically lower than the value for wheat used for propagative purposes or for use in products for human consumption. Further, many growers and handlers are finding it difficult to market wheat from the quarantined area, whether or not it has tested positive for Karnal bunt infection, because wheat from the quarantined area may incur additional costs for handling and treatment. This may force some growers and handlers to accept a lower price for their wheat than they would have received if the area had not been quarantined for Karnal bunt.

Therefore, we are listing as eligible for compensation growers and handlers of wheat grown in the quarantined area for the loss in value of their wheat due to the quarantine for Karnal bunt. We will compensate for the loss in value of wheat testing negative and wheat testing positive from the quarantined area. Compensation calculations will be different depending on the purpose for which the wheat was grown and the purpose for which the wheat is eventually sold. Compensation calculations will also be different for growers and for handlers.

This rule only includes calculations for compensation of wheat grown for nonpropagative purposes (meaning it was not grown for use as seed). We do intend to compensate seed producers for the loss in value of their seed. However, we are still developing protocols for seed movement and disposition, and those protocols will affect how that compensation will be calculated. A rule providing for compensation for seed producers will be published at a later date. The calculations for nonpropagative wheat compensation are discussed below.

Growers of Nonpropagative Wheat

For growers of wheat grown under contract for nonpropagative purposes in the quarantined area, the amount of compensation will be based on the difference between the contracted price and the salvage value (described below). Salvage value for wheat grown under contract will be as follows:

If the contracted wheat is tested by APHIS and found positive for Karnal bunt, and the positive wheat is sold for use as animal feed, salvage value equals $6 per hundred weight or $3.60 per bushel for all classes of wheat. This value is based on the feeding value of wheat relative to other feed grains, in addition to considering the costs of required treatment of positive wheat for use in livestock feed and the costs of transporting wheat to processing centers and to feeding locations. If the positive wheat is sold for uses other than animal feed (e.g., milling or export), salvage value equals whichever price is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat for the period between May 1 and June 30, 1996; or, $3.60 per bushel. (Relevant class of wheat means the type of wheat, for example, Durum or Hard red winter wheat. Because these classes of wheat are suitable for different products, they command different market prices.) If contracted wheat is tested by APHIS and found negative for Karnal bunt, regardless of the eventual use of the wheat, salvage value equals the same as for positive contracted wheat sold for uses other than animal feed.

For growers of nonpropagative wheat not grown under contract, compensation will be based on the difference between the estimated market price for the relevant class of wheat and the salvage value. Salvage values will be the same as described above for contracted wheat. The estimated market price is intended to represent what the market price would have been if there were no quarantine for Karnal bunt, and will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

For nonpropagative wheat, whether grown under contract or not, whether positive or negative, compensation will not exceed $2.50 per bushel.

To receive compensation, the grower must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. These are the same forms described above for claims for destroyed crops, and will be furnished by USDA. In addition, the grower must submit a copy of the contract the grower has for the wheat, if the wheat was under contract, and a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

Handlers of Nonpropagative Wheat

There are two circumstances under which handlers will be eligible for compensation: (1) Handlers who honor contracts by paying the grower full contract price on wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found positive for Karnal bunt; and (2) handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found negative for Karnal bunt prior to purchase, but which is tested by APHIS and found positive for Karnal bunt after purchase. The amount of compensation for both these circumstances will be based on the difference between the estimated market price (as described previously in this document) and the salvage value. Salvage value will be the same as for grower compensation (described previously in this document). However, compensation will not exceed $2.50 per bushel under any circumstances.

The calculations described above do not provide for compensation for handlers who purchase positive wheat not grown under contract, or who purchase negative wheat that does not later test positive. Handlers who purchase positive wheat not grown under contract, or for less than contract price, will likely pay a very low price for the wheat, so that compensation for loss in value will not be necessary. Handlers who purchase negative wheat that continues to test negative after purchase will likewise not experience a loss in value for the wheat compared to the price they paid for it. Handlers who purchase negative wheat that later tests positive would, however, experience a loss in expected value because positive wheat is worth less than negative wheat.

To receive compensation, the handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. In addition, the handler must submit a copy of the contract the

handler had with the grower for the wheat, if the wheat was under contract, to verify that the contract was honored. If the wheat was not purchased under contract, the handler must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

If a grower or handler of nonpropagative wheat in the quarantined area is not able to or elects not to sell their wheat, they will be eligible to receive compensation at the rate of $2.50 per bushel. However, compensation will only be paid if the grower or handler has destroyed the wheat by burying it in a sanitary landfill. To receive compensation, the grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by an inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. The grower or handler must also submit a receipt from a sanitary landfill verifying how much wheat was buried.

Compensation for Decontamination of Grain Storage Facilities

Owners of grain storage facilities that have been decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible for compensation. These grain storage facilities have been determined by APHIS to be contaminated with Karnal bunt. We estimate that the cost of decontamination, which consists of treatment with a chlorine solution and water, detergent and water, steam, or fumigation with methyl bromide in accordance with § 301.89–11 of the regulations, can range between $30,000 to $50,000 per facility.

We will compensate owners of contaminated grain storage facilities on a one time only basis for up to 50 percent of the cost of decontamination. However, compensation will not exceed $20,000 per premise. We will add a definition for ''premise'' to § 301.89–1 to mean ''all structures, conveyances, or materials associated with a grain storage facility at a single location.'' Compensation is limited to the direct costs of decontaminating facilities. General clean-up, repair, and refurbishment costs are excluded from compensation.

To receive compensation, owners of grain storage facilities must submit to the inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered to be decontaminated by the Emergency Action Notification on the facility premise. The records must include a copy of the Emergency Action Notification, contracts with individuals or companies hired to perform the decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who perform actions related to the decontamination, and any other documentation that helps show decontamination has been completed and its cost.

Compensation for Treating Millfeed

In accordance with compliance agreements established between APHIS and flour millers located in high-risk areas (areas where there is a high risk of spreading Karnal bunt into surrounding areas), millfeed (a byproduct of milling wheat into flour) produced from wheat from the quarantined area must be treated using a heat process. This treatment adds approximately $35 per short ton to the cost of producing millfeed products, such as animal feed. It is unlikely that millers would purchase wheat from the quarantined area without compensation for the cost of millfeed treatment. Loss of these markets would further lower the value of wheat in the quarantined area.

Flour millers who heat-treat millfeed made from wheat produced in the quarantined area are eligible to receive compensation at the rate of $35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat that is milled from the quarantined area by 25 percent (the average percent of millfeed derived from a short ton of grain). We will calculate the amount of millfeed to be compensated in this manner because many millers routinely mix together different types of wheat from different areas. The resulting millfeed would be a product of wheat from quarantined and nonquarantined areas. However, we will only compensate for the cost of treating millfeed made from wheat produced in the quarantined area. Therefore, the amount compensated cannot be determined by simply weighing the total amount of millfeed at the end of the milling process.

To claim compensation, flour millers must submit to an inspector a copy of the limited permit under which the wheat was moved to the mill, in order to show that the wheat was produced in a quarantined area, and a copy of the bill of lading for the wheat, showing the weight of the wheat in short tons. Flour millers must also submit verification that the millfeed produced from wheat from the quarantined area was properly heat treated.

We believe the compensations described above will help ensure cooperation from affected individuals in APHIS' efforts to eliminate the spread of Karnal bunt and will help mitigate the economic impact of the Karnal bunt quarantine and emergency actions on affected wheat growers and others within the industry.

Miscellaneous

We are also making a miscellaneous change to the Karnal bunt regulations. Section 301.89–2(d) lists plants and plant parts of the species *Triticum aestivum* X *Seale cereals* as regulated articles. However, the correct scientific name for this species is *Triticum aestivum* X *Secale cereale*. We are amending § 301.89–2(d) to correct this error.

Emergency Action

In accordance with 7 U.S.C. 150dd(b)(2), the amount of compensation, if any, which the Secretary determines may be paid to individuals for economic losses incurred because of the declaration of an extraordinary emergency shall be final.

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to provide compensation for those persons who were and are required to take emergency actions to eliminate the spread of Karnal bunt or who experience economic losses because of the quarantine for Karnal bunt.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the regulations to provide compensation for certain

growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of the Karnal bunt quarantine and emergency actions. This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

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 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this interim rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control numbers are as follows: for PPQ Form 523 the number is 0579–0121; for ASCS Form 574 the number is 0563–0003; for ASCS Form 578 the number is 0560–0004; and for FCI Form 73 the number is 0563–0033.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.89–2 [Amended]

2. In § 301.89–1, a definition for *Premise* is added in alphabetical order to read as follows:

§ 301.89–1 Definitions.

* * * * *

Premise. All structures, conveyances, or materials associated with a grain storage facility at a single location.

* * * * *

3. In § 301.89–2, in paragraph (d), the entry for *Triticale* is amended by removing the words ''*Seale cereals*'' and adding the words ''*Secale cereale*'' in their place.

4. A new § 301.89–12 is added to read as follows:

§ 301.89–12 Compensation.

The following individuals are eligible to receive compensation from the United States Department of Agriculture (USDA) for losses or expenses incurred because of the Karnal bunt quarantine and emergency actions, as follows:

(a) *Growers who have destroyed crops.* Growers in New Mexico and Texas who have destroyed crops of wheat pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible to be compensated at the rate of $300 per acre of destroyed crop. To claim compensation, the grower must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA.

(b) *Growers and handlers who sell nonpropagative wheat grown in the quarantined area.* Growers and handlers who sell nonpropagative wheat grown in the quarantined area are eligible to be compensated for the loss in value of their wheat due to the quarantine for Karnal bunt, as follows:

(1) *Growers who sell nonpropagative wheat.* For growers who sell wheat grown for nonpropagative purposes, compensation will be as described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section. However, compensation will not exceed $2.50 per bushel under any circumstances.

(i) If the wheat was grown under contract, compensation will equal the contracted price minus the salvage value, as described in paragraph (b)(3) of this section.

(ii) If the wheat was not grown under contract, compensation will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) minus the salvage value, as described in paragraph (b)(3) of this section. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

(2) *Handlers who sell nonpropagative wheat.* Handlers are eligible to be compensated only under the circumstances described in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. Compensation for both circumstances will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) minus the salvage value, as described in paragraph (b)(3) of this section. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs. However, compensation will not exceed $2.50 per bushel under any circumstances.

(i) Handlers who honor contracts by paying the grower full contract price on wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found positive for Karnal bunt; or

(ii) Handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found negative for Karnal bunt prior to purchase but that was tested by APHIS and found positive for Karnal bunt after purchase.

(3) *Salvage value.* Salvage values will be as follows:

(i) If the wheat is positive for Karnal bunt and is sold for use as animal feed, salvage value equals $6.00 per hundredweight or $3.60 per bushel for all classes of wheat.

(ii) If the wheat is positive for Karnal bunt and is sold for a use other than animal feed, salvage value equals whichever is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) for the period between May 1 and June 30, 1996; or, $3.60 per bushel.

(iii) If the wheat is negative for Karnal bunt and is sold for any use, salvage value equals whichever is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as

Durum or Hard red winter) for the period between May 1 and June 30, 1996; or, $3.60 per bushel.

(4) *To claim compensation.* To claim compensation, a grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. Growers must also submit a copy of the contract the grower has for the wheat, if the wheat was under contract; handlers must also submit a copy of the contract the handler had with the grower for the wheat, if the wheat was under contract. Finally, a grower or handler must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

(c) *Nonpropagative wheat that is not sold.* If a grower or handler of nonpropagative wheat in the quarantined area is not able to or elects not to sell their wheat, they will be eligible to receive compensation at the rate of $2.50 per bushel. Compensation will only be paid if the grower or handler has destroyed the wheat by burying it in a sanitary landfill. To claim compensation, the grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS From 578, and FCI Form 73. The forms will be furnished by USDA. In addition, the grower or handler must submit a receipt from the sanitary landfill verifying how much wheat was buried.

(d) *Decontamination of grain storage facilities.* Owners of grain storage facilities that have been decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible to be compensated, on a one time only basis, for up to 50 percent of the cost of decontamination. However, compensation will not exceed $20,000 per premise (as defined in § 301.89–1). Compensation is limited to the direct costs of decontaminating facilities. General clean-up, repair, and refurbishment costs are excluded from compensation. To claim compensation, the owner of the grain storage facility must submit to an inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered to be decontaminated by the Emergency Action Notification on the facility premise. The records must include a copy of the Emergency Action Notification, contracts with individuals or companies hired to perform the decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who performed activities connected to the decontamination, and any other documentation that helps show decontamination has been completed.

(e) *Flour millers.* Flour millers who, in accordance with a compliance agreement with APHIS, heat-treat millfeed made from wheat produced in the quarantined area are eligible to be compensated at the rate of $35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat from the quarantined area received by the miller by 25 percent (the average percent of millfeed derived from a short ton of grain). To claim compensation, the miller must submit to an inspector a copy of the limited permit under which the wheat was moved to the mill and a copy of the bill of lading for the wheat (showing the weight of the wheat in short tons). Flour millers must also submit verification that the millfeed was heat treated, in the form of a copy of the limited permit under which the wheat was moved to a treatment facility and a copy of the bill of lading accompanying that movement.

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–16999 Filed 7–3–96; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 301

[Docket No. 96–016–6]

Karnal Bunt; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Karnal bunt regulations by removing areas in Arizona, New Mexico, and Texas from the list of areas quarantined because of infestations of Karnal bunt. This action is necessary to relieve restrictions on the areas of Arizona, New Mexico, and Texas that do not produce wheat, durum wheat, or triticale or that do produce wheat but we have been able to determine that they have no association with Karnal bunt contaminated seed. The interstate movement of regulated articles from these areas does not present a risk of spreading Karnal bunt.

DATES: Interim rule effective June 27, 1996. Consideration will be given only to comments received on or before September 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–016–6, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale MD 20737–1238. Please state that your comments refer to Docket No. 96–016–6. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a serious fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Seale cereals*), a hybrid of wheat and rye. The disease is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores. Karnal bunt is a serious disease that affects both yield and grain quality. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from affected grain. Grain containing any amount of bunted kernels is reduced in quality. Karnal bunt does not present a risk to human health.

On March 20, 1996, the Secretary of Agriculture signed a ''Declaration of Extraordinary Emergency'' authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the States of Arizona, New Mexico, and Texas. The ''Declaration of Extraordinary Emergency'' was published in the Federal Register on March 25, 1996 (61 FR 12058, Docket No. 96–016–1). On March 26, 1996, the Secretary of Agriculture signed a ''Declaration of Emergency'' authorizing the transfer and use of funds within the Department for a program to control Karnal bunt wherever it may be found in the United States. The ''Declaration of Emergency'' was published in the Federal Register on March 29, 1996 (61 FR 14046, Docket No. 96–016–2).

In an interim rule effective March 25, 1996, and published in the Federal Register March 28, 1996 (61 FR 13649–13655, Docket No. 96–016–3), we established the Karnal bunt regulations (7 CFR 301.89–1 through 301.89–11) and quarantined the State of Arizona and a total of six counties in the States of New Mexico and Texas. The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the artificial spread of Karnal bunt to noninfested areas of the United States.

On April 12, 1996, the Secretary of Agriculture signed a ''Declaration of Extraordinary Emergency'' authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the State of California. The ''Declaration of Extraordinary Emergency'' was published in the Federal Register on April 18, 1996 (61 FR 16895–16896, Docket No. 96–016–4).

In an interim rule effective April 19, 1996, and published in the Federal Register on April 25, 1996 (61 FR 18233–18235, Docket No. 93–016–5) we amended the regulations by adding Imperial County, CA, and a portion of Riverside County, CA, to the list of areas quarantined because of infestations of Karnal bunt. We also added *Tilletia indica* (Mitra) Mundkur, the organism that causes Karnal bunt, to the list of restricted articles.

Removal of Quarantined Areas

Section 301.89–3(e) of the regulations lists those States or portions of States that are quarantined because of Karnal bunt. We are amending § 301.89–3(e) by removing the following portions of the States of Arizona, New Mexico, and Texas from the list of quarantined areas: Yavapai County, Coconino County, Navajo County, Apache County, Gila County, Greenlee County, and Santa Cruz County, AZ; portions of Mohave County and Pima County, AZ; portions of Hidalgo County, Luna County, and Sierra County, NM; and a portion of Hudspeth County, TX. These areas do not produce wheat, durum wheat, or triticale, or do produce wheat but we have been able to determine that they have no association with Karnal bunt contaminated seed, and, therefore, do not present a risk of being, or becoming, infested with Karnal bunt. The remainder of the counties in the State of Arizona, Dona Ana County, NM, and El Paso County, TX, will remain under quarantine because of infestations of Karnal bunt.

The area of Mohave County, AZ, that will remain under quarantine is that portion of the county bounded as follows: Beginning at the intersection of Arizona/Nevada State line and State Route 68; then east along State Route 68 to U.S. Highway 93; then southeast along U.S. Highway 93 to Interstate 40; then south along Interstate 40 to the Arizona/California State line; then north along the State line to the point of beginning.

The area of Pima County, AZ, that will remain under quarantine is that portion of the county bounded as follows: Beginning at the intersection of the Pima County line, the Pinal County line, and the Papago Indian Reservation boundary; then east along the Pima County line to its easternmost point; then south along the Pima County line to the Cochise and Santa Cruz County lines; then west along the Pima County line to the United States/Mexico boundary; then west along the United States/Mexico boundary to the Papago Indian Reservation boundary; then north along the Papago Indian Reservation boundary to the point of beginning.

The area of Hidalgo County, NM, that will remain under quarantine is that portion of the county bounded as follows: Beginning at the intersection of the Arizona/New Mexico State line and Interstate 10; then east along Interstate 10 to the Hidalgo/Grant County line; then south and east along the Hidalgo County line to the Luna County line; then south along the Hidalgo County line to its southernmost point; then west and north along the Hidalgo county line to point of beginning.

The area of Luna County, NM, that will remain under quarantine is that portion of the county bounded as follows: Beginning at the intersection of the Grant/Luna County line and Interstate 10; then east along Interstate 10 to U.S. Highway 180; then north along U.S. Highway 180 to State Route 26; then north along State Route 26 to State Route 27; then northeast along State Route 27 to the Luna/Sierra County line; then east along the Luna County line to the Dona County line; then south along the Luna County line to the United States/Mexico boundary; then west along the United States/Mexico boundary to the Hidalgo County line; then north along the Luna County line to the point of beginning.

The area of Sierra County, NM, that will remain under quarantine is that portion of the county bounded as follows: Beginning at intersection of the Luna/Sierra County line and State Route 27; then north along State Route 27 to State Route 152; then east along State Route 152 to Interstate 25; then north along Interstate 25 to State Route 52; then northwest along State Route 52 to the Sierra/Socorro County line; then east along the Sierra County line to the Lincoln County line; then south along the Sierra County line to the Dona Ana County line; then west along the Sierra County line to the point of beginning.

The area of Hudspeth County, TX, that will remain under quarantine is that portion of the county bounded as follows: Beginning at the intersection of the El Paso/Hudspeth County line and U.S. Highway 62/U.S. Highway 180; then east along U.S. Highway 62/U.S. Highway 180 to County Road 1111; then south along County Road 1111 to its terminus; then west along an imaginary line to the United States/Mexico boundary; then northwest along the United States/Mexico boundary to the El Paso/Hudspeth County line; then north along the El Paso/Hudspeth County line to the point of beginning.

This action relieves unnecessary regulatory restrictions on the public while continuing to prevent the artificial spread of Karnal bunt into noninfested areas of the United States.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The areas affected by this document were quarantined to prevent Karnal bunt from spreading to noninfested areas of the United States. Because wheat, durum wheat, and triticale are not grown in these areas or these areas have no association with Karnal bunt contaminated seed and because the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget

has waived its review process required by Executive Order 12866.

This action removes seven entire counties in Arizona and portions of six counties in Arizona, New Mexico, and Texas from the list of areas quarantined because of Karnal bunt. This situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Act Analysis.

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 required intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In section 301.89–3, paragraph (e) is amended by revising the entries for Arizona, New Mexico, and Texas to read as follows:

§ 301.89–3 Quarantined areas.

* * * * *

(e) * * *

Arizona

Cochise County. The entire county.

Graham County. The entire county.

LaPaz County. The entire county.

Maricopa County. The entire county.

Mohave County. Beginning at the intersection of Arizona/Nevada State line and State Route 68; then east along State Route 68 to U.S. Highway 93; then southeast along U.S. Highway 93 to Interstate 40; then south along Interstate 40 to the Arizona/California State line; then north along the State line to the point of beginning.

Pima County. Beginning at the intersection of the Pima County line, the Pinal County line, and the Papago Indian Reservation boundary; then east along the Pima County line to its easternmost point; then south along the Pima County line to the Cochise and Santa Cruz County lines; then west along the Pima County line to the United States/Mexico boundary; then west along the United States/Mexico boundary to the Papago Indian Reservation boundary; then north along the Papago Indian Reservation boundary to the point of beginning.

Pinal County. The entire county.

Yuma County. The entire county.

* * * * *

New Mexico

Dona Ana County. The entire county.

Hidalgo County. Beginning at the intersection of the Arizona/New Mexico State line and Interstate 10; then east along Interstate 10 to the Hidalgo/Grant County line; then south and east along the Hidalgo County line to the Luna County line; then south along the Hidalgo County line to its southernmost point; then west and north along the Hidalgo County line to point of beginning.

Luna County. Beginning at the intersection of the Grant/Luna County line and Interstate 10; then east along Interstate 10 to U.S. Highway 180; then north along U.S. Highway 180 to State Route 26; then north along State Route 26 to State Route 27; then northeast along State Route 27 to the Luna/Sierra County line; then east along the Luna County line to the Dona County line; then south along the Luna County line to the United States/Mexico boundary; then west along the United States/Mexico boundary to the Hidalgo County line; then north along the Luna County line to the point of beginning.

Sierra County. Beginning at intersection of the Luna/Sierra County line and State Route 27; then north along State Route 27 to State Route 152; then east along State Route 152 to Interstate 25; then north along Interstate 25 to State Route 52; then northwest along State Route 52 to the Sierra/Socorro County line; then east along the Sierra County line to the Lincoln County line; then south along the Sierra County line to the Dona County line; then west along the Sierra County line to the point of beginning.

Texas

El Paso County. The entire county.

Hudspeth County. Beginning at the intersection of the El Paso/Hudspeth County line and U.S. Highway 62/U.S. Highway 180; then east along U.S. Highway 62/U.S. Highway 180 to County Road 1111; then south along County Road 1111 to its terminus; then west along an imaginary line to the United States/Mexico boundary; then northwest along the United States/Mexico boundary to the El Paso/Hudspeth County line; then north along the El Paso/Hudspeth County line to the point of beginning.

* * * * *

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–16998 Filed 7–3–96; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV96–946–2FIR]

Irish Potatoes Grown in Washington; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established an assessment rate of the State of Washington Potato Committee (Committee) under Marketing Order 946 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Washington. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: Effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Program Assistant, Marketing Order Administration

Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, FAX 202–720–5698, or Daniel L. West, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724, FAX 503–326–7440.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946) regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Washington potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 1996, and continuing until amended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 450 producers of Washington potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington potato producers and handlers may be classified as small entities.

The Washington potato marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Washington potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on February 15, 1996, and unanimously recommended 1996–97 expenditures of $42,500 and an assessment rate of $0.003 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $42,300. The assessment rate of $0.003 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996–97 year include $17,400 for an agreement with the Washington State Potato Commission to provide miscellaneous services to the Committee and $6,000 for compliance audits, the same as the budgeted amounts for these items in 1995–96.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Washington potatoes. Potato shipments for the year are estimated at 9,000,000 hundredweight which should provide $27,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the May 6, 1996, issue of the Federal Register (61 FR 20119). That interim final rule added § 946.248 to establish an assessment rate for the Committee. That rule provided that interested persons could file comments through June 5, 1996. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996–97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This final rule also corrects an error in the interim final rule published May 6, 1996, (61 FR 20119). The note

appearing before the amendatory instruction 2 incorrectly states that § 946.248 will not appear in the Code of Federal Regulations. Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period begins on July 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided for a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 946 which was published at 61 FR 20119 on May 6, 1996, is adopted with the following correction to the note immediately following amendatory instruction 2. The note should read:

Note: This section will appear in the annual Code of Federal Regulations.

Dated: June 26, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–16852 Filed 7–3–96; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 301

[INS No. 1736–95]

RIN 1115–AE19

Acquisition of Citizenship; Equal Treatment of Women in Conferring Citizenship on Children Born Abroad

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations by establishing procedures for certain United States citizen women to confer citizenship on their children born outside of the United States before noon (Eastern Standard Time) May 24, 1934. The purpose of this rule is to ensure that all women receive equal treatment under laws relating to nationality. Implementation of the rule would allow for the issuance of certificates of citizenship to certain foreign-born children previously ineligible to acquire citizenship from their United States citizen mothers.

DATES: This interim rule is effective July 5, 1996. Written comments must be submitted on or before September 3, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1736–95 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Jane B. Barker, Adjudications Officer, Adjudications Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (INTCA), Public Law 103–416, dated October 25, 1994, a child born abroad before noon (Eastern Standard Time (EST) May 24, 1934, to an alien father and United States citizen mother could not acquire United States citizenship through his or her mother. If, however, the mother was the alien and the father was the United States citizen, the child could become a citizen through his or her father, pursuant to Section 1993 of Revised Statutes, February 10, 1855, 10 Stat. 604.

On May 24, 1934, Congress amended Section 1993 of the Revised Statutes so that children born abroad to parents, only one of whom was a United States citizen, would become citizens regardless of whether the citizen was the father or the mother. The 1934 amendment, however, was not retroactive. Subsection 101(a)(2) of INTCA amended the Immigration and Nationality Act (the Act) by adding a new subsection 301(h) to provide for the acquisition of United States citizenship from either parent for persons born abroad before noon (EST) May 24, 1934, to parents, only one of whom is a United States citizen.

Section 301(h)

Under section 301(h) of the Act, a person born abroad before noon (EST) May 24, 1934, to a United States citizen mother and an alien father, may now acquire United States citizenship if his or her mother resided in the United States prior to the person's birth. A person who qualifies for United States citizenship under section 301(h) of the Act shall not be subject to any provisions of law that provided for loss of citizenship or nationality (including section 301(b) of the Act (as in effect before October 10, 1978) and the provisos of section 201(g) of the Nationality Act of 1940) if the person failed to come to, reside, or be physically present in the United States.

For purposes of transmission of citizenship, section 301(h) shall have no effect on the residence and retention requirements for those persons born abroad to a citizen parent and an alien parent between May 24, 1934, and October 10, 1978. Section 301(h) also shall have no effect on the validity of the citizenship of anyone who obtained United States citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934, 49 Stat. 797). Further, section 301(h) shall not confer citizenship on, nor have any effect on, the validity of any denaturalization, deportation, or exclusion action against any person who is or was excludable from the United States for participation in Nazi persecution or genocide, or who was excluded from, or who would not have been eligible for admission to the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

Procedures for Acquiring United States Citizenship Under Section 301(h)

A person who is eligible for benefits under section 301(h) may make his or her citizenship claim in the United States with the Attorney General or abroad with the Secretary of State. A person who currently resides in the United States may file Form N–600, Application for Certificate of Citizenship, accompanied by the fee specified in 8 CFR 103.7(b)(1), with the Service office having jurisdiction over the applicant's place of residence, or with such other Service office as the Commissioner may designate. The application shall be supported by

documentary and other evidence essential to establish the claimed citizenship, such as birth, adoption, marriage, death, and divorce certificates. Applicants will be notified, in writing, of the date and time to appear for an interview. If an applicant fails to appear for a required interview without good cause, the application will not be approved and may be denied. Upon completion of the interview, if all requirements are met, the applicant will be required to take the oath of allegiance, as prescribed under 8 CFR part 337, and will be issued a certificate of citizenship.

A person who currently resides abroad and is eligible for citizenship under section 301(h) may proceed to a United States embassy or consulate for an interview under oath concerning his or her claim of citizenship, in accordance with such regulations as may be prescribed by the Secretary of State.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason for immediate implementation of this interim rule is as follows: This rule provides a benefit to the public by ensuring that all women receive equal treatment under laws relating to nationality.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic effect on a substantial number of small entities because of the following factors. This interim rule establishes procedures for certain United States citizen women to confer citizenship on their children born outside of the United States before May 24, 1934. The affected parties are not small entities, and the effect of the regulation is not an economic one.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR part 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 301

Citizenship and naturalization, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended by adding a new part 301 to subchapter C to read as follows:

PART 301—NATIONALS AND CITIZENS OF THE UNITED STATES AT BIRTH

Sec.
301.0 Procedures.

Authority: 8 U.S.C. 1103, 1401; 8 CFR part 2.

§ 301.1 Procedures.

(a) *Application.* (1) A person residing in the United States who desires to become a United States citizen pursuant to section 301(h) of the Act shall submit an application on Form N–600, Application for Certificate of Citizenship, as provided in 8 CFR part 341. Such application shall be filed with the Service office having jurisdiction over the applicant's place of residence, or with such other Service office as the Commissioner may designate. It must be accompanied by the fee specified in 8 CFR 103.7(b)(1). The application also must be accompanied by supporting documentary and other evidence essential to establish the claimed citizenship, such as birth, adoption, marriage, death, and divorce certificates. The applicant will be notified in writing when and where to appear before a Service officer for examination on his or her application.

(2) A person residing outside of the United States who desires to become a United States citizen under subsection 301(H) of the Act shall make his or her claim at a United States embassy or consulate, in accordance with such regulations as may be prescribed by the Secretary of State. (b) *Oath of allegiance; issuance of certificate* (1) Upon determination by the district director that a person is eligible for United States citizenship pursuant to section 301(h) of the Act, the person shall take the oath of allegiance, prescribed in 8 CFR part 337, before an officer of the Service designated to administer the oath of allegiance within the United States, and a certificate of citizenship shall be issued. The person shall be considered a United States citizen as of the date of his or her birth.

(2) A person residing outside of the United States who is eligible for United States citizenship under section 301(h) of the Act shall take the oath of allegiance abroad before any diplomatic or consular officer of the United States, in accordance with such regulations as may be prescribed by the Secretary of State. The person shall be considered a United States citizen as of the date of his or her birth.

Dated: May 23, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–17157 Filed 7–3–96; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF ENERGY

10 CFR Parts 205 and 1003

Administrative Procedures and Sanctions; Office of Hearings and Appeals Procedural Regulations; Removal of Unnecessary Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is amending the Code of Federal Regulations (CFR) to apply existing procedural rules to certain petroleum proceedings and to remove unnecessary regulations. This action is being taken in response to the President's Regulatory Reform Initiative to eliminate unnecessary regulations and streamline existing rules.

EFFECTIVE DATE: August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, (HG–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107, (202) 426–1492.

SUPPLEMENTARY INFORMATION: In connection with the President's Regulatory Reinvention Initiative, the Department of Energy (Department or DOE) is engaged in a continuing and

comprehensive review of its regulatory program. As part of that review, the Department is removing from Title 10 of the CFR those regulations for which statutory authority has expired or been superseded by subsequent legislation, and those regulations that are no longer necessary to the agency's mission, as well as regulations governing unfunded and nonfunctioning programs. The DOE has already published final rules removing obsolete regulations on September 22, 1995 (60 FR 49195) and December 5, 1995 (60 FR 62316).

The Department has identified the following regulations for removal:

10 CFR Part 205—Subpart D Exception

10 CFR Part 205—Subpart E Exemption

10 CFR Part 205—Subpart H Appeal

10 CFR Part 205—Subpart I Stay and Temporary Exception

10 CFR Part 205—Subpart J Modification or Rescission

10 CFR Part 205—Subpart R Office of Private Grievances and Redress

Part 205 establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Department of Energy concerning the pricing and allocation of crude oil under parts 209 and 214. Parts 209 through 214 implement the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub L. 93–159, as amended) which expired in 1981. The Department has determined that subpart D, subpart E, subpart H, subpart I, subpart J, and subpart R of part 205, which set forth procedures that apply to crude oil regulation, are no longer necessary. Part 205 also provides certain procedural protections required by section 504 of the Department of Energy Organization Act for persons affected by oil-related regulations issued under authority of the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act, 42 U.S.C. 7194. As described below, for the few oil-related cases currently under appeal in the courts or the Federal Energy Regulatory Commission, the procedural protections of 10 CFR part 1003, which are substantially the same as in part 205, will be available in the event of a remand to the Department.

The Department is aware of the possibility that, in certain instances, proceedings initiated under 10 CFR parts 209 through 214, and as yet not concluded, may be remanded to the Office of Hearings and Appeals for further proceedings. The Department has, in place, regulations that govern the procedures for exceptions, appeals, stays, modifications, recessions, redress and resolution of private grievances that apply agency-wide, 10 CFR part 1003. To protect the rights of any party to a proceeding remanded to the Office of Hearings and Appeals, today's regulation amends part 205 to provide that a person's right to exceptions, exemptions, appeals, stays, modifications, recessions, redress or resolution of private grievances under the statutes set forth in section 504 of the Department of Energy Organization Act shall be governed by the procedural rules in 10 CFR part 1003. The Department is revising 10 CFR 1003.1 to permit the application of the Office of Hearings and Appeals procedural regulations to matters which relate to the federal oil regulations that are no longer covered by part 205. Finally, the Department is revising 10 CFR 1003.20 to apply to exemptions and adjustments as provided for in 42 U.S.C. 7194.

Rulemaking Analyses

Regulatory Planning and Review

The elimination of unnecessary regulations does not constitute a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 (58 FR 51735); therefore, this rulemaking has not been reviewed by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Federalism

The Department has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that there are no federalism implications that would warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

This rule amends Title 10 of the Code of Federal Regulations by removing regulations that are unnecessary. This rulemaking will not change the environmental effect of the regulations being amended because the regulations have no current environmental effect. The Department has therefore determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to a rulemaking amending an existing regulation that does not change the environmental effect of the regulation being amended.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Final Rulemaking

As the foregoing discussion indicates, the Code of Federal Regulation subparts being removed are no longer necessary. The procedural protections afforded by these subparts are available under 10 CFR part 1003. Accordingly, the Department has determined, pursuant to 5 U.S.C. 553, that there is good cause to conclude that prior notice and opportunity for public comment is unnecessary and contrary to the public interest.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, directs agencies to prepare a regulatory flexibility analysis whenever an agency is required to publish a general notice of proposed rulemaking for a rule. As discussed above, the Department has determined, that prior notice and opportunity for public comment is unnecessary and contrary to the public interest. In accordance with 5 U.S.C. 604(a), no regulatory flexibility analysis has been prepared for today's rule.

Congressional Notification

The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates. 5 U.S.C. 801. That reporting requirement does not apply to the final rule in this notice because it falls within a statutory exception for procedural rules that do not substantially affect the substantive rights or obligations of non-agency persons. 5 U.S.C. 804(3)(C).

List of Subjects

10 CFR Part 205

Administrative practice and procedure, Petroleum allocation, Petroleum price regulations.

10 CFR Part 1003

Administrative practice and procedure.

Issued in Washington, DC, on June 28, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

For the reasons set forth in the preamble, title 10 of the Code of Federal Regulations is amended as set forth below:

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. The authority citation for part 205 is revised to read as follows:

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275 (88 Stat. 96; E.O. 11790, 39 FR 23185); 42 U.S.C. 7101 *et seq.*, unless otherwise noted.

2. Section 205.1 is revised to read as follows:

§ 205.1 Purpose and scope.

This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Department of Energy and State Offices, in accordance with parts 209 through 214 of this chapter. Any exception, exemption, appeal, stay, modification, recession, redress or resolution of private grievance sought under the authority of 42 U.S.C. 7194 shall be governed by the procedural rules set forth in 10 CFR part 1003.

Subparts D, E, H, I, J and R [Removed]

3. Subparts D, E, H, I, J, and R of Part 205 are removed and reserved.

PART 1003—OFFICE OF HEARINGS AND APPEALS PROCEDURAL REGULATIONS

4. The authority citation for Section 1003 continues to read as follows:

Authority: 15 U.S.C. 761 *et seq.;* 42 U.S.C. 7101 *et seq.*

5. The last sentence of § 1003.1 is revised to read as follows:

§ 1003.1 Purpose and scope.

* * * These rules also do not apply to matters before the DOE Board of Contract Appeals or other procurement and financial assistance appeals boards, which are covered by their own rules.

6. The first sentence of § 1003.20(a) is revised to read as follows:

§ 1003.20 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception or exemption, as provided for in section 504 (42 U.S.C. 7194) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), from a rule, regulation or DOE action having the effect of a rule as defined by 5 U.S.C. 551(4), based on an assertion of serious hardship, gross inequity or unfair distribution of burdens, and for consideration of such application by the OHA. * * *

* * * * *

[FR Doc. 96–17066 Filed 7–3–96; 8:45 am]

BILLING CODE 6450–01–P

10 CFR Parts 205 and 463

Administrative Procedures and Sanctions; Annual Reports From States and Nonregulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978; Removal of Unnecessary or Obsolete Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is amending the Code of Federal Regulations (CFR) to remove unnecessary regulations. This action is being taken in response to the President's Regulatory Reform Initiative to eliminate unnecessary regulations and streamline existing rules.

EFFECTIVE DATE: August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Romulo L. Diaz, Jr., Director, Rulemaking Support, Office of the General Counsel, (GC–75), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2902.

SUPPLEMENTARY INFORMATION: In connection with the President's Regulatory Reinvention Initiative, the Department of Energy (Department or DOE) is engaged in a continuing and comprehensive review of its regulatory program. As part of that review, the Department is removing from Title 10 of the CFR those regulations for which statutory authority has expired or been superseded by subsequent legislation, those regulations that are no longer necessary to the agency's mission, as well as regulations governing unfunded and nonfunctioning programs. DOE removed obsolete regulations on September 22, 1995 (60 FR 49195) and December 5, 1995 (60 FR 62316).

The Department has identified the following regulations for removal:

10 CFR Part 205—Subpart L Rulemaking

10 CFR Part 205—Subpart P Investigations, Violations, Sanctions, and Judicial Actions

Part 205 establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Department of Energy, in accordance with parts 209 through 214 concerning the pricing and allocation of crude oil. Parts 209 through 214 implement the provisions of the Emergency Petroleum Allocation Act of 1973 (Pub L. 93–159, as amended) which expired in 1981. Subpart L establishes the procedures that govern a rulemaking proceeding. Subpart P establishes procedures relating to investigations, violations, sanctions, and judicial actions. The Department has determined that subpart L and subpart P of part 205, which set forth procedures and sanctions that apply to crude oil regulation, are no longer necessary.

10 CFR Part 463—Annual Reports From States and Nonregulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

Part 463 was promulgated to implement sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (''Act''), 16 U.S.C. 2626 and 15 U.S.C. 3209. Sections 116 and 309 required each State regulatory authority and nonregulated gas utility to submit annually a report to the Secretary of Energy on actions taken with respect to standards in the Act. The Act required these reports for a 10-year period, which expired at the end of 1989 (*see* 10 CFR § 463.3(a)). Because the authority for the reporting requirement has expired, this part is now obsolete.

Rulemaking Analyses

Regulatory Planning and Review

The elimination of unnecessary regulations does not constitute a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 (58 FR 51735); therefore, this rulemaking has not been reviewed by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Federalism

The Department has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that there are no federalism implications that would warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

This rule amends Title 10 of the Code of Federal Regulations by removing regulations that are unnecessary. This rulemaking will not change the environmental effect of the regulations being amended because the regulations have no current environmental effect. The Department has therefore determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to a rulemaking amending an existing regulation that does not change

the environmental effect of the regulation being amended.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Final Rulemaking

As the foregoing discussion indicates, the Code of Federal Regulation subparts being removed are no longer necessary. Accordingly, the Department has determined, pursuant to 5 U.S.C. 553, that there is good cause to conclude that prior notice and opportunity for public comment is unnecessary and contrary to the public interest.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, directs agencies to prepare a regulatory flexibility analysis whenever an agency is required to publish a general notice of proposed rulemaking for a rule. As discussed above, the Department has determined, that prior notice and opportunity for public comment is unnecessary and contrary to the public interest. In accordance with 5 U.S.C. 604(a), no regulatory flexibility analysis has been prepared for today's rule.

Congressional Notification

The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain rules prior to their effective dates. 5 U.S.C. 801. The Department is reporting today's rulemaking to Congress in accordance with 5 U.S.C. 801(a)(1)(A). The Office of Management and Budget has determined that this is not a major rule as defined in 5 U.S.C. 804(2)

List of Subjects

10 CFR Part 205

Administrative practice and procedure, Petroleum allocation, Petroleum price regulations.

10 CFR Part 463

Public utilities.

Issued in Washington, DC on June 28, 1996.

Robert R. Nordhaus,

General Counsel.

For the reasons set forth in the preamble, title 10 of the Code of Federal Regulations is amended as set forth below:

PART 205–ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. The authority citation for part 205 continues to read as follows:

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275 (88 Stat. 96; E.O. 11790, 39 FR 23185); 42 U.S.C. 7101 *et seq.*, unless otherwise noted.

Subpart L and P—[Removed]

2. Subparts L (§§ 205.160–205.162) and P (§§ 205.200–205.204) of part 205 are removed.

PART 463—ANNUAL REPORTS FROM STATES AND NONREGULATED UTILITIES ON PROGRESS IN CONSIDERING THE RATEMAKING AND OTHER REGULATORY STANDARDS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 [REMOVED]

3. Part 463 of 10 CFR is removed.

[FR Doc. 96–17116 Filed 7–3–96; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 367

RIN 3064–AB76

Suspension and Exclusion of Contractors and Termination of Contracts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim final rule; request for comments.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC or Corporation) is adopting an interim final rule concerning suspension and exclusion of FDIC contractors and termination of contracts. The interim final rule is adopted pursuant to section 12(f) (4) and (5) of the Federal Deposit Insurance Act (FDI Act), and the rule-making authority of the FDIC found at section 9 of the Act. Additional provisions implementing these statutory directives appear in the FDIC's regulation, as published in the Federal Register on June 6, 1996, governing contractor conflicts of interest and the requirements that FDIC contractors meet minimum standards of competence, experience, fitness and integrity. This interim final rule is a companion to the conflict of interest regulation in that it sets forth procedures for the suspension and/or exclusion of contractors that have violated the conflicts of interest regulations (and hence, fail to meet minimum standards of fitness and integrity), or have otherwise acted in a manner warranting such action. In addition to FDIC contractors, this interim final rule also applies to subcontractors, key employees, management officials and affiliated business entities of FDIC contractors (all such terms are defined herein), and is designed to inform such contractors regarding their rights to notice and an opportunity to be heard on FDIC suspension and exclusion actions.

DATES: Effective date. This interim final rule is effective July 5, 1996.

Comment period date. Comments must be received on or before September 3, 1996.

ADDRESSES: Send written comments to Jerry L. Langley, Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to room 400, 1776 F Street, NW., Washington, DC 20429 on business days between 8:30 a.m. and 5:00 p.m. (FAX number: (202) 898–3604; Internet: comments@FDIC.gov). Comments will be available for inspection and photocopying in the FDIC Public Information Center, room 100, 801 17th Street, NW., Washington, DC 20429, between 9:00 a.m. and 5:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Peter A. Ziebert, Counsel, Legal Division, (202) 736–0742; or Richard M. Handy, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, (202) 898–7271.

SUPPLEMENTARY INFORMATION:

I. Background

This interim final rule sets forth standards and procedures governing suspension and exclusion of FDIC contractors, which includes subcontractors, management officials, key employees and affiliated business entities of such contractors, for violations of 12 CFR part 366, the FDIC's contractor conflict of interest regulation (61 FR 28725, June 6, 1996). This interim final rule also provides for the termination of awarded contracts of FDIC contractors. For the most part, this rule is modeled after the suspension and exclusion regulation used by the Resolution Trust Corporation (RTC) until RTC sunset on December 31, 1995, which had been codified at 12 CFR part 1618. This rule also bears similarity to the suspension and debarment procedures utilized by other federal entities, which have been developed after extensive public comment and

have withstood considerable judicial scrutiny. However, as discussed below, the rule departs in certain respects from the procedures used by other federal entities because the FDIC is not subject to the Federal Acquisition Regulation (FAR). The rule also revises the former RTC regulation in several ways as the FDIC now promulgates its own suspension and exclusion regulation.

Generally, this rule provides for more expedited and less formal procedures than are used by other federal agencies, while at the same time satisfying due process requirements regarding notice and an opportunity to be heard. These expedited procedures are necessary due to the urgent need to protect the FDIC and the public interest against further dissipation of assets now under FDIC control and previously under RTC control.

As noted above, FDIC has a statutory mandate to be vigilant in enforcing the highest ethical standards for its contractors. Accordingly, it is imperative that contractor suspension and exclusion proceedings be processed as expeditiously as possible consistent with due process requirements that affected contractors be afforded notice and an opportunity to be heard on such enforcement actions.

II. Summary of the Interim Final Rule

The regulation is comprised of 20 sections. Section 367.1 covers the authority, purpose, scope and application of the regulation. It makes clear that the regulation applies to contractors other than attorneys or law firms that provide services or enter into contracts to provide services to the FDIC acting in any capacity. The regulation is effective as of the date of publication in the Federal Register for reasons set out in section III, below. Moreover, the regulation applies to actions initiated by the FDIC on or after the effective date regardless of the date of the cause giving rise to such actions. Finally, § 367.1 provides that this regulation supersedes and replaces the RTC suspension and exclusion regulation (12 CFR part 1618) and that RTC actions taken under that part will be honored as if taken by the FDIC.

Section 367.2 contains the definitions to be used in this part. The definitions are generally based on the commonly accepted definitions used in the FDIC's conflict of interest regulation (12 CFR part 366) or by other federal entities. Key terms that are defined here include affiliated business entity, conflict of interest, contract, contractor, control, key employee, management official, pattern or practice of defalcation, subcontractor, and substantial loss to federal deposit insurance funds.

Section 367.3 identifies the appropriate officials in the FDIC suspension and debarment program. The FDIC ''Ethics Counselor'' (FDIC Executive Secretary) is the official responsible for rendering suspension and exclusion decisions. The ''Corporation Ethics Committee'' provides a review forum of any suspension or exclusion decision appealed by a contractor.

Section 367.4 is reserved.

Section 367.5 covers exclusions. Contractors excluded from FDIC contracting are prohibited from entering into any new contracts with FDIC for the duration of the exclusion period. The FDIC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with excluded contractors.

Section 367.5 (b)(1) sets forth a significant change in the regulation from the FAR-based debarment and suspension regulation, and from the former RTC regulation. FDIC exclusion actions will only become effective upon the Ethics Counselor's decision to exclude a contractor *after* the contractor has received written notice of a possible cause to exclude from FDIC and has had an opportunity to respond. In other words, a contractor's receipt of a notice of possible cause to exclude does not act as an exclusion from the FDIC contracting program. This provision provides contractors with ample due process as the exclusion matter is considered.

Section 367.6 sets forth 13 causes for exclusion, which generally parallel the former RTC regulations. There are four mandatory causes for exclusion set forth at § 367.6 (a) (1) through (4); the remainder are discretionary bases for which exclusion may be warranted if a violation is established by a preponderance of the evidence.

Section 367.7 covers suspensions. The same contracting prohibitions apply to suspended contractors as is the case with excluded contractors. An important distinction in the regulation, however, is that a suspension action shall become effective immediately upon issuance of a notice of suspension, which as noted above differs from the notice of possible cause to exclude. Suspensions will be used when immediate action is necessary to protect the integrity of the FDIC contracting program and/or the security of FDIC assets during the pendency of legal or investigative proceedings against a contractor.

Section 367.8 lists causes for suspension. Suspensions will be imposed upon a showing of adequate evidence of any of the causes listed in § 367.7.

Section 367.9 provides that causes to suspend and/or exclude a contractor can be imputed between a contractor and its affiliated business entities, key employees, management officials, joint venture partners, and subcontractors.

Sections 367.10-.11 are reserved.

Section 367.12 states that FDIC suspension and exclusion actions shall be processed as informally as practicable, consistent with due process considerations.

Section 367.13 covers the issuance of the notice of possible cause to exclude, and notice of suspension, and the information that will be set forth therein.

Section 367.14 covers contractor responses to such notices and clearly states that the contractor shall have 15 days from the date of the notice within which to respond.

Section 367.15 addresses those situations where additional proceedings may be held, as determined by the Ethics Counselor, in situations where the contractor's response raises a genuine dispute over material facts. In such cases, the contractor shall be afforded the opportunity to appear (with counsel if desired) before the FDIC.

Section 367.16 covers the Ethics Counselor's decisions in suspension and exclusion matters. It sets forth the information that will be included in a suspension or exclusion decision and makes clear that any exclusion decision rendered pursuant to this provision shall include a period of exclusion.

Section 367.17 provides further information as to the period of suspension or exclusion.

Section 367.18 covers abrogation of contracts (i.e., termination or recision) as an additional remedy for the FDIC.

Section 367.19 sets forth procedures regarding exceptions to suspensions and exclusions and makes clear that such exceptions are only available in unique circumstances when there is a compelling reason to utilize a particular contractor for a specific task.

Section 367.20 sets forth the procedures for the review and reconsideration of Ethics Counselor decisions to the Corporation Ethics Committee.

III. Administrative Procedure Act

The FDIC is adopting this regulation as an interim final rule effective upon publication in the Federal Register without the usual notice-and-comment period or delayed effective date as

provided for under the Administrative Procedure Act. 5 U.S.C. 551, et seq. (APA). The APA requirements may be waived for ''good cause.''

Promulgation of the regulation on an expedited basis is necessary due to the urgent need to protect the FDIC and the public interest against further dissipation of the assets now under FDIC control, and formerly under RTC control, as a consequence of the resolution of hundreds of failed savings associations. Furthermore, many FDIC contractors have in their possession extremely valuable documents and legal instruments which can be readily converted to private gain.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) has imposed a duty on the FDIC to be vigilant and aggressive in enforcing the highest ethical standards for its independent contractors. Accordingly, it is imperative that a regulation be immediately adopted setting forth policies and procedures pertaining to the suspension or exclusion of FDIC contractors that have been found to have violated those standards. The cost of any delay in promulgating the regulation would ultimately be borne by the taxpaying public in terms of additional erosion in the value of the assets under FDIC control.

IV. Regulatory Flexibility Analysis

The Board of Directors has concluded that the interim final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the interim final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, the provisions of that Act relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act are contained in this interim final rule. Therefore, no information has been submitted to the Office of Management and Budget (OMB) for review.

For the above reasons, the FDIC finds that the benefits to the public in adopting the interim rule outweigh any harm from the delay in seeking public comment. The FDIC actively solicits comments from the public and will carefully evaluate and act upon any such comments before adopting the rule as final within 60 days after the close of the public comment period.

List of Subjects in 12 CFR Part 367

Administrative practice and procedure, Conflict of interest, Government contracts.

For the reasons set out in the preamble, FDIC adds part 367 to title 12, chapter III of the Code of Federal Regulations to read as follows:

PART 367—SUSPENSION AND EXCLUSION OF CONTRACTORS AND TERMINATION OF CONTRACTS

Sec.

367.1 Authority, purpose, scope and application.
367.2 Definitions.
367.3 Appropriate officials.
367.4 [Reserved]
367.5 Exclusions.
367.6 Causes for exclusion.
367.7 Suspensions.
367.8 Causes for suspension.
367.9 Imputation of causes.
367.10–367.11 [Reserved]
367.12 Procedures.
367.13 Notices.
367.14 Responses.
367.15 Additional proceedings as to disputed material facts.
367.16 Ethics Counselor decisions.
367.17 Duration of suspensions and exclusions.
367.18 Abrogation of contracts.
367.19 Exceptions to suspensions and exclusions.
367.20 Review and reconsideration of Ethics Counselor decisions.

Authority: 12 U.S.C. 1822(f) (4) and (5).

§ 367.1 Authority, purpose, scope and application.

(a) *Authority.* This part is adopted pursuant to section 12(f) (4) and (5) of the Federal Deposit Insurance Act, 12 U.S.C. 1822(f) (4) and (5), and the rule-making authority of the Federal Deposit Insurance Corporation (FDIC) found at 12 U.S.C. 1819. Other regulations implementing these statutory directives appear at 12 CFR part 366.

(b) *Purpose.* This part is designed to inform contractors and subcontractors (including their affiliated business entities, key employees and management officials) regarding their rights to notice and an opportunity to be heard on FDIC actions involving suspension and exclusion from contracting and rescission of existing contracts. This part is in addition to, and not in lieu of, any other statute or regulation that may apply to such contractual activities.

(c) *Scope.* (1) This part applies to:

(i) Contractors, other than attorneys or law firms providing legal services, submitting offers to provide services or entering into contracts to provide services to the FDIC acting in any capacity; and

(ii) Subcontractors entering into contracts to perform services under a proposed or existing contract with the FDIC.

(d) *Application.* (1) This part will apply to entities that become contractors, as defined in § 367.2(f), on or after July 5, 1996. In addition, this part will apply to contractors as defined in § 367.2(f) that are performing contracts on July 5, 1996.

(2) This part will also apply to actions initiated on or after July 5, 1996 regardless of the date of the cause giving rise to the actions.

(3) Contracts entered into by the former Resolution Trust Corporation (RTC) that were transferred to the FDIC will be treated in the same manner as FDIC contracts under this part.

(4) This part supersedes and replaces the former RTC regulation relating to suspension and exclusion of registered contractors and rescission of contracts in effect through December 31, 1995. RTC actions taken under the RTC regulation will be honored as if taken by the FDIC. A contractor subject to an RTC exclusion or suspension will be precluded thereby from participation in the FDIC's contracting program unless that exclusion or suspension is modified or terminated under the provision of this part.

§ 367.2 Definitions.

(a) *Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) *Affiliated business entity* means a company that is under the control of the contractor, is in control of the contractor, or is under common control with the contractor.

(c) *Civil judgment* means a judgment of a civil offense or liability by any court of competent jurisdiction in the United States.

(d) *Company* means any corporation, firm, partnership, society, joint venture, business trust, association, consortium or similar organization.

(e) *Conflict of interest* means a situation in which:

(1) A contractor; any management officials or affiliated business entities of a contractor; or any employees, agents, or subcontractors of a contractor who will perform services under a proposed or existing contract with the FDIC:

(i) Has one or more personal, business, or financial interests or relationships which would cause a reasonable individual with knowledge of the relevant facts to question the integrity or impartiality of those who are

or will be acting under a proposed or existing FDIC contract;

(ii) Is an adverse party to the FDIC, RTC, Federal Savings and Loan Insurance Corporation (FSLIC), or their successors in a lawsuit; or

(iii) Has ever been suspended, excluded, or debarred from contracting with a federal entity or has ever had a contract with the FDIC, RTC, FSLIC or their successors rescinded or terminated prior to the contract's completion and which rescission or termination involved issues of conflicts of interest or ethical responsibilities; or

(2) Any other facts exist which the FDIC, in its sole discretion, determines may, through performance of a proposed or existing FDIC contract, provide a contractor with an unfair competitive advantage which favors the interests of the contractor or any person with whom the contractor has or is likely to have a personal or business relationship.

(f) *Contractor* means a person or company which has submitted an offer to perform services for the FDIC or has a contractual arrangement with the FDIC to perform services. For purposes of this part, contractor also includes:

(1) A contractor's affiliated business entities, key employees, and management officials of the contractor;

(2) Any subcontractor performing services for the FDIC and the management officials and key employees of such subcontractors; and

(3) Any entity or organization seeking to perform services for the FDIC as a minority or woman-owned business (MWOB).

(g) *Contract(s)* means agreement(s) between FDIC and a contractor, including, but not limited to, agreements identified as ''task orders'', for a contractor to provide services to FDIC. Contracts also mean contracts between a contractor and its subcontractor.

(h) *Control* means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company; the ability to direct in any manner the election of a majority of a company's directors or trustees; or the ability to exercise a controlling influence over the company's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership.

(i) *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, and includes pleas of nolo contendere.

(j) *FDIC* means the Federal Deposit Insurance Corporation acting in its receivership and corporate capacities, and FDIC officials or committees acting under delegated authority.

(k) *Indictment* shall include an information or other filing by a competent authority charging a criminal offense.

(*l*) *Key employee* means an individual who participates personally and substantially in the negotiation of, performance of, and/or monitoring for compliance under a contract with the FDIC. Such participation is made through, but is not limited to, decision, approval, disapproval, recommendation, or the rendering of advice under the contract.

(m) *Management official* means any shareholder, employee or partner who controls a company and any individual who directs the day-to-day operations of a company. With respect to a partnership, all partners are deemed to be management officials unless the partnership is governed by a management or executive committee with responsibility for the day-to-day operations. In partnerships with such committees, management official means only those partners who are a member of such a committee.

(n) *Material fact* means one that is necessary to determine the outcome of an issue or case and without which the case could not be supported.

(o) *Offer* means a proposal or other written or oral offer to provide services to FDIC.

(p) *Pattern or practice of defalcation regarding obligations* means two or more instances in which a loan or advance from an insured depository institution:

(1) Is in default for ninety (90) or more days as to payment of principal, interest, or a combination thereof, and there remains a legal obligation to pay an amount in excess of $50,000; or

(2) Where there has been a failure to comply with the terms of a loan or advance to such an extent that the collateral securing the loan or advance was foreclosed upon, resulting in a loss in excess of $50,000 to the insured depository institution.

(q) *Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(r) *Subcontractor* means an entity or organization that enters into a contract with an FDIC contractor or another subcontractor to perform services under a proposed or existing contract with the FDIC.

(s) *Substantial loss to federal deposit insurance funds means:*

(1) A loan or advance from an insured depository institution, which is currently owed to the FDIC, RTC, FSLIC or their successors, or the Bank Insurance Fund (BIF), the Savings Association Insurance Fund (SAIF), the FSLIC Reserve Fund (FRF), or funds that were maintained by the RTC for the benefit of insured depositors, that is or has ever been delinquent for ninety (90) or more days as to payment of principal, interest, or a combination thereof and on which there remains a legal obligation to pay an amount in excess of $50,000;

(2) An obligation to pay an outstanding, unsatisfied, final judgment in excess of $50,000 in favor of the FDIC, RTC, FSLIC, or their successors, or the BIF, the SAIF, the FRF or the funds that were maintained by the RTC for the benefit of insured depositors; or

(3) A loan or advance from an insured depository institution which is currently owed to the FDIC, RTC, FSLIC or their successors, or the BIF, the SAIF, the FRF or the funds that were maintained by the RTC for the benefit of insured depositors, where there has been a failure to comply with the terms to such an extent that the collateral securing the loan or advance was foreclosed upon, resulting in a loss in excess of $50,000.

§ 367.3 Appropriate officials.

(a) The *Ethics Counselor* is the Executive Secretary of the FDIC. The Ethics Counselor shall act as the official responsible for rendering suspension and exclusion decisions under this part. In addition to taking suspension and/or exclusion action under this part, the Ethics Counselor has authority to terminate exclusion and suspension proceedings. As used in this part, ''Ethics Counselor'' includes any official designated by the Ethics Counselor to act on the Ethics Counselor's behalf.

(b) The *Corporation Ethics Committee* is the committee appointed by the Chairman of the FDIC, or Chairman's designee, which provides review of any suspension or exclusion decision rendered by the Ethics Counselor that is appealed by a contractor who has been suspended and/or excluded from FDIC contracting.

(c) Information concerning the possible existence of any cause for suspension or exclusion shall be reported to the Office of the Executive Secretary (Ethics Section). This part does not modify the responsibility to report allegations of fraud, waste and abuse, including but not limited to criminal violations, to the Office of Inspector General.

§ 367.4 [Reserved]

§ 367.5 Exclusions.

(a) The Ethics Counselor may exclude a contractor from the FDIC contracting program for any of the causes set forth in § 367.6, using procedures established in this part.

(b) Exclusion is a serious action to be imposed when a contractor has violated one or more of the causes set forth in § 367.6. Contractors excluded from FDIC contracting programs are prohibited from entering into any new contracts with FDIC for the duration of the period of exclusion as determined pursuant to this part. The FDIC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with such contractors. Excluded contractors are also prohibited from conducting business with FDIC as agents or representatives of other contractors.

(c) Exclusion actions do not become effective upon the notification of the contractor that there is a possible cause to exclude under § 367.13. Rather, they become effective only upon the Ethics Counselor's decision to exclude the contractor pursuant to § 367.16.

(d) The causes for exclusion set forth in § 367.6(a)(1) through (4) reflect statutorily established mandatory bars to contracting with the FDIC.

(e) Except when one or more of the statutorily established mandatory bars to contracting are shown to exist, the existence of a cause for exclusion does not necessarily require that the contractor be excluded; the seriousness of the contractor's acts or omissions and any mitigating or aggravating circumstances shall be considered in making any exclusion decision.

§ 367.6 Causes for exclusion.

The FDIC may exclude a contractor, in accordance with the procedures set forth in this part, upon a finding that:

(a) The contractor has been convicted of any felony;

(b) The contractor has been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation or their successors;

(c) The contractor has demonstrated a pattern or practice of defalcation;

(d) The contractor has caused a substantial loss to Federal deposit insurance funds;

(e) The contractor has failed to disclose, pursuant to 12 CFR 366.6, a material fact to the FDIC;

(f) The contractor has failed to disclosed any material adverse change in the representations and certifications provided to FDIC under 12 CFR 366.6;

(g) The contractor has miscertified its status as a minority and/or woman owned business (MWOB);

(h) The contractor has a conflict of interest that was not waived by the Ethics Counselor or designee;

(i) The contractor has been subject to a final enforcement action by any federal financial institution regulatory agency, or has stipulated to such action;

(j) The contractor is debarred from participating in other federal programs;

(k) The contractor has been convicted of, or subject to a civil judgment for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, or conspiracy to do the same;

(2) Violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging, or conspiracy to do the same;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstructing of justice, or conspiracy to do the same;

(4) Commission of any other offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same;

(l) The contractor's performance under previous contract(s) with FDIC or RTC has resulted in:

(1) The FDIC or RTC declaring such contract(s) to be in default;

(2) The termination of such contract(s) for poor performance; or

(3) A violation of the terms of a contract that would have resulted in a default or termination of the contract for poor performance if that violation had been discovered during the course of the contract; or

(m) The contractor has engaged in any conduct:

(1) Indicating a breach of trust, dishonesty, or lack of integrity that seriously and directly affects its ability to meet standards of present responsibility required of an FDIC contractor; or

(2) So serious or compelling in nature that it adversely affects the ability of a contractor to meet the minimum ethical standards required by 12 CFR part 366.

§ 367.7 Suspensions.

(a) The Ethics Counselor may suspend a contractor for any of the causes in § 367.8 using the procedures established in this section.

(b) Suspension is an action to be imposed when there exists adequate evidence of one or more of the causes set out in § 367.8. This includes, but is not limited to, situations where immediate action is necessary to protect the integrity of the FDIC contracting program and/or the security of FDIC assets during the pendency of legal or investigative proceedings initiated by FDIC, any federal agency or any law enforcement authority.

(c) The duration of any suspension action shall be for a temporary period pending the completion of an investigation and such other legal proceedings as may ensue.

(d) A suspension shall become effective immediately upon issuance of the notice specified in § 367.13(b).

(e) Contractors suspended from FDIC contracting programs are prohibited from entering into any new contracts with the FDIC for the duration of the period of suspension. The FDIC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with such contractors. Suspended contractors are also prohibited from conducting business with FDIC as agents or representatives of other contractors.

§ 367.8 Causes for suspension.

(a) Suspension may be imposed under the procedures set forth in this section upon adequate evidence:

(1) Of suspension by another federal agency;

(2) That a cause for exclusion under § 367.6 may exist;

(3) Of the commission of any other offense indicating a breach of trust, dishonesty, or lack of integrity that seriously and directly affects the minimum ethical standards required of an FDIC contractor; or

(4) Of any other cause so serious or compelling in nature that it adversely affects the ability of a contractor to meet the minimal ethical standards required by 12 CFR part 366.

(b) Indictment for any offense described in § 367.6 is adequate evidence to suspend a contractor.

(c) In assessing the adequacy of the evidence, FDIC will consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated and what inferences can reasonably be drawn as a result.

§ 367.9 Imputation of causes.

(a) Where there is cause to suspend and/or exclude any affiliated business entity of the contractor, that conduct may be imputed to the contractor if the conduct occurred in connection with the affiliated business entity's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) Where there is cause to suspend and/or exclude any contractor, that conduct may be imputed to any affiliated business entity, key employee, or management official of a contractor who participated in, knew of or had reason to know of the contractor's conduct.

(c) Where there is cause to suspend and/or exclude a key employee or management official of a contractor, that cause may be imputed to the contractor if the conduct occurred in connection with the key employee or management official's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(d) Where there is cause to suspend and/or exclude one contractor participating in a joint venture or similar arrangement, that cause may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(e) Where there is cause to suspend and/or exclude a subcontractor, that cause may be imputed to the contractor for which the subcontractor performed services, if the conduct occurred for or on behalf of the contractor and with the contractor's knowledge, approval, or acquiescence. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§§ 367.10–367.11 [Reserved]

§ 367.12 Procedures.

(a) FDIC shall process suspension and exclusion actions as informally as practicable, consistent with its policy of providing contractors with adequate information on the grounds that give rise to the proposed action and affording contractors with a reasonable opportunity to respond.

(b) For purposes of determining filing dates for the pleadings required by this part, including responses, notices of appeal, appeals and requests for reconsideration, the provisions relating to the construction of time limits in 12 CFR 308.12 will control.

§ 367.13 Notices.

(a) *Exclusions.* Before excluding a contractor, the FDIC shall send it a written notice of possible cause to exclude. Such notice shall include:

(1) Notification that exclusion for a specified period of time is being considered based on the specified cause(s) in § 367.6 to be relied upon;

(2) Identification of the event(s), circumstance(s), or condition(s) that indicates that there is cause to believe a cause for exclusion exists, described in sufficient detail to put the contractor on notice of the conduct or transaction(s) upon which an exclusion proceeding is based;

(3) Notification that the contractor is not prohibited from contracting with the FDIC unless and until it is either suspended from FDIC contracting or the FDIC Ethics Counselor issues a decision excluding the contractor, *provided however,* in any case where the possible cause for exclusion would also be an impediment to the contractor's eligibility pursuant to 12 CFR part 366, the contractor's eligibility for any contract will be determined under that part; and

(4) Notification of the regulatory provisions governing the exclusion proceeding and the potential effect of a final exclusion decision.

(b) *Suspensions.* Before suspending a contractor, the FDIC shall send it notice, including:

(1) Notice that a suspension is being imposed based on specified causes in § 367.8;

(2) Identification of the event(s), circumstance(s), or condition(s) that indicate that there is adequate evidence to believe a cause for suspension exists, described in sufficient detail to put the contractor on notice of the basis for the suspension, recognizing that the conduct of ongoing investigations and legal proceedings, including criminal proceedings, place limitations on the evidence that can be released;

(3) Notification that the suspension prohibits the contractor from contracting with the FDIC for a temporary period, pending the completion of an investigation or other legal proceedings; and

(4) Notification of the regulatory provisions governing the suspension proceeding.

(c) *Service of notices.* Notices will be sent to the contractor by first class mail, postage prepaid. For purposes of compliance with this section, notice shall be considered to have been received by the contractor if the notice is properly mailed to the last known address of such contractor. Whenever practical, a copy of the notice will also be transmitted to the contractor by facsimile. In the event the notice is not sent by facsimile, a copy will be sent by an overnight delivery service such as Express Mail or a commercial equivalent.

§ 367.14 Responses.

(a) The contractor will have 15 days from the date of the notice within which to respond.

(b) The response shall be in writing and may include: information and argument in opposition to the proposed exclusion and/or suspension, including any additional specific information pertaining to the possible causes for exclusion; and information and argument in mitigation of the proposed period of exclusion.

(c) The response may request a meeting with an FDIC official identified in the notice to permit the contractor to discuss issues of fact or law relating to the suspension and/or proposed exclusion or to otherwise resolve the pending matters.

(1) Any such meetings between a contractor and FDIC shall take such form as the FDIC deems appropriate.

(2) In cases of suspensions, no meeting will be held where a representative of the Department of Justice has advised in writing that the substantial interests of the Government would be prejudiced by such a meeting and the Ethics Counselor determines that a suspension is based on the same facts as pending or contemplated legal proceedings referenced by the representative of the Department of Justice.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for suspension and/or exclusion set forth in the notice and an acceptance of the period of exclusion proposed therein. In such circumstances, the FDIC may proceed to a final decision without further proceedings.

(e) Where a contractor has received more than one notice, the FDIC may consolidate the pending proceedings, including the scheduling of any meetings, in accordance with this section.

§ 367.15 Additional proceedings as to disputed material facts.

(a) In actions not based upon a conviction or civil judgment, if the Ethics Counselor finds that the contractor's submission raises a genuine dispute over facts material to the proposed suspension and/or exclusion, the contractor shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the FDIC presents.

(b) The Ethics Counselor may refer disputed material facts to another official for analysis and recommendation.

(c) If requested, a transcribed record of any additional proceedings shall be made available at cost to the contractor.

§ 367.16 Ethics Counselor decisions.

(a) Standard of proof:

(1) An exclusion must be based on a finding that the cause(s) for exclusion is established by a preponderance of the evidence in the administrative record of the case; and

(2) A suspension must be based on a finding that the cause(s) for suspension is established by adequate evidence in the administrative record of the case.

(b) The administrative record consists of the portion of any information, reports, documents or other evidence identified and relied upon in the Notice of Possible Cause to Exclude, the Notice of Suspension and/or supplemental Notices, if any, together with any material portions of the contractor's response. When additional proceedings are necessary to determine disputed material facts, the Ethics Counselor shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(c) In actions based upon a conviction, judgment, a final enforcement action by a federal financial institution regulatory agency, or in which all facts and circumstances material to the exclusion action have been finally adjudicated in another forum, the Ethics Counselor may exclude a contractor without regard to the procedures set out in §§ 367.13 through 367.14. Any such decisions will be subject to the review and reconsideration provisions of § 367.20.

(d) Notice of decisions. Contractors shall be given prompt notice of the Ethics Counselor's decision in the manner described in § 367.13(c). If the Ethics Counselor suspends a contractor or imposes a period of exclusion, the decision shall:

(1) Set forth the cause(s) for suspension and/or exclusion included in the Notice that were found by a preponderance of the evidence with reference to the administrative record support for that finding;

(2) Set forth the effect of the exclusion action and the effective dates of that action;

(3) Refer the contractor to its procedural rights of review and reconsideration under § 367.20; and

(4) Inform the contractor that a copy of the exclusion decision shall be placed in the FDIC Public Reading Room.

(e) If the FDIC Ethics Counselor decides that a period of exclusion is not warranted, the Notice of Possible Cause to Exclude may be withdrawn or the proceeding may be otherwise terminated. A decision to terminate an exclusion proceeding may include the imposition of appropriate conditions on the contractor in their future dealings with the FDIC.

§ 367.17 Duration of suspensions and exclusions.

(a) *Suspensions.* (1) Suspensions shall be for a temporary period pending the completion of an investigation or other legal or exclusion proceedings.

(2) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless a representative of the Department of Justice requests its extension in writing. In such cases, the suspension may be extended for an additional six months. In no event may a suspension be imposed for more than 18 months, unless such proceedings have been initiated within that period.

(3) FDIC shall notify the Department of Justice of an impending termination of a suspension at least 30 days before the 12-month period expires to give the Department of Justice an opportunity to request an extension.

(4) The time limitations for suspension in this section may be waived by the affected contractor.

(b) *Exclusions.* (1) Exclusions shall be for a period commensurate with the seriousness of the cause(s) after due consideration of mitigating evidence presented by the contractor.

(2) If a suspension precedes an exclusion, the suspension period shall be considered in determining the exclusion period.

(3) Exclusion for causes other than the mandatory bars in 12 CFR 366.4(a) generally should not exceed three years, but where circumstances warrant, a longer period of exclusion may be imposed.

(4) The Ethics Counselor may extend an existing exclusion for an additional period if the Ethics Counselor determines that an extension is necessary to protect the integrity of the FDIC contracting program and the public interest. However, an exclusion may not be extended solely on the basis of the facts and circumstances upon which the initial exclusion action was based. The standards and procedures in this part shall be applied in any proceeding to extend an exclusion.

§ 367.18 Abrogation of contracts.

(a) The FDIC may, in its discretion, rescind or terminate any contract in existence at the time a contractor is suspended or excluded.

(b) Any contract not rescinded or terminated shall continue in force in accordance with the terms thereof.

(c) The right to rescind or terminate a contract in existence is cumulative and in addition to any other remedies or rights the FDIC may have under the terms of the contract, at law, or otherwise.

§ 367.19 Exceptions to suspensions and exclusions.

(a) Exceptions to the effects of suspensions and exclusions may be available in unique circumstances, where there are compelling reasons to utilize a particular contractor for a specific task. Requests for such exceptions may be submitted only by the FDIC program office requesting the contract services.

(b) In the case of the modification or extension of an existing contract, the Ethics Counselor may except such a contracting action from the effects of suspension and/or exclusion upon a determination, in writing, that a compelling reason exists for utilization of the contractor in the particular instance. The Ethics Counselor's authority under this section shall not be delegated to any lower official.

(c) In the case of new contracts, the Corporation Ethics Committee may except a particular new contract from the effects of suspension and/or exclusion upon a determination in writing that a compelling reason exists for utilization of the contractor in the particular instance.

§ 367.20 Review and reconsideration of Ethics Counselor decisions.

(a) *Review.* (1) A suspended and/or excluded contractor may appeal the exclusion decision to the Corporation Ethics Committee.

(2) In order to avail itself of the right to appeal, a suspended and/or excluded contractor must file a written notice of intent to appeal within 5 days of the Ethics Counselor's decision.

(3) The appeal shall be filed in writing within 30 days of the decision.

(4) The Corporation Ethics Committee, at its discretion and after determining that it is in the best interests of the FDIC, may stay the effect of the suspension and/or exclusion pending conclusion of its review of the matter.

(b) *Reconsideration.* (1) A suspended and/or excluded contractor may submit a request to the Ethics Counselor to reconsider the suspension and/or exclusion decision, reduce the period of exclusion or terminate the suspension and/or exclusion.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) Reversal of the conviction or civil judgment upon which the suspension and/or exclusion was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the suspension and/or exclusion was imposed; or

(v) Other reasons the FDIC Ethics Counselor deems appropriate.

(3) A request for reconsideration based on the reversal of the conviction or civil judgment may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the Ethics Counselor's decision imposing the suspension and/or exclusion. Only one such request may be filed in any twelve month period.

(5) The Ethics Counselor's decision on a request for reconsideration is subject to the review procedure set forth in paragraph (a) of this section.

By order of the Board of Directors.

Dated at Washington, D.C., this 17th day of June 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–16510 Filed 7–3–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–102–AD; Amendment 39–9679; AD 96–13–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A300 B2, B4–100, and B4–200 series airplanes, that currently requires supplemental structural inspections to detect fatigue cracking, and repair of cracked structure. This amendment requires revising the supplemental structural inspection (SSID) program by changing some of the inspection techniques, changing some of the thresholds and intervals for inspections, expanding the area to be inspected for some of the inspections, and revising the Fleet Leader Program. This amendment is prompted by a review of recent service history and reports received from the current SSID program required by the existing AD. The actions specified by this AD are intended to prevent reduced structural integrity of these airplanes due to fatigue cracking.

DATES: Effective August 9, 1996.

The incorporation by reference of Airbus Industrie A300 Supplemental Structural Inspection Document (SSID), Revision 2, dated June 1994, as listed in the regulations is approved by the Director of the Federal Register as of August 9, 1996.

The incorporation by reference of Airbus Industrie A300 Supplemental Structural Inspection Document (SSID), dated September 1989, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 9, 1993 (58 FR 6703, February 2, 1993).

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Phil Forde, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2146; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–01–24, amendment 39–8478 (58 FR 6703, February 2, 1993), which is applicable to all Airbus Model A300 B2, B4–100, and B4–200 series airplanes, was published in the Federal Register on January 31, 1996 (61 FR 3343). The action proposed to continue to require supplemental structural inspections to detect fatigue cracking, and repair of cracked structure. The action also proposed to require revising the supplemental structural inspection program, including changing some of the inspection techniques, changing some of the thresholds and intervals for certain inspections, expanding the area to be inspected for some of the inspections, and revising the Fleet Leader Program.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Support for the Proposal

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that approximately 26 Model A300 series airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 93–01–24 take approximately 564 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions required by AD 93–01–24 is estimated to be $879,840, or $33,840 per airplane.

Implementation of the inspections, repairs, and replacements specified in Revision 2 of the SSID into an operator's maintenance program is estimated to require approximately 597 work hours (including removal, inspection, and installation work hours) per airplane per year, at an average labor rate of $60 per

work hour. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $931,320, or $35,820 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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 39–8478 (58 FR 6703, February 2, 1993), and by adding a new airworthiness directive (AD), amendment 39–9679, to read as follows:

96–13–11 Airbus Industries: Amendment 39–9679. Docket 94–NM–102–AD. Supersedes AD 93–01–24, Amendment 39–8478.

Applicability: All Model A300 B2–1A, B2–1C, B2K–3C, and B2–203 series airplanes, and Model A300 B4–2C, B4–103, and B4–203 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (m) 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 reduced structural integrity of these airplanes due to fatigue cracking, accomplish the following:

(a) Within one year after March 9, 1993 (the effective date of AD 93–01–24, amendment 39–8478), incorporate a revision into the FAA-approved maintenance inspection program that provides for supplemental maintenance inspections, modifications, repair, or replacement of the significant structural details (SSD) and significant structural items (SSI) specified in ''Airbus Industrie A300 Supplemental Structural Inspection Document'' (SSID), dated September 1989 (hereafter referred to as ''the SSID'').

(b) Within one year after the effective date of this AD, replace the revision of the FAA-approved maintenance program required by paragraph (a) of this AD with the inspections, inspection intervals, repairs, and replacements defined in ''Airbus Industrie A300 Supplemental Structural Inspection Document'' (SSID), Revision 2, dated June 1994 (hereafter referred to as ''Revision 2 of the SSID''). Accomplish the actions specified in the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID, at the times specified in those service bulletins. The actions are to be accomplished in accordance with those service bulletins.

(1) For airplanes that have exceeded the threshold specified in any of the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID: Accomplish the actions specified in those service bulletins within the grace period specified in that service bulletin. The grace period is to be measured from the effective date of this AD.

(2) For airplanes that have exceeded the threshold specified in any of the service bulletins identified in Section 6, ''SB Reference List,'' Revision 2 of the SSID, and a grace period is not specified in that service bulletin: Accomplish the actions specified in that service bulletins within 1,500 flight cycles after the effective date of this AD.

(c) If any cracked structure is detected during the inspections required by either paragraph (a) or (b) of this AD, prior to further flight, permanently repair the cracked structure in accordance with either paragraph (c)(1), (c)(2), or (c)(3) of this AD.

Note 2: A permanent repair is defined as a repair that meets the certification basis of the airplane, and does not require additional modification at a later date.

(1) The service bulletins listed in Section 6, ''SB Reference List,'' of the SSID [for airplanes that are currently being inspected in accordance with paragraph (a) of this AD]; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, if a permanent repair is not specified in any of these service bulletins. Or

(2) The service bulletins listed in Section 6, ''SB Reference List,'' of Revision 2 of the SSID [for airplanes that are currently being inspected in accordance with paragraph (b) of this AD]; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, if a permanent repair is not specified in any of these service bulletins. Or

(3) Other permanent repair data meeting the certification basis of the airplane which is approved by the Manager, Standardization Branch, ANM–113, or by the Direction Gonorale de l'Aviation Civile (DGAC) of France.

(d) For airplanes identified as Fleet Leader Program (FLP) in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Inspect according to the instructions and intervals specified in paragraph 4.4, ''Adjustment of Inspection Requirements and DSG,'' of Section 4, or Section 9, as applicable, of the SSID [for airplanes inspected in accordance with paragraph (a) of this AD], or Revision 2 of the SSID [for airplanes inspected in accordance with paragraph (b) of this AD], for each SSD.

(e) For the purpose of accomplishing paragraphs (d), (f), (g), and (i) of this AD, operators shall not use paragraph 6.2, ''Complete RR Method,'' of Section 9 of the SSID to calculate inspection thresholds and intervals.

(f) For Model A300–B2 and B2K–3C series airplanes: For any SSD that has exceeded the values of the threshold specified in paragraph 6, ''Inspection Threshold and Intervals,'' Section 9 of the SSID, inspect at the time specified in either paragraph (f)(1) or (f)(2) of this AD, as applicable.

(1) For airplanes inspected in accordance with paragraph (a) of this AD: Inspect within 2,000 landings after March 9, 1993, in accordance with the SSID. Or

(2) For airplanes inspected in accordance with paragraph (b) of this AD: Inspect within 2,000 landings after the effective date of this AD, in accordance with Revision 2 of the SSID.

(g) For Model A300–B4 series airplanes: For any SSD that has exceeded the values of the threshold specified in paragraph 6, ''Inspection Threshold and Intervals,'' Section 9 of the SSID, inspect at the time specified in either paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For airplanes inspected in accordance with paragraph (a) of this AD: Inspect within 1,500 landings after March 9, 1993 [the effective date of AD 93–01–24, amendment 39–8478]. Or

(2) For airplanes inspected in accordance with paragraph (b) of this AD: Inspect within 1,500 landings after the effective date of this AD.

(h) For airplanes identified as FLP in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Within one year after the effective date of this AD, apply the basic requirements given in Revision 2 of the SSID.

(i) For airplanes that are subject to the requirements of paragraph (b) of this AD, and have exceeded the initial inspection threshold specified in paragraph 4.4, ''Adjustment of Inspection Requirements and DSG,'' of Section 4, or paragraph 6, ''Inspection Threshold and Intervals,'' of Section 9, for each SSD: Perform the initial inspection prior to the accumulation of the number of flight cycles specified in paragraph 7, ''Additional Information,'' Section 9, of Revision 2 of the SSID.

Note 3: Fatigue ratings are not applicable to these allowances; therefore, no adjustment is required.

Note 4: Paragraph (i) of this AD provides the ''grace'' periods for those airplanes that are new to the FLP or that have newly added or revised SSID requirements in accordance with paragraph (b) of this AD.

(j) The grace period provided by paragraph (i) of this AD is also applicable to the thresholds and/or repeat intervals for each SSD for which the inspection interval or threshold was reduced in accordance with the requirements of paragraph (b) of this AD.

(k) For FLP airplanes identified in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID that are listed in Section 7, ''SSI Limitation List,'' of the SSID [for airplanes that are currently being inspected in accordance with paragraph (a) of this AD] , or Revision 2 of the SSID [for airplanes that are currently being inspected in accordance with paragraph (b) of this AD]: Inspect at intervals not to exceed the interval specified for each SSI, in accordance with the values given in Section 7, ''SSI Limitation List,'' of the SSID or Revision 2 of the SSID, as applicable.

(l) For all airplanes: All inspection results, positive or negative, must be reported to Airbus Industrie in accordance with either paragraph (l)(1) or (l)(2) of this AD, as applicable. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For FLP airplanes, identified in Section 5, ''Fleet Leader Program,'' of the SSID or Revision 2 of the SSID: Submit reports in accordance with the instructions in paragraph 5.2, ''SSIP Inspection Reporting,'' of Section 5, and paragraph 7.1, ''General,'' of Section 7 of the SSID [for airplanes that are currently being inspected in accordance with paragraph (a) of this AD]; or Revision 2 of the SSID [for airplanes inspected in accordance with paragraph (b) of this AD].

(2) For all airplanes that are subject to Section 6, ''SB Reference List,'' of the SSID: Submit reports in accordance with the instructions in the applicable service bulletins identified in Section 6 of the SSID [for airplanes that are currently being inspected in accordance with paragraph (a) of this AD]; or Revision 2 of the SSID [for airplanes that are currently being inspected in accordance with paragraph (b) of this AD].

(m) 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, Standardization Branch, ANM–113, 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, Standardization Branch, ANM–113.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

Note 6: Alternative methods of compliance previously granted for AD 93–01–24, amendment 39–8478, continue to be considered as acceptable alternative methods of compliance with this amendment.

(n) 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.

(o) The actions shall be done in accordance with Airbus Industrie Supplemental Structural Inspection Document (SSID), dated September 1989; or Airbus Industrie A300 SSID, Revision 2, dated June 1994, as applicable. Airbus Industrie A300 SSID, Revision 2, dated June 1994, contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
Record of revision	2	Jun 94
Section 0:		
O–LEP 1	2	Jun 94.
O–TOC 1	2	Jun 94.
Section 1:		
1–LEP 1	2	Jun 94.
1–TOC 1	1	Mar 93.
1	1	Mar 93.
2, 3	2	Jun 94.
Section 2:		
2–LEP 1	2	Jun 94.
2–TOC 1	1	Mar 93.
1, 2	1	Mar 93.
3	2	Jun 94.
Section 3:		
3–LEP 1	2	Jun 94.
3–TOC 1	2	Jun 94.
1, 2	2	Jun 94.
Section 4:		
4–LEP 1	1	Mar 93.
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1–3, 7–9, 11–16, 19, 24–38, 40–46.	1	Mar 93.
4–6, 10, 17, 18, 20–23, 39.	0	Sep 89.
Section 5:		
5–LEP 1	2	Jun 94.
5–TOC 1	2	Jun 94.
1–48	2	Jun 94.
Section 6:		
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Section 7:		
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Section 8:		
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Section 9:		
9–LEP 1–6	2	Jun 94.
9–LEP 7–9	2	Jun 94.
9–TOC 1	1	Mar 93.
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536101/3	2	Jun 94.
536101/4	0	Sep 89.
536110/1, 2	0	Sep 89.
536110/3	1	Mar 93.
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536110/5	0	Sep 89.
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536204/1, 2	0	Sep 89.
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536205/4	1	Mar 93.
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536205/6, 7	0	Sep 89.
536206/1	0	Sep 89.
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536206/4	2	Jun 94.
536206/5, 6	0	Sep 89.
536207/1	0	Sep 89.
536207/2	1	Mar 93.
536207/3	2	Jun 94.
536207/4–7	0	Sep 89.
536225/1	0	Sep 89.
536225/2	1	Mar 93.
536225/3	2	Jun 94.
536225/4–6	0	Sep 89.
536301/1–3	0	Sep 89.
536301/4	1	Mar 93.
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536359/2	1	Mar 93.
536359/3	2	Jun 94.
536365/1	0	Sep 89.
536365/2	1	Mar 93.
536365/3	2	Jun 94.
536365/4	1	Mar 93.
536367/1	0	Sep 89.
536367/2	1	Mar 93.
536367/3	2	Jun 94.
536403/1	0	Sep 89.
536403/2	1	Mar 93.
536403/3	2	Jun 94.
536403/4	0	Sep 89.
536405/1–3	0	Sep 89.
536405/4–5	1	Mar 93.
536405/6	2	Jun 94.
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536407/1–3	0	Sep 89.
536407/4, 5	1	Mar 93.
536407/6	2	Jun 94.
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536415/1, 2	1	Mar 93.
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536415/4	0	Sep 89.
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536502/10	2	Jun 94.
536503/1, 2	0	Sep 89.
536503/3, 4	1	Mar 93.
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536510/3	1	Mar 93.
536510/4	2	Jun 94.
536510/5, 6	0	Sep 89.
536521/1, 2	0	Sep 89.
536521/3, 4	1	Mar 93.
536521/5	2	Jun 94.
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536523/2, 3	1	Mar 93.
536523/4	2	Jun 94.
536523/5, 6	0	Sep 89.
536541/1	0	Sep 89.
536541/2, 3	2	Jun 94.
536541/4	2	Jun 94.
536546/1	0	Sep 89.
536546/2	1	Mar 93.
536546/3	2	Jun 94.
536546/4–6	0	Sep 89.
536547/1	0	Sep 89.
536547/2	1	Mar 93.
536547/3	2	Jun 94.
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536548/3, 4	1	Mar 93.
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576011/1	0	Sep 89.
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576011/3	2	Jun 94.
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576013/1–3	0	Sep 89.
576013/4	1	Mar 93.
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576017/1	0	Sep 89.
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576017/3	2	Jun 94.
576017/4	0	Sep 89.
576021/1	0	Sep 89.
576021/2	1	Mar 93.
576021/3	2	Jun 94.
576021/4–6	0	Sep 89.
576029/1, 2	0	Sep 89.
576029/3	1	Mar 93.
576029/4	2	Jun 94.
576029/5–7	0	Sep 89.
576031/1	0	Sep 89.
576031/2	1	Mar 93.
576031/3	2	Jun 94.
576031/4–6	0	Sep 89.
576035/1	0	Sep 89.
576035/2	1	Mar 93.
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576035/4–6	0	Sep 89.
576037/1	0	Sep 89.
576037/2	1	Mar 93.
576037/3–6	2	Jun 94.
576037/7	2	Jun 94.
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576041/5, 6	2	Jun 94.
576047/1	0	Sep 89.
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576051/2	1	Mar 93.
576051/3	2	Jun 94.
576051/4–6	0	Sep 89.
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576065/1–7	2	Jun 94.
576067/1–3	2	Jun 94.
576068/1–3	2	Jun 94.
576070/1–7	2	Jun 94.

This incorporation by reference of Airbus Industrie SSID, dated September 1989, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of March 9, 1993 (58 FR 6703, February 2, 1993). The incorporation by reference of Airbus Industrie SSID, Revision 2, dated June 1994, is 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

(p) This amendment becomes effective on August 9, 1996.

Issued in Renton, Washington, on June 17, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–15953 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–128–AD; Amendment 39–9683; AD 96–14–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200 (''Combi'') and 747–300 (''Combi'') Airplanes Modified in Accordance With Heath Tecna Supplemental Type Certificate (STC) SA2365NM or STC SA5108NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–200 ''combi'' and 747–300 ''combi'' airplanes. This action requires the installation of a new hose and fitting for the oxygen supply system. This amendment is prompted by a report indicating that a gasket seal in the oxygen hose assembly was omitted during installation. The actions specified in this AD are intended to prevent leakage of oxygen from the passenger oxygen supply lines, which could prevent an adequate flow of oxygen from reaching passengers in the event of a deployment of the passenger oxygen masks.

DATES: Effective July 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 22, 1996.

Comments for inclusion in the Rules Docket must be received on or before September 3, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–128–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Heath Tecna Interiors, 3225 Woburn Street, Bellingham, Washington 98226. 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: Don Kurle, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2798; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that, due to an engineering drawing error, a gasket seal was inadvertently omitted from the passenger oxygen supply assembly installed on certain Boeing Model 747–200 and –300 ''combi'' airplanes that have been modified in accordance with Heath Tecna Supplemental Type Certificate (STC) SA2365NM or STC SA5108NM. (''Combi'' airplanes are aircraft that are configured and certificated to transport both cargo and passengers at the same time on the main deck.) Without the gasket seal, oxygen can leak from the low pressure passenger oxygen supply lines. This condition, if not corrected, could prevent an adequate flow of oxygen from reaching passengers when the passenger oxygen masks are deployed (due to a drop in cabin pressure, for example). There have been no incidents of this sort in service, however.

Explanation of Relevant Service Information

Heath Tecna, which is the manufacturer of the oxygen supply assembly, has issued Service Bulletin H0364–35–001, dated March 15, 1996, which describes procedures for installing a new hose and fitting for the oxygen system located in Zones D and E of the airplane.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent leakage of oxygen from the passenger oxygen supply lines, which could prevent an adequate flow of oxygen from reaching passengers in the event of a deployment of the passenger oxygen masks. This AD requires the installation of a new hose and fitting for the oxygen supply system. The actions are required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

None of the Model 747–200 ''combi'' or 747–300 ''combi'' airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 8 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Required parts would cost approximately $400 per airplane. Based on these figures, the cost impact of this AD would be $880 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 96–NM–128–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

96–14–01 Boeing: Amendment 39–9683. Docket 96–NM–128–AD.

Applicability: Model 747–200 ''combi'' airplanes and Model 747–300 ''combi'' airplanes; modified in accordance with Heath Tecna Supplemental Type Certificate (STC) SA2365NM or STC SA5108NM; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of oxygen from the passenger oxygen supply lines, which could prevent an adequate flow of oxygen from reaching passengers in the event of a deployment of the passenger oxygen masks, accomplish the following:

(a) Within 15 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Heath Tecna Service Bulletin H0364–35–001, dated March 15, 1996:

(1) Remove the oxygen hose assembly, part number (P/N) 173479–16; the two bushings, P/N MS21915–12–10 and P/N AN893–19D; the tube, P/N HPD5–74223–7; and the two nuts, P/N AN818–12D. And

(2) Install a union-bulkhead, P/N MS21924D10, and oxygen hose assembly, P/N 45901–10–0200.

(b) Prior to further fight after accomplishing the installation required by paragraph (a)(2) of this AD, perform an oxygen system leak test, in accordance with Boeing 747 Maintenance Manual, Chapter 35.21.

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

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

(e) The actions shall be done in accordance with Heath Tecna Service Bulletin H0364–35–001, dated March 15, 1996. 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 Heath Tecna Interiors, 3225 Woburn Street, Bellingham, Washington 98226. 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.

(f) This amendment becomes effective on July 22, 1996.

Issued in Renton, Washington, on June 25, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–16653 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–154–AD; Amendment 39–9684; AD 96–14–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With Pratt & Whitney Model JT9D–7R4 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires a visual inspection to verify proper clearance between the number 18 fuel nozzle secondary transfer fuel tube and the pylon drain tube of the engine, and various follow-on actions. This amendment also requires the installation of clamps and associated fasteners between the environmental control system (ECS) controller tube and the pylon drain tube. This amendment is prompted by reports of chafing of the number 18 fuel nozzle secondary transfer fuel tube of the engine due to an improperly installed or loose pylon drain tube. The actions specified by this AD are intended to prevent such chafing, which could lead to subsequent fuel leakage and a possible engine fire.

DATES: Effective August 9, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 9, 1996.

ADDRESSES: 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Monica Merritt, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton,

Washington; telephone (206) 227–2683; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the Federal Register on January 31, 1996 (61 FR 3340). That action proposed to require a visual inspection to verify proper clearance between the number 18 fuel nozzle secondary transfer fuel tube and the pylon drain tube of the engine, and various follow-on actions. That action also proposed to require the installation of clamps and associated fasteners between the environmental control system (ECS) controller tube and the pylon drain tube.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposal.

Request To Revise Description of Affected Component

One commenter, Boeing, requests that all references in the proposed rule to the ''ECS'' controller tube be changed to ''the high pressure controller muscle air tube.'' The commenter states that the high pressure controller and muscle air tube are components of the airplane pneumatic system, which provides engine bleed air to various airplane systems, including the ECS.

The FAA agrees with the commenter's suggestion that the revised wording may be a more accurate description of the subject component. However, the service information (Boeing Service Bulletin 767–71A0082) that is referenced in the AD uses the term ''ECS controller tube'' throughout the procedures it contains relative to the modification. In light of this, the FAA finds that using the term ''ECS controller tube'' in the final rule will maintain consistency with the terminology used in the referenced service bulletin and, thereby, will avoid confusion.

Request To Revise Description of Service History

This same commenter requests that the description of the incidents that prompted the AD be revised. The commenter points to a specific statement that appeared in the Discussion section of the preamble to the notice: ''In the engine fire incident, investigation revealed that the cause of the chafing was attributed to the installation of the wrong engine fuel manifold, which did not provide for adequate clearance for the fuel tube.'' The commenter states that subsequent investigation of this particular incident revealed that an acceptable clearance could be maintained even if the wrong configuration of number 18 fuel tube was installed. The contributing factor to the chafing of the number 18 fuel tube was the mis-installation of the pylon drain tube.

The FAA acknowledges this new information. However, it in no way affects the intent of or need for this AD. Since the Discussion section is not repeated in the final rule, no change to the rule is necessary.

Request To Clarify Damage Specifications

This same commenter requests that proposed paragraph (a)(2) be revised to clarify the amount of damage to the number 18 fuel tube and the pylon drain tube of the engine that would require replacement or repair of those items. The commenter points out that the damage specifications indicated in the proposal are different from those specified in both the 767 Maintenance Manual and the Pratt & Whitney JT9D Engine Manual.

The FAA concurs that clarification is necessary. Based on information contained in the two manuals referenced by the commenter, the FAA finds that repair or replacement must be accomplished if damage to the number 18 fuel tube is greater than 0.003 inch, and if damage to the pylon drain tube is greater than 0.004 inch. Paragraphs (a)(2)(i) and (a)(2)(ii) of the final rule have been changed accordingly. Additionally, those paragraphs have been revised to include reference to the 767 Maintenance Manual and the Pratt & Whitney JT9D Engine Manual as sources of information relative to damage measurements.

Request To Extend Compliance Time

One commenter requests that the compliance time for accomplishing the inspection be extended from the proposed 6 months to 12 months. The commenter, a non-U.S. operator, requests this extension in order to accommodate the modification of a number of engines in its fleet that currently are equipped with different clamps.

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the inspection and installing the modification within an interval of time that parallels normally scheduled maintenance for the majority of affected operators. The FAA has found that an ample number of modification parts will be available to accommodate the affected fleet within the 6-month compliance period. In light of these factors, the FAA finds that the compliance time, as proposed, is appropriate. However, under the provisions of paragraph (b) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 93 Model 767 series airplanes equipped with Pratt & Whitney Model JT9D–7R4 engines of the affected design in the worldwide fleet. The FAA estimates that 30 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $31 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,130, or $271 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612,

it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

96–14–02 Boeing: Amendment 39–9684. Docket 95–NM–154–AD.

Applicability: Model 767 series airplanes having line position 1 through 329, inclusive; equipped with Pratt & Whitney Model JT9D–7R4 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the number 18 fuel nozzle secondary transfer fuel tube of the engine, and subsequent fuel leakage and possible engine fire, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a visual inspection to verify proper clearance (0.5 inch) between the number 18 fuel nozzle secondary transfer fuel tube and the pylon drain tube of the engine.

(1) If the clearance is equal to or greater than 0.5 inch: Prior to further flight, install clamps and associated fasteners between the environmental control system (ECS) and the pylon drain tube, in accordance with Boeing Alert Service Bulletin 767–71A0082, dated July 6, 1995.

(2) If the clearance is less than 0.5 inch: Prior to further flight, perform a visual inspection to detect damage of the number 18 fuel nozzle secondary transfer fuel tube and the pylon drain tube.

(i) If no damage is detected; or if any damage to the number 18 fuel nozzle secondary transfer tube is less than or equal to 0.003 inch deep, as specified in Section 72–09–71 of Pratt & Whitney JT9D Engine Manual, and if any damage to the drain tube is less than or equal to 0.004 inch deep, as specified in the Boeing 767 Maintenance Manual 28–22–07: Prior to further flight, relocate the pylon drain tube to meet the 0.5 inch specification. After accomplishing the relocation, prior to further flight, install the clamps and associated fasteners between the ECS and the pylon drain tube, in accordance with Boeing Alert Service Bulletin 767–71A0082, dated July 6, 1995.

(ii) If any damage to the number 18 fuel tube is greater than 0.003 inch deep, as specified in Section 72–09–71 of the Pratt & Whitney JT9D Engine Manual; or if any damage to the drain tube is greater than 0.004 inch deep, as specified in the Boeing 767 Maintenance manual 28–22–07: Prior to further flight, repair or replace the damaged tube, in accordance with Section 28–00–10 of the Boeing 767 Overhaul Manual. After accomplishing the repair or replacement, prior to further flight, install the clamps and associated fasteners between the ECS and the pylon drain tube, in accordance with Boeing Alert Service Bulletin 767–71A0082, dated July 6, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) The installation of the clamps and associated fasteners shall be done in accordance with Boeing Alert Service Bulletin 767–71A0082, dated July 6, 1995. 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 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.

(e) This amendment becomes effective on August 9, 1996.

Issued in Renton, Washington, on June 25, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–16652 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ceftiofur

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 supplemental new animal drug application (NADA) filed by The Upjohn Co. The supplemental NADA provides for a revised indication for use of a reconstituted solution of ceftiofur sterile powder for injection in day-old chicks for control of mortality associated with *Escherichia coli* organisms susceptible to ceftiofur and for use of the reconstituted injection in day-old turkey poults for the same indication.

EFFECTIVE DATE: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, is sponsor of supplemental NADA 140–338, which provides for use of Naxcel® Sterile Powder (ceftiofur sodium) as a 50 milligrams per milliliter reconstituted injectable for use in cattle, swine, day-old chicks, horses, and dogs. The supplemental NADA provides for: (1) A revised indication for use in

chicks for control of early mortality associated with *E. coli* organisms susceptible to ceftiofur, and (2) use in a new species, day-old turkey poults, for the revised indication. According to 21 CFR 556.113 a tolerance for ceftiofur residues in edible tissues derived from treated poultry is not needed. The supplemental NADA is approved as of May 21, 1996, and the regulations are amended in 21 CFR 522.313(d) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 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, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), approval for use in turkeys qualifies for 3 years of marketing exclusivity beginning May 21, 1996, because the application contains reports of new clinical or field investigations (other than bioequivalence or residue studies) or human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

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 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.313 is amended by revising paragraph (d)(3)(ii), by redesignating paragraphs (d)(4) and (d)(5) as paragraphs (d)(5) and (d)(6), respectively, and by adding new paragraph (d)(4) to read as follows:

§ 522.313 Ceftiofur sterile powder for injection.

* * * * *

(d) * * *

(3) * * *

(ii) *Indications for use.* For control of early mortality associated with *Escherichia coli* organisms susceptible to ceftiofur.

* * * * *

(4) *Day-old turkey poults*—(i) *Amount.* 0.17 to 0.5 milligram per poult.

(ii) *Indications for use.* For control of early mortality associated with *E. coli* organisms susceptible to ceftiofur.

(iii) *Limitations.* For subcutaneous use in the neck of day-old poults only. As a single dose only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

Dated: June 14, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–17103 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–96–041]

RIN 2115–AA97

Safety Zone: Macy's 1996 Fourth of July Fireworks, East River, New York

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the annual Macy's Fourth of July Fireworks program in New York Harbor. The event will take place on Thursday, July 4, 1996, from 7:30 p.m. until 11 p.m. on the East River. This safety zone temporarily closes a major portion of the East River to vessel transits.

EFFECTIVE DATE: This rule is effective from 7:30 p.m. until 11 p.m. on July 4, 1996, unless extended or terminated sooner by the Captain of the Port New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. W. Green, Chief, Waterways Oversight Branch, Waterways Management Division, Coast Guard Activities New York (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after Federal Register publication. Due to the date complete information regarding this event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed protect the maritime public from the hazards associated with large amounts of fireworks exploding from four separate barge locations in the waters of the East River.

Background and Purpose

Macy's has submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of the East River. This regulation establishes a temporary safety zone in the waters of the East River. The safety zone includes all waters of the East River, shore to shore, north of a line drawn from the foot of East 10th Street, Manhattan, east through the chartered position of Buoy 18 (LLNR 27335) to the foot of North 8th Street, Brooklyn, New York, and south of a line drawn from Lawrence Point (40°47′27″N latitude 073°54′35″W longitude) to Stony Point (40°47′48″N latitude 073°54′42″W longitude), and south of the Harlem River Foot Bridge, New York. This safety zone area also includes all waters of Newtown Creek west of the 073°57′37″W line of longitude and all waters inward of the pierheads and bulkheads between the Queensboro Bridge, Roosevelt Island, and the southern boundary of this safety zone. No vessel may enter the safety zone without permission of the Captain of the Port New York. Certain designated vessels will be allowed to take position within the zone as follows: (1) vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks may take position north of the southern tip of Roosevelt Island; and (2) vessels equal to or greater than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display, may take position in an area at least 300 yards off the bulkhead on the west bank and just off the pierhead faces on the east bank of the East River

between a line drawn from East 15th Street, Manhattan, to a point due east on the Brooklyn shore north of the entrance to Bushwick Inlet and a line drawn from the foot of East 10th Street, Manhattan, east through the chartered position of Buoy 18 (LLNR 27335) to the foot of North 8th Street, Brooklyn.

All vessels must be in their respective viewing areas not later than 7:30 p.m. These vessels once in position within the zone must remain in position until released by the Captain of the Port New York. On scene patrol personnel will monitor the number of designated vessels taking position in the viewing areas of the zone. If it becomes apparent that any additional spectator vessels in a specific viewing area will create a safety hazard, the patrol commander may prevent additional vessels from entering into that viewing area.

Vessels not complying with this criteria have a significant potential to create a hazardous condition in this area of the East River, due in great part, to the extremely strong currents.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all vessels and the fireworks handlers aboard the barges.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the 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. This proposed safety zone temporarily closes a major portion of the East River to vessel traffic. There is a regular flow of traffic through this area; however, due to the limited duration of the event; the extensive, advance advisories that will be made to allow the maritime community to schedule transits before and after the event; the fact that the event is taking place at a late hour on a Federal holiday, and that vessel traffic is expected to be somewhat reduced due to this Federal holiday falling on a weekday not immediately proceeding or following a weekend, the impact of this regulation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Therefore, the Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

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

Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–041 is added to read as follows:

§ 165.T01–041 Safety Zone: Macy's 1996 Fourth of July Fireworks, East River, New York.

(a) *Location*. The safety zone includes all waters of the East River, shore to shore, north of a line drawn from the foot of East 10th Street, Manhattan, east through the charted position of Buoy 18 (LLNR 27335) to the foot of North 8th Street, Brooklyn, and south of a line drawn from Lawrence Point (40°47′27″N latitude 073°54′35″W longitude) to Stony Point (40°47′48″N latitude 073°54′42″W longitude), and south of the Harlem River Foot Bridge, New York. This safety zone area also includes all waters of Newtown Creek west of the 073°57′37″W line of longitude and all waters inward of the pierheads and bulkheads between the Queensboro Bridge, Roosevelt Island and the southern boundaries of this safety zone.

(b) *Effective period*. This section is effective from 7:30 p.m. until 11 p.m. on July 4, 1996, unless extended or terminated sooner by the Captain of the Port New York.

(c) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) No vessels will be allowed to enter the safety zone without permission of the Captain of the Port New York.

(3) The following vessels may remain within the safety zone:

(i) Vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display may take position within the zone north of the southern tip of Roosevelt Island.

(ii) Vessels greater than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display may take position within an area at least 300 yards off the bulkhead on the west bank and just off the pierhead faces on the east bank of the East River between a line drawn from the foot of 15th Street, Manhattan, to a point due east on the Brooklyn shore north of the entrance to Bushwick Inlet and a line drawn from the foot of

East 10th Street, Manhattan, east through the charter position of Buoy 18 (LLNR 27335) to the foot of North 8th Street, Brooklyn.

(iii) Vessels taking position within the safety zone in either of these viewing areas must be in their respective viewing area not later than 7:30 p.m.

(4) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 20, 1996.

T.H. Gilmour,

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

[FR Doc. 96–16894 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 05–96–045]

RIN 2115–AA97

Safety Zone Regulations: Delaware Bay, Delaware River

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware Bay and Delaware River from Marcus Hook, Pennsylvania, to the Delaware Breakwater. This safety zone is needed to protect vessels, the port community and the environment from potential safety and environmental hazards associated with the loading and outbound transit of the T/V EMSGAS.

EFFECTIVE DATES: This rule is effective from 11:59 p.m. June 23, 1996, and terminates at 11:59 p.m. July 5, 1996. The Captain of the Port, Philadelphia, may, at an earlier date, advise mariners by Broadcast Notice to Mariners that the safety zone will not be enforced.

FOR FURTHER INFORMATION CONTACT: LTJG S.J. Kelly, Project Officer at the Captain of the Port, Philadelphia, (215) 271–4909.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. The Coast Guard was informed by the owner/operator of the T/V EMSGAS on June 19, 1996 of the intended transit of the T/V EMSGAS along the Delaware River. Publishing a NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to respond to protect the environment and vessel traffic against potential hazards associated with the transit of the T/V EMSGAS while it is loaded with liquefied petroleum gas.

Drafting Information

The drafters of this regulation are LTJG Scott J. Kelly, project officer for the Captain of the Port, Philadelphia, and CDR T. Cahill, project Attorney, Maintenance and Logistics Command Atlantic, Legal Division.

Discussion of the Regulation

This safety zone includes a specified area around the vessel during cargo operations and while underway outbound. It will be in effect during the T/V EMSGAS's transit of the Delaware River and Delaware Bay and during cargo operations at the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania. The circumstances requiring this regulation are the potential hazards associated with the transportation of liquefied petroleum gas by a large tankship in heavily trafficked areas of the Delaware River and Delaware Bay as well as in the Ports of Philadelphia. The transit consists of T/V EMSGAS's outbound transit on the Delaware River and the Delaware Bay between the vessel's berth at the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania and the Delaware Breakwater. Coast Guard Captain of the Port Philadelphia may impose transit restrictions on vessels operating within the safety zone while the T/V EMSGAS is loaded with LPG that exceeds 2% of the vessel's cargo carrying capacity.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that under section 2.B.2.e (34) of Commandant Instruction M16475.1B (as revised by 49 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

Collection of Information

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

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Record Keeping Requirements, Security measures, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.T05–045 is added to read as follows:

§ 165.T05–045 Safety Zone: Delaware Bay, Delaware River

(a) *Location.* A safety zone is established for:

(1) All waters within an area which extends 500 yards on either side and 1,000 yards ahead and astern of the T/V EMSGAS while the vessel is in the loaded condition and underway in the area bounded by the Delaware Breakwater and the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania.

(2) All waters within a 200 yard radius of the T/V EMSGAS while it is moored at the Sun Refining and Marketing Refinery terminal.

(b) No vessel may enter the safety zone unless its operator obtains permission of the Captain of the Port or his designated representative.

(c) As a condition of entry, the COTP may order that each vessel:

(1) Maintain a continuous radio guard on channels 13 and 16 VHF–FM while underway;

(2) Not overtake the T/V EMSGAS unless the overtaking is to be completed before any bends in the channel, and the pilots, masters and operators of both vessels clearly agree on all action including speeds, time and location of overtaking.

(3) Operate at a minimum no wake speed sufficient to maintain steerage while T/V EMSGAS is moored at the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania;

(4) Proceed as directed by the Captain of the Port or by his designated representative.

(d) The COTP may be contacted on VHF channels 13 & 16. The Captain of the Port of Philadelphia and the Command Duty Officer at the Marine Safety Office, Philadelphia, may be contacted at telephone number (215) 271–4940.

(e) *Definitions:*

Captain of the Port or *COTP* means the Captain of the Port Philadelphia or any Coast Guard commissioned, warrant or petty officer authorized to act on his behalf.

Loaded Condition means loaded with LPG that exceeds 2 percent of the vessel's cargo carrying capacity.

Dated: June 20, 1996.

John E. Veentjer,

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

[FR Doc. 96–16893 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 13

RIN 1024–AC21

General Regulations for Areas Administered by the National Park Service and National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is revising portions of its general regulations for areas it administers that define the primary scope and applicability and contain definitions for terms used in the text of the regulations. NPS is also modifying regulations that relate to National Park System units in Alaska. This revision clarifies the applicability of those NPS regulations that apply in all National Park System areas to waters subject to federal jurisdiction located within park boundaries, including navigable waters.

In order to protect wildlife and the other values and purposes of the National Park System, NPS developed general regulations intended to be applicable on navigable waters located within park boundaries irrespective of ownership of submerged lands. However, litigation concerning a seal shot in the navigable waters of a national park revealed that a 1987 editorial correction to 36 CFR 1.2(b), aimed at clarifying a separate and distinct application of the regulations, had the unforeseen and unintended effect of arguably linking federal title to submerged lands with the exercise of management authority over activities occurring on navigable waters. This rulemaking will clarify the regulations and ensure the continued protection of wildlife and other National Park System values and purposes on navigable waters within parks, regardless of ownership of submerged lands. The revision clarifies that NPS regulations continue to apply on navigable waters, as they have for years. Two definitions, ''park area'' and ''boundary,'' are modified by this revision. This rulemaking clarifies and interprets existing NPS regulatory intent, practices and policies, and generally would not place new or additional regulatory controls on the public.

EFFECTIVE DATE: August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Dennis Burnett, Ranger Activities Division, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127, Telephone (202) 208–4874.

SUPPLEMENTARY INFORMATION:

Background

The NPS Organic Act of 1916 directs the Secretary of the Interior and the NPS to manage national parks and monuments to ''conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' 16 U.S.C. § 1. The organic act also grants the secretary the authority to implement ''rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments and reservations under the jurisdiction of the National Park Service.'' 16 U.S.C. § 3. In the Redwood Expansion Act of 1978, Congress gave further direction to the secretary to ensure that:

> The authorization of activities shall be construed and the protection, management and administration of [NPS] areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. 16 U.S.C. § 1a–1.

In to general regulatory authority delegated in 16 U.S.C. § 3, in 1976 Congress amended the 1970 Act for Administration (known as the General Authorities Act) and authorized NPS to ''[p]romulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States.* * *'' 16 U.S.C. § 1a-2(h). ''Waters subject to the jurisdiction of the United States'' include navigable waters. *See,* H. Rep. No. 1569, 94th Cong., 2nd Sess., 4292 (1976). Under these authorities the NPS has managed and regulated activities occurring on and in the waters of the National Park System.

Before 1966, NPS regulations for boating, sanitation, and other water-use regulations were scattered throughout 36 CFR parts 1 and 2. In 1966, NPS published consolidated boating regulations as 36 CFR part 3. The regulations provided for the enforcement of U.S. Coast Guard regulations by NPS ''on navigable waters of the United States'' located within park boundaries (31 FR 16650). In 1983, NPS moved water-use activity regulations from part 2 to part 3 (48 FR 30290). In addition to regulations generally applicable in all national park areas, NPS has promulgated special park-specific regulations that NPS enforces on and in navigable waters within the boundaries of particular National Park System units. *See, e.g.,* 36 CFR 7.45(f)-(h) (Everglades National Park, Fishing and Boating); 36 CFR 7.38(b) (Isle Royale National Park, Underwater diving); 36 CFR 7.83(a) (Ozark National Scenic Riverways, Boating); 36 CFR 13.65(b) (Glacier Bay National Park, Vessel Management/ Whale protection).

Applicability and Scope Provision

In 1982–83 NPS undertook a comprehensive review of general regulations that apply in virtually all NPS administered areas (47 FR 11598). The applicability and scope provisions adopted pursuant to the 1983 rulemaking included navigable waters.

In that rulemaking, 36 CFR 1.2(a) provided that the regulations contained in 36 CFR chapter 1 would apply: (1) on federally owned waters, and (2) on waters ''controlled, * * * administered or otherwise subject to the jurisdiction of the National Park Service. * * *'' (48 FR 30252). In some park areas, the United States holds title to the submerged lands under navigable waters. In other park areas, the United States does not hold title to the submerged lands beneath navigable waters within the boundaries of the park; federal authority to regulate within the ordinary reach of these waters is based on the commerce and property clauses of the U.S. Constitution, not ownership. Like the United States Coast Guard, NPS exercises authority over navigable waters irrespective of ownership of submerged lands. 16 U.S.C. § 1a–2(h). As promulgated in 1983, 36 CFR 1.2(a)(2) reflected the congressional intent that NPS regulations applied in these waters.

The 1983 regulations also provided that—except in park areas under the legislative jurisdiction of the United States, where 10 specifically enumerated provisions were intended to apply regardless of ownership—the regulations were ''not applicable on privately owned lands and waters. * * *'' (48 FR 30252); 36 CFR 1.2(b). While 36 CFR 1.2(b) (as promulgated in 1983) was specific as to the applicability of the 10 enumerated provisions on privately owned lands, it was silent as to the applicability of those 10 regulations on lands and waters owned by a state or other government entity. In 1987, in response to questions concerning this issue, and in order to clarify the original NPS intent (*i.e.,* that the 10 specifically enumerated provisions were meant to apply on all lands and waters regardless of landownership) the term ''privately owned lands and waters'' was replaced with the term ''non-federally owned lands and waters.'' (52 FR 35238; *see also,* 52 FR 12037). The 1987 rulemaking emphasized that it was only an editorial change and not a substantive change, the sole purpose of which was to clarify the originally intended reach of the 10 enumerated provisions; there was no change intended concerning state lands.

However, in its effort to ensure that (in areas of legislative jurisdiction) the 10 enumerated regulations clearly apply on all ''non-federally owned lands and waters'' within the boundaries of park areas, the 1987 revision to section 1.2(b) inadvertently incorporated language that seems ambiguous and could preclude park regulation of ''non-federally owned * * * waters.'' *See,* 52 FR 35238, September 18, 1987. NPS recognizes that regulations must provide an ordinary person a reasonable opportunity to know when regulations apply. Accordingly, this rulemaking clarifies that NPS regulations otherwise applicable within the boundaries of a National Park System unit apply on and within waters subject to the jurisdiction of the United States located within that unit, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide, or up to the ordinary high water mark in other places that are navigable), irrespective of ownership of submerged lands, tidelands or lowlands, and jurisdictional status.

This rulemaking also revises the definition of ''boundary'' to better cover the many and diverse sites that have been placed under the care and administration of NPS. The revision provides protection to people and property at NPS sites such as maintenance facilities and warehouses, administrative sites, ranger stations, visitor information centers and associated parking lots, which, though located outside a park proper, are managed and administered by NPS as components of the National Park System. This definition is also tailored to cover the various NPS-administered sites in the District of Columbia. The term ''park area'' is revised to mean the same as the term ''National Park System.'' The definition for ''National Park System'' adopted by this rulemaking repeats the statutory definition from 16 U.S.C. § 1c.

Revisions to section 13.2 in this rule serve three purposes: (1) Paragraph (c) is revised to clarify that NPS subsistence regulations, promulgated under the authority of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3101 *et seq.,* Titles II and VIII, apply only ''on federally owned lands and interests therein within park areas where subsistence is authorized;'' (2) paragraph (e) is revised to clarify that, pursuant to proposed § 1.2(a)(3), NPS general regulations specifically apply within the reach of navigable waters located within the boundaries of park areas in Alaska; and (3) paragraph (e) is revised to clarify that the part 13 modifications (that generally are relaxations of prohibitions contained in the general regulations) also apply on the navigable waters of national parks in Alaska (*e.g.,* 36 CFR 13.20 (authorization for recreational gold panning), *see also,* 43 CFR 36.11(d) (special authorization for motorboat use)).

Analysis of Comments

NPS published the proposed rule in the Federal Register on December 5, 1995 (60 FR 62233). NPS received six timely comments on the proposed rule. The State of Alaska, Office of the Attorney General and the Alaska State Legislature; the Alaska Miners Association, Incorporated; the International Association of Fish and Wildlife Agencies; Sierra Club; and the National Parks and Conservation Association commented. NPS has carefully considered each of these comments. NPS's responses to the comments are as follows:

Legislative Jurisdiction: Ten Enumerated Regulations

One commenter supposed that adoption of this rule would make the 10 enumerated 36 CFR part 2 regulations that apply on all lands and waters within a park that are under the legislative jurisdiction of the United States apply on park waters (regardless of legislative jurisdiction). Those ten regulations are:

36 CFR 2.2 Wildlife protection
36 CFR 2.3 Fishing
36 CFR 2.4 Weapons, traps and nets
36 CFR 2.13 Fires
36 CFR 2.22 (a)(2), (b) and (c) Property
36 CFR 2.30 Misappropriation of property and services
36 CFR 2.31 Trespassing, tampering and vandalism
36 CFR 2.32 Interfering with agency functions
36 CFR 2.34 Disorderly conduct
36 CFR 2.36 Gambling

NPS believes that confusion over this point stems from the fact that the rule uses the term ''waters subject to the jurisdiction of the United States'' in subparagraph 1.2(a)(3). NPS notes that this term may be confused with the term ''lands and waters under the legislative jurisdiction of the United States'' (*see, e.g.,* 36 CFR 2.2(g); *see also,* 36 CFR 4.1).

''Legislative jurisdiction'' means exclusive federal or concurrent (state and federal) jurisdiction (*see,* 36 CFR § 1.4 (definition of legislative jurisdiction) and 40 U.S.C. 255 (the legislative authority for cessions of jurisdiction)), i.e., lands and waters over which the federal government has general lawmaking authority. The 10 enumerated provisions of 36 CFR part 2 apply on lands and waters that are within park boundaries and under the legislative jurisdiction of the United States regardless of ownership (*see, e.g.,* 36 CFR 2.2(g); *see also,* 36 CFR 4.1).

''Waters subject to the jurisdiction of the United States'' has a different meaning, and refers to waters over which the United States exercises federal commerce clause authority (*see,* H. Rep. No. 1569, 94th Cong., 2nd Sess., 4292 (1976); *see also,* 33 CFR parts 328–329). This rulemaking clarifies that NPS regulations contained in 36 CFR parts 1 through 5, part 7, and part 13 (including the 10 enumerated regulations) apply on such waters located within park boundaries regardless of jurisdictional status.

National Park System Units in Alaska: ANILCA Section 103

The Alaska State Legislature contends in their comments that ANILCA § 103(c) should be interpreted as superseding NPS authority to regulate waters within park boundaries pursuant to 16 U.S.C. § 1a–2(h). The Attorney General of Alaska makes a similar contention concerning NPS general authority to protect natural and other resources through general regulations; the Attorney General concedes only that 16 U.S.C. § 1a–2(h) permits NPS to promulgate and enforce regulations concerning boating and related activities, and to enforce Coast Guard regulations on navigable waters within park boundaries. In contrast, the National Parks and Conservation Association writes that NPS has clear authority to regulate on all waters within National Park System areas to protect park purposes and values.

In ANILCA, Congress outlined an expansive and inclusive scope of resource protection that was to apply within national parks in Alaska. Congress further charged NPS to protect populations of fish and wildlife and habitat that necessarily includes the great river systems running through and within the parks (ANILCA Title II). NPS does not agree with the State of Alaska's contention that ANILCA § 103(c) preempts NPS's well-established authority on navigable waters. NPS does not think that ANILCA § 103(c), which was characterized by Congress as a minor technical provision, should be read in isolation from the context of the whole act. ANILCA should be interpreted consistent with its underlying protective purposes: to protect objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.

National Park System Units in Alaska: Subsistence Uses on ''Public Lands''

In response to a comment NPS would like to emphasize that this rulemaking does not affect subsistence uses conducted in National Park System units in Alaska. As adopted, subparagraph (c) of 36 CFR 13.2 provides that: ''Subpart B of this part 13 contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized.'' This revision merely moves the reference to federally owned lands currently found in subparagraph (e) to subparagraph (c) to maintain the status quo. Although the term ''public lands'' appeared in the proposed rule (rather than ''federally owned lands'') NPS intended no change. Application of Federal Subsistence Board regulations (i.e. seasons and bag limits) to navigable waters or selected but not yet conveyed lands is outside the scope of this rulemaking. *See,* 61 FR 15014, April 4, 1996.

Lands Administered Pursuant to the Terms of a Written Instrument

NPS would like to clarify that when NPS leases property and administers the property for public-use purposes, NPS regulations apply. If an owner/lessor wishes to retain rights or uses, the owner should do so as part of the lease; otherwise NPS general regulations will apply equally to the owner as they would to a third party. When NPS administers property for public use pursuant to an easement, the easement will define the federal interest. The scope of the acquired federal interest will determine the regulations that would apply. However, when NPS enters into an agreement to administer property through a written instrument, such as a memorandum of agreement, memorandum of understanding, or other written form (such as a national trail certification agreement), NPS regulations will apply only to the extent provided by the owner of the property during the term of the agreement. The agreement document must describe the type(s) of public use to be managed by NPS or otherwise define the scope of management delegated by the owner to NPS. Regulations that are consistent with the intent of the agreement will then apply.

NPS wishes to note that NPS often enters into agreements with landowners where there is no intent by the landowner to grant—nor by NPS to assume—regulatory control of the property.

Section-by-Section Analysis

Section 1.2 paragraph (a) is promulgated without change. This paragraph limits the applicability of NPS regulations to within park boundaries and interests.

Subparagraphs (a)(1) and (a)(2) provide that the regulations apply, respectively, on lands and waters located within park system boundaries that are federally owned, or administered as park lands by NPS (in whole or in part) through a written instrument with the owner, party of interest, or the person, corporation, company, organization, state or political subdivision holding an interest in, or title to, such land. A written instrument could be in the form of a lease or public use easement, or a memorandum of agreement or some other written form authorizing NPS management. Without such an agreement, NPS regulations would not apply on non-federally owned lands within park boundaries, the exception being particular regulations containing a provision that makes them specifically applicable to such lands. *See, e.g.,* 36 CFR 2.2(g) (regulation applies to lands and waters under legislative jurisdiction within a park); *see also,* 36 CFR part 6 (59 FR 65948).

Subparagraph (a)(3) clearly defines and includes waters subject to federal jurisdiction that are located within National Park System boundaries, including navigable waters, within the scope of NPS regulations. Subparagraph (a)(4) contains a provision for NPS to administer lands and waters in the District of Columbia (pursuant to the Act of March 17, 1948 (62 Stat. 81)), that was added to the former subparagraph (2) in 1986 (51 FR 37010). The less-than-fee interests provision, formerly subparagraph (a)(3), has been revised, renumbered and adopted as subparagraph (a)(5). This provision encompasses scenic easements (sometimes referred to as negative easements) and other federal interests where NPS administration of the site is shared or limited.

Paragraph (b) continues to limit the applicability of NPS general regulations to federally owned lands in the absence of an agreement or a superseding provision. Similarly, in order for NPS general regulations to apply on Indian tribal trust lands located within National Park System boundaries, NPS must enter into an agreement with the benefiting Indian nation, tribe, band, or pueblo (pursuant to proposed subparagraph (a)(2)). Without such an agreement, and regardless of jurisdictional status, NPS authority on Indian lands located within National Park System units is limited to federal laws and implementing regulations made applicable at the express direction of Congress. Paragraph (d) extends existing administrative exceptions to include part 13 regulations.

Section 1.4 adopts revisions to the definitions ''boundary'' and ''park area.'' ''Boundary,'' as revised, affords comprehensive coverage to the many and diverse sites that have been placed under the care and administration of NPS, including those sites located in the District of Columbia. The term ''park area'' is revised to mean the same as the term ''National Park System.'' The definition for ''National Park System'' repeats the statutory definition from 16 U.S.C. 1c.

Section 13.2 paragraph (c) has been revised to clarify that NPS general subsistence regulations for Alaska apply on federally owned lands and interests therein within park areas where subsistence is authorized. The final rule refers to subsistence uses rather than subsistence activities to standardize part 13 text. The term ''subsistence uses'' is defined at section 13.42(c) and used throughout section 13, subpart B. The omission of Sitka National Historical Park from the list of subsistence-excepted parks in the proposed rule was an oversight that this rulemaking corrects. ANILCA does not authorize subsistence uses in Sitka National Historical Park. Paragraph (e) is revised to clarify that NPS general regulations (*e.g.*, part 2), as modified by part 13, apply to waters subject to federal jurisdiction, including navigable waters, located within the boundaries of park areas in Alaska.

Drafting Information

The primary authors of this revision are Michael Tiernan, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, DC, and Steve Shackelton and Russel J. Wilson of the Alaska System Support Office and Alaska Field Office, National Park Service. Richard G. Robbins, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, DC, also contributed.

Paperwork Reduction Act

This rule does not contain collections of information requiring approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

NPS has determined and certifies pursuant to 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.

NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses that may compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

List of Subjects

36 CFR Part 1

National parks. Reporting and recordkeeping requirements.

36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, NPS amends 36 CFR chapter I, parts 1 and 13, as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 l–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.2 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 1.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting, or otherwise within:

(1) The boundaries of federally owned lands and waters administered by the National Park Service;

(2) The boundaries of lands and waters administered by the National Park Service for public-use purposes pursuant to the terms of a written instrument;

(3) Waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide and up to the ordinary high water mark in other places) and without regard to the ownership of submerged lands, tidelands, or lowlands;

(4) Lands and waters in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81);

(5) Other lands and waters over which the United States holds a less-than-fee interest, to the extent necessary to fulfill the purpose of the National Park Service administered interest and compatible with the nonfederal interest.

(b) The regulations contained in parts 1 through 5, part 7, and part 13 of this chapter do not apply on non-federally owned lands and waters or on Indian tribal trust lands located within National Park System boundaries, except as provided in paragraph (a) or in regulations specifically written to be applicable on such lands and waters.

* * * * *

(d) The regulations contained in parts 2 through 5, part 7, and part 13 of this section shall not be construed to prohibit administrative activities conducted by the National Park Service, or its agents, in accordance with approved general management and resource management plans, or in emergency operations involving threats to life, property, or park resources.

* * * * *

3. Section 1.4 is amended in paragraph (a) by revising the definition of *Boundary*, by adding a definition for *National Park System*, and by revising the definition of *Park area* to read as follows:

§ 1.4 Definitions.

(a) * * *

Boundary means the limits of lands or waters administered by the National Park Service as specified by Congress, or denoted by presidential proclamation, or recorded in the records of a state or political subdivision in accordance with applicable law, or published pursuant to law, or otherwise published or posted by the National Park Service.

* * * * *

National Park System (Park area) means any area of land and water now

or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

* * * * *

Park area. See the definition for National Park System in this section.

* * * * *

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

4. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; subpart D also issued under 16 U.S.C. 20, 3197; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

5. Section 13.2 is amended by revising paragraphs (c) and (e), to read as follows:

§ 13.2 Applicability and scope.

* * * * *

(c) Subpart B of this part 13 contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized. Subsistence uses are not allowed in Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in subpart B amend in part the general regulations contained in this chapter and the regulations contained in subpart A of this part 13.

* * * * *

(e) For purposes of this chapter, ''federally owned lands'' does not include those land interests:

(1) Tentatively approved to the State of Alaska; or

(2) Conveyed by an interim conveyance to a Native corporation.

Dated: June 21, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–17168 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5527–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Martin Marietta Aluminum Company site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces the deletion of the Martin Marietta Aluminum Company site from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of Oregon Department of Environmental Quality (DEQ) have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

EFFECTIVE DATE: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Howard Orlean, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop: ECL–113, Seattle, Washington 98101, (206) 553–6903.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is:

Martin Marietta Aluminum Company, The Dalles, Oregon.

A Notice of Intent to Delete for this site was published on May 13, 1996, (61 FR 22006). The closing date for comments on the Notice of Intent to Delete was June 12, 1996. EPA received no comments.

EPA identifies sites which appear to present a significant risk to human health, welfare or the environment, and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substances Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 14, 1996.

Chuck Clarke,

Regional Administrator, Region 10.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Martin Marietta Aluminum Company Site, The Dalles, Oregon.

[FR Doc. 96–17021 Filed 7–3–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5530–3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Arsenic Trioxide Site from the National Priorities List (NPL).

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces the deletion of the Arsenic Trioxide Superfund Site (Site) in North Dakota, from the National Priorities List (NPL). The NPL is Appendix B of Title 40 of the Code of Federal Regulations (40 CFR) part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of North Dakota have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA

are appropriate. Further, EPA and the State of North Dakota have determined that all appropriate response actions have been implemented at the Site and that no further cleanup by responsible parties is appropriate.

EFFECTIVE DATE: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Erna Acheson, Site Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop 8EPR–SR, Denver, Colorado 80202–2466, (303) 312–6762.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is:

Arsenic Trioxide Superfund Site, North Dakota.

A Notice of Intent to Delete for this Site was published October 2, 1995 (60 FR 51395 (1995)). The closing date for comments on the Notice of Intent to Delete was November 1, 1995. No comments have been received.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action. Section 300.425 (e)(3). Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental Protection, Hazardous Waste, Superfund.

Dated: June 19, 1996.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended under Colorado by removing the site ''Arsenic Trioxide Site, North Dakota,''.

[FR Doc. 96–17022 Filed 7–3–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 76 and 167

[CGD 95–027]

RIN 2115–AF09

Adoption of Industry Standards; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule in CGD 95–027, published Thursday, May 23, 1996, at 61 FR 25984. The regulations affect both inspected and uninspected vessels and relate to removal or revision of obsolete, unnecessary or excessive regulations and the adoption of industry consensus standards in place of detailed regulations.

EFFECTIVE DATE: These amendments are effective on July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. K. Butturini, Marine Safety and Environmental Protection (G–MSE–3), Room 1300, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001, (202) 267–2206 or fax (202) 267–4816.

SUPPLEMENTARY INFORMATION: The final rules that are the subject of these corrections were published as part of the ongoing Presidential Regulatory Reform Initiative and affects both inspected and uninspected commercial vessels. The final rule removes obsolete, unnecessary and excessive regulations and adopts industry consensus standards in place of detailed regulations.

Need for Correction

As published, the final rule contains typographical errors that may prove to be misleading and need correcting.

Correction of Publication

Accordingly, the final rule published on Thursday, May 23, 1996, [CGD 95–027], at 61 FR 25984 is corrected as follows:

§ 56.30–25 [Corrected]

1. On page 26000, in § 56.30–25, paragraph (e) is corrected to read as follows:

§ 56.30–25 Flared, flareless and compression fittings.

* * * * *

(e) For fluid services, other than hydraulic systems, using a combustible fluid as defined in § 30.10–15 of this chapter and for fluid services using a flammable fluid as defined in § 30.10–22 of this chapter, flared fittings must be used; except that flareless fittings of the nonbite type may be used when the tubing system is of steel, nickel copper or copper nickel alloy. When using copper or copper zinc alloy, flared fittings are required. (See also § 56.50–70 for gasoline fuel systems, § 56.60–75 for diesel fuel systems, and § 58.25–20 for hydraulic systems for steering gear.)

§ 76.05–20 [Corrected]

2. On page 26003, § 76.05–20 is corrected to read as follows:

§ 76.05–20 Fixed fire extinguishing systems.

Approved fire extinguishing systems must be installed, as required by table 76.05–1(a) on all self-propelled vessels and on all barges with sleeping accommodations for more than six persons. Previously approved installations may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

§ 76.20–90 [Corrected]

3. On page 26003, in § 72.20–90, the paragraph designation ''(d)'' is corrected to read ''(c)''.

§ 168.15–15 [Corrected]

4. On page 26010, in § 168.15–15, paragraph (a) is corrected to read as follows:

§ 168.15–15 Size.

(a) Sleeping accommodations must be divided into rooms, no one of which may berth more than six persons. The purpose for which each space is to be used and the number of persons it may accommodate, must be marked outside the space.

* * * * *

§ 168.15–25 [Corrected]

5. On page 26010, in § 168.15–25, paragraph (a) is corrected to read as follows:

§ 168.15–25 Washrooms.

(a) There must be provided 1 shower for each 10 persons or fraction thereof and 1 wash basin for each 6 persons or fraction thereof for all persons who do not occupy rooms to which private or semi-private facilities are attached.

* * * * *

Dated: June 27, 1996.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 96–17003 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–214; RM–7101 and RM–7226]

Radio Broadcasting Services; Homerville, Lakeland, and Statenville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission affirms the grant of the rulemaking petition (RM–7226) of Lakeland Broadcasters, Inc., permittee of a station authorized to operate on Channel 290A, Lakeland, Georgia, requesting an upgrade from a Class A to a Class C3 channel. *See Memorandum Opinion and Order* 58 FR 26918, May 6, 1993. In so doing, the Commission denies the petition for reconsideration of La Taurus Productions, Inc. and dismisses as moot the petition for reconsideration filed by Southland Radio, Inc.

EFFECTIVE DATE: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, (202) 418–2130.

SUPPLEMENTARY INFORMATION: The Commission declined to reconsider the allotment of Channel 248A to Statenville, Georgia, as that community's first local transmission service, and the upgrade of Channel 290A in Lakeland, Georgia, to Channel 290C3. Channel 248B can be allotted to Statenville in compliance with the Commission's requirements for minimum station distance separations with a site restricted to 16.0 kilometers (9.9 miles) northeast of Statenville, at reference coordinates 30, 46, 24 North, 82, 52, 50 West. With this action, the proceeding is terminated.

This is a summary of the Commission's *Second Memorandum Opinion and Order,* MM Docket No. 90–214, adopted June 21, 1996 and released June 28, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–17112 Filed 7–3–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket PS–124; Amdt. 192–78]

RIN 2137–AC25

Regulatory Review; Gas Pipeline Safety Standards; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Correction of final regulation.

SUMMARY: This document corrects a final regulation published June 6, 1996 (61 FR 28770). The final regulation clarified the circumstances in which pipeline operators may adjust the boundaries of Class 2 and 3 locations that involve clusters of buildings. Because the regulation could have a significant, unintended economic impact on the gas pipeline industry, it is corrected to remove any substantive change to the rules governing boundary adjustment.

EFFECTIVE DATE: July 8, 1996.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 366–4559.

SUPPLEMENTARY INFORMATION: RSPA revised the class location definitions (§ 192.5) to provide clarity and minimize the possibility of needless design and construction expenditures (61 FR 28783; June 6, 1996). One revision concerned the boundary adjustment of Class 2 and 3 locations that involve a cluster of buildings intended for human occupancy (old §§ 192.5(f)(2) and (f)(3)). With this adjustment, a Class 2 or 3 location on a pipeline ends 220 yards from the nearest building in the cluster. As revised, the adjustment applies only when all buildings in a 1-mile class location unit (the basis for classification under § 192.5) are in a single cluster (new § 192.5(c)(2)).

Since the revision was published, RSPA has learned that many operators customarily apply the cluster adjustment irrespective of buildings outside the cluster. We also learned this practice has been tacitly accepted by RSPA enforcement personnel and may be consistent with instruction at RSPA's Transportation Safety Institute. Under these circumstances, the revised regulation could have a significant, unintended economic impact on the pipeline industry. Also, because this pipeline classification practice reflects the adjoining population density, the practice is consistent with pipeline safety. Therefore, we are correcting new § 192.5(c)(2) so there is no substantive change from old §§ 192.5(f)(2) and (f)(3).

Correction of Publication

Accordingly, the publication on June 6, 1996, of the final regulations in FR Doc. 96–13787 is corrected as follows:

§ 192.5 [Corrected]

On page 28783, in the 2nd column, in § 192.5, paragraph (c)(2) is corrected to read as follows:

* * * * *

(c) * * *

(2) When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards from the nearest building in the cluster.

Issued in Washington DC, on June 28, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–17111 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

49 CFR Part 1300

[STB Ex Parte No. 528]

Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff requirements formerly applicable to rail carriers, but imposed instead certain obligations to disclose common carriage rates and service terms as well as a requirement for advance notice of increases in such rates or a change in service terms. The ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996. The Board adds a new part 1300 to its regulations for that purpose.

EFFECTIVE DATE: These rules are effective August 4, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision adopting these

regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC. at (202) 289–4357.

Small Entities

The Board certifies that these rules will not have a significant economic impact on a substantial number of small entities. Although many railroads and shippers are small entities, we believe that the costs of compliance and other impacts would be minimal. We note that the rules should result in easier access to rail rate and service information, and to that extent, our action should benefit small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1300

Administrative practice and procedure, Agricultural commodities, Railroads, Reporting and recordkeeping requirements.

Decided: June 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, Chapter X of the Code of Federal Regulations is amended as follows:

SUBCHAPTER D—CARRIER RATES AND SERVICE TERMS

1. The heading for Subchapter D is revised as set forth above.

2. The undesignated center headings for parts 1300–1319, parts 1320–1329, and parts 1330–1339 are removed.

3. A new part 1300 is added to read as follows:

PART 1300—DISCLOSURE, PUBLICATION, AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR RAIL COMMON CARRIAGE

Sec.

1300.1 Scope; definitions.
1300.2 Disclosure requirement for existing rates.
1300.3 Response to request for establishment of a new rate.
1300.4 Notice requirement.
1300.5 Additional publication requirement for agricultural products and fertilizer.

Authority: 49 U.S.C. 721(a) and 11101(f).

§ 1300.1 Scope; definitions.

(a) The provisions of this part address the requirements imposed on rail carriers by 49 U.S.C. 11101(b), 11101(c), 11101(d) and 11101(f).

(b) Except as otherwise provided in this section, the provisions of this part apply to any common carriage transportation or service provided by a rail carrier subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 10501.

(c) The provisions of this part do not apply to any transportation or service provided by a rail carrier under a contract authorized under 49 U.S.C. 10709 or former 49 U.S.C. 10713 (repealed effective January 1, 1996).

(d) The provisions of this part do not apply to any transportation or service provided by a rail carrier to the extent that such transportation or service is exempted from rate notice and disclosure requirements pursuant to an exemption issued under 49 U.S.C. 10502 or former 49 U.S.C. 10505 (repealed effective January 1, 1996).

(e) For the purposes of this part, ''service terms'' means all classifications, rules, and practices that affect the rates, charges, or level of service for rail transportation.

§ 1300.2 Disclosure requirement for existing rates.

(a) A rail carrier must disclose to any person, upon formal request, the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable to transportation covered by the rate(s). For purposes of § 1300.4(a)(1) of this part, a formal request under this part is one that clearly notifies the railroad that the requester seeks not only immediate information but also notification of any future increases in the rate(s) involved or changes in pertinent service terms.

(b) The information provided by a rail carrier under this section must be provided immediately. (It is expected that the response will be sent within hours, or at least by the next business day, in most situations.) Such information may be provided either in written or electronic form as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) A rail carrier may, at its option, require that all requests submitted under this section be in written or electronic form, although the carrier may permit oral requests.

§ 1300.3 Response to request for establishment of a new rate.

Where a shipper or a prospective shipper or person acting on behalf of a shipper or a prospective shipper requests that the carrier establish a rate in the absence of an existing rate for particular transportation, the carrier must promptly establish and provide to the requester a rate and applicable service terms. The information may be provided either in written or electronic form, as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing. The response should be provided as soon as reasonably possible, but no later than 10 business days from receipt of the request. If a carrier determines that additional information is required from the requester before a rate or term can be established, the carrier must so notify the requester as soon as possible, but no later than 10 business days after receipt of the request. Once the additional information is received, the carrier must set the rate and related service terms, and relay them to the requester, as soon as reasonably possible, but no later than 10 business days from the receipt of the additional information. (However, the parties may agree to a different time period, in which case these time periods would not apply.) A rail carrier may, at its option, require that requests submitted under this section be in written or electronic form, although the carrier may permit oral requests.

§ 1300.4 Notice requirement.

(a) A rail carrier may not increase any rates or charges, or change any service terms (except for changes that are equivalent to rate reductions), unless 20 days have expired after written or electronic notice has been provided to all persons who, within the previous 12 months:

(1) Have formally requested under §§ 1300.2 or 1300.3 of this part the affected rates or service terms; or

(2) Have made arrangements with the carrier for a future shipment that would be subject to the increased rates or changed service terms.

(b) The notice required by this section may be in written or electronic form, as agreed to by the parties. If the parties cannot agree, the information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) For purposes of this section, a mailed notice is deemed ''provided'' on the date such notice is postmarked.

(d) The notice required by this section must clearly identify the increases in rates or charges or the changes in service terms.

§ 1300.5 Additional publication requirement for agricultural products and fertilizer.

(a) With respect to transportation of agricultural products (including grain, as defined in 7 U.S.C. 75, and all products thereof) and fertilizer, a rail carrier shall publish, make available, and retain for public inspection its currently effective rates, schedules of rates, charges, and other service terms, and any scheduled changes to such rates, charges, and service terms. This requirement is in addition to the requirements imposed by §§ 1300.2, 1300.3, and 1300.4 of this part.

(b) The information published under this section must include an accurate description of the services offered to the public; must provide the specific applicable rates (or the basis for calculating the specific applicable rates), charges, and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges, and service terms applicable to any given shipment (or to any given group of shipments). Increases, reductions and other changes must be symbolized or highlighted in some way to facilitate ready identification of the changes, the nature of those changes and their effective dates.

(c) A rail carrier must make the information available at offices where it normally keeps rate information. Access to the information at such offices must be provided to any person, without charge, during normal business hours.

(d) A rail carrier must also make the required publications available to all persons (hereinafter referred to as subscribers) who have subscribed to a publication service operated either by the rail carrier itself or by an agent acting at the rail carrier's direction. Such publications may be made available either in printed or in electronic form as agreed to by the parties. Any scheduled changes must be published in a manner that provides timely notice to subscribers. A rail carrier may impose reasonable charges for such publications. Publications may be limited to the specific information requested by the subscriber, and charges for such limited publications should be set accordingly.

[FR Doc. 96–16989 Filed 7–3–96; 8:45 am]

BILLING CODE 4915–00–P

49 CFR Part 1305

[STB Ex Parte No. 538]

Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage

AGENCY: Surface Transportation Board

ACTION: Final rules.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff requirements formerly applicable to pipeline carriers transporting commodities other than water, gas or oil. Instead, the ICCTA imposed certain obligations to disclose rates and service terms, as well as a requirement for advance notice of an increase in such rates or a change in service terms. The ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996. The Board adds a new part 1305 to its regulations for that purpose.

EFFECTIVE DATE: These rules are effective August 4, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289–4357.

A notice of proposed rulemaking was published in the Federal Register on May 15, 1996 at 61 FR 24474.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities. The rules should result in easier access to pipeline rate and service information, and, to that extent, our action should benefit small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1305

Pipelines, Reporting and recordkeeping requirements, Transportation.

Decided: June 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board adds a new part 1305 to title 49, chapter X, of the Code of Federal Regulations, to read as follows:

PART 1305—DISCLOSURE AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR PIPELINE COMMON CARRIAGE

Sec.
1305.1 Scope; definitions.
1305.2 Disclosure requirement for existing rates.
1305.3 Response to request for establishment of a new rate.
1305.4 Notice requirement.

Authority: 49 U.S.C. 721(a) and 15701(e).

§ 1305.1 Scope; definitions.

(a) The provisions of this part address the requirements imposed on pipeline carriers by 49 U.S.C. 15701(b) and 15701(c). Such requirements apply to pipeline carriers only with respect to the transportation of commodities other than water, gas, or oil.

(b) Except as otherwise provided in paragraph (c) of this section, the provisions of this part apply to any transportation or service provided by a pipeline carrier subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 15301.

(c) The provisions of this part do not apply to any transportation or service provided by a pipeline carrier to the extent that such transportation or service is exempted from rate notice and disclosure requirements pursuant to 49 U.S.C. 15302.

(d) For the purposes of this part, *service terms* means all classifications, rules, and practices that affect the rates, charges, or level of service for pipeline transportation.

§ 1305.2 Disclosure requirement for existing rates.

(a) A pipeline carrier must disclose to any person, on request, the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable to transportation covered by those rate(s).

(b) The information provided by a pipeline carrier under this section must be provided immediately. (It is expected that the response will be sent within hours, or at the latest by the next business day, in most situations.) Such information may be provided either in writing or in electronic form, as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) A pipeline carrier may, at its option, require that all requests

submitted under this section be in writing or electronic form, or the carrier may permit oral requests.

§ 1305.3 Response to request for establishment of a new rate.

Where a shipper or a prospective shipper, or a person acting on behalf of a shipper or a prospective shipper, requests that the carrier establish a rate in the absence of an existing rate for particular transportation, the carrier must promptly establish and provide to the requester a rate and applicable service terms. The information may be provided either in writing or in electronic form, as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic form where both parties have the requisite capabilities; otherwise, it is to be provided in writing. The response should be provided as soon as reasonably possible, but no later than 10 business days from receipt of the request. If a carrier determines that additional information is required from the requester before a rate or term can be established, the carrier must so notify the requester as soon as possible, but no later than 10 business days after receipt of the request. Once the additional information is received, the carrier must set the rate and related service terms, and relay them to the requester, as soon as possible, but no later than 10 business days. The time period for response set forth in this section will not apply when the parties agree to a different time period. A pipeline carrier may, at its option, require that requests submitted under this section be in writing or electronic form, or the carrier may permit oral requests.

§ 1305.4 Notice requirement.

(a) A pipeline carrier may not increase any rates or charges, or change any service terms (except for changes that are equivalent to rate reductions) unless 20 days have expired after written or electronic notice has been provided to all persons who, within the previous 12 months:

(1) Have requested, under § 1305.2 or § 1305.3, the affected rates or service terms; or

(2) Have made arrangements with the carrier for a shipment that would be subject to the increased rates or changed service terms.

(b) The notice required by this section may be provided either in writing or in electronic form, as agreed to by the parties. If the parties cannot agree, the information is to be provided in electronic form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) For purposes of this section, a mailed notice is deemed ''provided'' on the date such notice is postmarked.

(d) The notice required by this section must clearly identify the increase in rates or charges or the change in service terms.

[FR Doc. 96–16990 Filed 7–3–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 062896B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Exempted Fisheries

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

ACTION: Additions and modifications to fishery exemptions.

SUMMARY: NMFS issues this notification to authorize new fishery exemptions and to modify an existing exemption under the regulations implementing the Northeast Multispecies Fishery Management Plan (FMP). This notification advises the public of three additional exempted fisheries to be conducted in the Gulf of Maine/Georges Bank (GOM/GB) and Southern New England (SNE) regulated mesh areas, adds restrictions to an existing exempted fishery, and adds two species to the list of allowed bycatch species in the Cultivator Shoal whiting exemption program. The intent of this notification is to maximize fishing opportunities in a manner that is consistent with the conservation objectives of the FMP.

EFFECTIVE DATE: The GOM/GB monkfish exempted fishery is effective from July 1, 1996, through September 14, 1996. The GOM/GB dogfish exempted fishery is effective from July 1, 1996, through August 31, 1996. The SNE monkfish exempted fishery is effective from July 1, 1996, through October 31, 1996. The SNE dogfish exempted fishery modifications are effective from July 29, 1996 through October 31, 1996. The Cultivator Shoals whiting exemption program bycatch modification is effective from July 1, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 7 to the FMP are effective on July 1, 1996 (61 FR 27710, May 31, 1996). These regulations implement a comprehensive set of measures to control fishing mortality and rebuild the primary stocks of regulated multispecies. Among the specific measures is a bycatch control measure that prohibits prosecution of any fishery that has not been determined to have a minimal bycatch of regulated multispecies.

The bycatch control restriction is applied on a fishery basis in each of two specific geographical areas, referred to as regulated mesh areas: GOM/GB and SNE. A vessel may not fish in these areas unless it is fishing lawfully in the multispecies fishery, under a scallop days-at-sea allocation, with exempted gear, or in an exempted fishery. A list of the exempted fisheries that have been previously determined to meet the bycatch criteria and that may currently be conducted in each area appears in § 648.80.

Additions or deletions to the list of exempted fisheries may be authorized by the Director, Northeast Region, NMFS (Regional Director), if he/she determines that the bycatch of regulated species is, or can be reduced to, less than 5 percent by weight of the total catch and that such exemption will not jeopardize fishing mortality objectives (§ 648.80(a)(7), (c)(5), and (d)(4)). The Regional Director is also authorized to impose specific gear and area limitations to exempted fisheries. Proposals for exemptions were submitted by members of the fishing industry and have been examined by the NMFS Northeast Fisheries Science Center. The proposals were to allow a sink gillnet fishery for monkfish and dogfish and to allow squid (two species) to be retained as bycatch in the Cultivator Shoals whiting fishery within the GOM/GB area. Based on the data available, the Regional Director has determined that these fisheries meet the exemption criteria in specific areas during limited open seasons and under certain minimum mesh-size restrictions.

GOM/GB Monkfish Exempted Fishery

For the period July 1, 1996, through September 14, 1996, an exempted fishery for monkfish may be conducted by vessels using sink gillnet gear within a specific portion of the GOM/GB regulated mesh area. This is defined by connecting the following coordinates:

Latitude	*Longitude*
41°35′ N.	70°00′ W.
42°49.5′ N.	70°00′ W.

42°49.5′ N.	69°40′ W.
43°12′ N.	69°00′ W.
Maine shoreline	69°00′ W.

Vessels fishing under this exemption are restricted to a minimum mesh size of 10 inches (25.4 cm)(diamond). No species other than monkfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board or 200 lobsters (whichever is less), may be retained when fishing in this exempted fishery.

GOM/GB Dogfish Exempted Fishery

For the period July 1, 1996, through August 31, 1996, an exempted fishery for dogfish may also be conducted in the area defined above by vessels using sink gillnet gear with a minimum mesh size of 6.5 inches (16.5 cm)(diamond). No species other than dogfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board or 200 lobsters (whichever is less), may be retained when fishing in this exemption program.

SNE Monkfish Exempted Fishery

For the period July 1, 1996, through October 31, 1996, an exempted fishery for monkfish may be conducted by vessels using sink gillnet gear within a specific portion of the SNE regulated mesh area. This is defined by a line running south from the Massachusetts shoreline at 41°35′ N. lat. and 70°00′ W. long. and bounded on the west by the Mid-Atlantic regulated mesh area. Vessels fishing under this exemption are restricted to a minimum mesh size of 12 inches (25.4 cm)(diamond). No species other than monkfish may be retained when fishing in this exempted fishery.

SNE Dogfish Exempted Fishery Modification

Analysis of the available data also revealed that an existing fishery exemption, allowing sink gillnets in the dogfish fishery to be used year-round in the SNE regulated mesh area, should be restricted by a season and a minimum mesh-size requirement to remain consistent with the bycatch control objective. NMFS observer data documents that several trips exceeded the bycatch limit during the months of November through April. Therefore, the Regional Director has determined that, during the months of November through April, this fishery should no longer be exempted; NMFS intends to address this through future rulemaking. To provide additional assurance against bycatch of regulated multispecies during the time period the fishery is exempted, effective from July 29, 1996 through October 31, 1996, a minimum mesh size of 6 inches (15.24 cm)(diamond) must be used. Further, from July 1, 1996, through October 31, 1996, this fishery is restricted to the area described above for the SNE monkfish exempted fishery (i.e., the area defined by a line running south from the Massachusetts shoreline at 41°35′ N. lat. and 70°00′ W. long. and bounded on the west by the Mid-Atlantic regulated mesh area). The allowed bycatch species for this exemption are not changed.

Cultivator Shoals Whiting Exemption Program Bycatch

For the period July 1, 1996, through December 31, 1996, the bycatch of squid is to be allowed under the existing time, area, and mesh-size restrictions of the Cultivator Shoals whiting fishery exemption.

The Regional Director has informed the New England Fishery Management Council of the proposals to allow the sink gillnet fisheries for monkfish and dogfish in the GOM/GB area and to add squid to the list of allowable bycatch in the Cultivator Shoals whiting fishery during 1996. No objection was raised. The Regional Director has determined that the GOM/GB sink gillnet fisheries, as described above, and the previously exempted SNE sink gillnet fishery for dogfish, as temporarily modified by this action, meet the exemption qualification requirements specified in § 648.80(a)(7).

Fish that are caught, possessed, or landed in accordance with provisions of this action will be deemed by NMFS to be in accordance with 50 CFR 648.80.

Classification

This action is taken under 50 CFR 648.80 and is exempt from review under E.O. 12866.

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

Dated: June 28, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–17061 Filed 6–28–96; 4:20 pm]

BILLING CODE 3510–22–W

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50 CFR Part 660

[Docket No. 951227306–5306–01 ; I.D. 062696A]

Pacific Coast Groundfish Fishery; Trip Limit Reductions

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces further restrictions to the Pacific coast groundfish fisheries for Pacific ocean perch (POP) coastwide and Dover sole north of Cape Mendocino, CA (40°30′ N. lat.). These actions are authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. These restrictions are intended to keep landings as close as possible to the 1996 harvest guidelines for these species.

DATES: Effective from 0001 hours (local time) July 1, 1996, until the effective date of the 1997 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the *Federal Register*. Comments will be accepted through July 22, 1996.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region (Director), National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115–0070; or Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140; or Rodney McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION: The following changes to routine management measures for POP and Dover sole were recommended by the Pacific Fishery Management Council (Council) at its June 18–19, 1996, meeting in Seattle, WA.

POP. POP has been overfished and has been managed under a rebuilding schedule since 1981. The acceptable biological catch (ABC) is zero, and the harvest guideline is intended to provide only for incidental catch of POP taken while fishing for other species. The harvest guideline was reduced from 1,300 metric tons (mt) in 1995 to 750 mt on January 1, 1996, at which time a 2-month cumulative trip limit of 10,000 lb (4,536 kg) was implemented.

The best available information at the June 1996 Council meeting indicated that 315 mt of POP had been taken through May 31, 1996, and that the 750–mt harvest guideline would be reached by September 28, 1996, if the rate of landings is not slowed. The Council recommended that the 2-month cumulative limit for POP be reduced from 10,000 lb (4,536 kg) to 8,000 lb (3,629 kg) coastwide to keep landings within the harvest guideline in 1996.

Dover sole. Dover sole is one component of the Dover sole,

thornyheads (both shortspine and longspine), and trawl-caught sablefish (DTS) complex. In recent years, the DTS complex has been managed with cumulative trip limits, with specific limits on sablefish and thornyheads. The remainder of catch could be Dover sole. The industry generally concentrated on the higher valued fish, thornyheads and sablefish. However, at its extreme, the entire cumulative limit for the DTS complex (since January 1, 1996, 70,000 lb (31,752 kg) per 2-month period) could consist of Dover sole. Dover sole currently is managed with a coastwide harvest guideline, which includes a harvest guideline for Dover sole in the Columbia area (43°00′–47°30′ N. lat.), where harvest typically has been the highest.

The best available information at the June 1996 Council meeting indicated that 1,361 mt of Dover sole in the Columbia area had been taken through May 31, 1996, and that the 2,850–mt harvest guideline for this area would be reached by October 25, 1996, if the rate of landings is not slowed. The Council recommended that an explicit 2-month cumulative limit of 38,000 lb (17,236 kg) be specified for Dover sole taken and retained north of Cape Mendocino, CA. This is the amount of the DTS complex that would remain under the existing cumulative 2-month limit north of Cape Mendocino if the sub-limits for sablefish and thornyheads are fully taken. The 2-month cumulative limit for Dover sole is applied north of Cape Mendocino because this encompasses the Columbia area, and is consistent with current 2-month cumulative limits for the DTS complex (which differ north and south of Cape Mendocino) without unduly restricting the fishery south of Cape Mendocino.

NMFS action. NMFS concurs with the Council's recommendations, which are intended to keep landings of POP and Dover sole within their 1996 harvest guidelines. These restrictions apply to both the limited entry and open access fisheries, including exempt trawl gear used to harvest pink shrimp and prawns. As stated in the annual management measures at 61 FR 279 (January 4, 1996), ''A vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery; or for the same gear and/or subarea in the limited entry fishery; or, in any calendar month, 50 percent of any 2-month cumulative trip limit for the same gear and/or subarea in the limited entry fishery, called the '50–percent monthly limit.''' The annual management measures announced at 61 FR 279, as amended, are modified as follows:

1. Paragraphs IV.D.(1) and (2) of the annual management measures for POP are revised to read as follows:

''D.(1) *Limited entry fishery*. The cumulative trip limit for POP is 8,000 lb (3,629 kg) per vessel per 2-month period. The 60–percent monthly limit is 4,800 lb (2,177 kg).

D.(2) *Open access fishery*. Within the limits at paragraph IV.I. for the open access fishery, the 50–percent monthly limit for POP is 4,000 lb (1,814 kg).''

2. Paragraphs IV.E.(3)(b)(i), IV.E.(3)(b)(iii), and IV.E.(4) of the annual management measures for the DTS complex are revised to read as follows:

''E.(3)(b)(i). *North of Cape Mendocino*. The cumulative trip limit for the DTS complex taken and retained north of Cape Mendocino is 70,000 lb (31,752 kg) per vessel per 2-month period. Within this cumulative trip limit, no more than 12,000 lb (5,443 kg) may be sablefish, no more than 38,000 lb (17,236 kg) may be Dover sole, and no more than 20,000 lb (9,072 kg) may be thornyheads. No more than 4,000 lb (1,814 kg) of the thornyheads may be shortspine thornyheads.''

''E.(3)(b)(iii) The 60–percent monthly limits are: For the DTS complex, 42,000 lb (19,051 kg) north of Cape Mendocino, and 60,000 lb (27,216 kg) south of Cape Mendocino; for trawl-caught sablefish, 7,200 lb (3,266 kg); for Dover sole north of Cape Mendocino, 22,800 lb (10,342 kg); for both species of thornyheads combined, 12,000 lb (5,443 kg); and for shortspine thornyheads 2,400 lb (1,089 kg).''

''E.(4) *Open access fishery*. Within the limits in paragraph IV.I. of the annual management measures, a vessel using exempt trawl gear in the open access fishery is subject to the 50–percent monthly limits which are as follows: For the DTS complex, 35,000 lb (15,876 kg) north of Cape Mendocino, and 50,000 lb (22, 680 kg) south of Cape Mendocino; for trawl-caught sablefish, 6,000 lb (2,722 kg); for Dover sole north of Cape Mendocino, 19,000 lb (8,618 kg); for both species of thornyheads combined, 10,000 lb (4,536 kg); and for shortspine thornyheads, 2,000 lb (907 kg).''

Classification

These actions are authorized by the regulations implementing the FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Director, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to slow the rate of harvest of Dover sole and POP, and because the public had an opportunity to comment on the action at the June 1996 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(b)(1)(i), and are exempt from review under E.O. 12866.

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

Dated: June 28, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–17009 Filed 6–28–96; 4:20 pm]

BILLING CODE 3510–22–F

50 CFR Part 660

[Docket No. 960126016–6121–04; I.D. 062896A]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Closure from Point Arena, CA, to the U.S.-Mexican Border

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

ACTION: Closure.

SUMMARY: NMFS announces that the recreational salmon fishery in the area from Point Arena, CA, to the U.S.-Mexican border, in the exclusive economic zone (EEZ), closes at 0001 hours, July 2, 1996 and will remain closed until 0001 hours, July 15, 1996. The season in the EEZ will reopen under the terms of the preseason announcement of the 1996 management measures. NMFS has determined that the 2-week closure is necessary to offset the increased impacts on Sacramento River winter chinook salmon resulting from the decision by the California Fish and Game Commission (Commission) to delay implementing an increase in the recreational minimum size limit for chinook salmon within state waters. This action is necessary for ocean salmon fisheries to remain in conformance with the March 8, 1996, biological opinion issued by NMFS and is intended to provide protection to Sacramento River winter chinook salmon.

DATES: Effective 0001 hours local time, July 2, 1996, through 0001 hours local time, July 15, 1996. Comments will be accepted through July 15, 1996.

ADDRESSES: Comments may be mailed to Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries

Service, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the Southwest Regional Office, and at the Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700–Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Rodney R. McInnis or Daniel Viele, 310–980–4030.

SUPPLEMENTARY INFORMATION: Sacramento River winter chinook was listed under the Endangered Species Act (ESA) in 1989. In response to continuing and dangerously low abundance of winter chinook, NMFS issued a March 8, 1996, biological opinion (revised April 5, 1996) which required that ocean fishery impacts on winter chinook be reduced to the extent that winter chinook spawning escapement would be increased by 35 percent compared to current levels. The 1996 ocean salmon management measures (61 FR 20175, May 6, 1996) recommended by the Pacific Fishery Management Council (Council) and approved and implemented by NMFS meet the requirements of the biological opinion through a combination of season reductions and increased minimum size limits.

The State of California acted in late April to conform its commercial and recreational fishing regulations to the Council's recommended management measures. On May 1, 1996, the Commission, which regulates the recreational salmon fishery within state waters, announced its intent to consider delaying implementation of the July 2 increase in the minimum size limit south of Point Arena for recreationally caught chinook until August 26.

The Council considered the Commission's proposed action at its June 18–19 meeting in Seattle, WA. NMFS informed the Council that any state actions resulting in an increase in winter chinook impacts would trigger inseason action by NMFS to ensure the requirements of the biological opinion would continue to be met. NMFS urged the Council to recommend adjustments to the fishing seasons in the EEZ, which would result in ocean salmon fisheries operating within the constraints of the biological opinion, should the Commission delay implementation of the July 2 minimum size limit increase. Despite advice from its Salmon Technical Team (STT) that the decrease in winter chinook spawning escapement resulting from the proposed delay would not meet ESA requirements, the Council, at its June 18–19 meeting, recommended that NMFS delay the minimum size limit increase in Federal waters as well. The Council further advised NMFS to constrain any Federal regulatory adjustments stemming from the Commission's actions to the California recreational fishery.

On June 21, the Commission approved a July 15, 1996, date for the increase in the minimum size limit for chinook in the recreational salmon fishery south of Point Arena. A preliminary analysis by the STT indicates that the difference between the winter chinook spawning escapement increase expected under the NMFS approved and implemented management measures and the Commission's delay to July 15 would be 0.7 percent. Although small, this difference results in winter chinook impacts that do not meet the requirement of the biological opinion to increase winter chinook spawning escapement by 35 percent.

NMFS has taken this inseason action to close the recreational fishery in the EEZ during the same time period that the Commission has delayed the increase in the minimum size limit in state waters. Differing size limits in Federal and state waters are considered to be unenforceable. Analysis of how to compensate in the EEZ for the 2-week delay is made difficult by the lack of data partitioning recreational effort between the EEZ and state waters, and an inability to predict the portion of the recreational effort normally occurring in the EEZ that will shift to state waters as a result of an EEZ closure. Data for the commercial troll fishery off California in 1983 and 1984 indicate 67 percent of the catch occurred in the EEZ. However, there is no reason to assume a similar distribution of the recreational effort. Officials at the California Department of Fish and Game estimate that perhaps 70 percent of the recreational effort in July may occur inside state waters. If it is assumed that 30 percent of the recreational fishing effort occurs in the EEZ and that no effort shift will result from an EEZ closure, a 2-week closure of the EEZ to recreational fishing in July would approximately compensate for the winter chinook impacts caused by the 2-week delay in the minimum size limit in state waters, according to the Winter Chinook Ocean Harvest Model. Based on that analysis, NMFS expects that with this 2-week closure the ocean fisheries will continue to meet the requirements of the biological opinion. If, however, further analysis by the STT should indicate that additional adjustments are required, NMFS will consider further closures to salmon fisheries in the EEZ.

The Regional Director consulted with representatives of the Council and the California Department of Fish and Game. Because of the need for immediate action, NMFS has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. This notice does not apply to other fisheries that may be operating in other areas.

Classification

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

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

Dated: June 28, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–17010 Filed 6–28–96; 4:20 pm]

BILLING CODE 3510–22–F

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50 CFR Part 681 and 15 CFR Part 902

[Docket No. 960401094–6183–02; I.D. 022296D]

RIN 0648–AI32

Western Pacific Crustacean Fisheries; Amendment 9; OMB Control Numbers

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). This rule establishes a new annual harvest limitation program for the Northwestern Hawaiian Islands (NWHI) lobster fishery based on the status of stocks and an explicit level of risk of overfishing. This eliminates operational problems with the current quota system. Current prohibitions on retaining juvenile lobsters and berried lobsters are eliminated. The rule establishes framework procedures to implement regulatory changes if needed in the future. This rule also announces the harvest guideline for the 1996 fishing season. The rule is intended to maintain the productivity of the stocks while providing a reasonable opportunity for permit holders to participate in the fishery and to maintain their markets. The changes also improve the administration of the

management program and enforcement efforts.

EFFECTIVE DATES: June 28, 1996, except new § 681.12 which is effective on August 5, 1996.

ADDRESSES: Copies of Amendment 9 and the associated environmental assessment may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

A copy of the Biological Opinion (BO) associated with this rule and the Final Regulatory Flexibility Analysis (FRFA) may be obtained from Hilda Diaz-Soltero, Director, Southwest Region, NMFS (Regional Director), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Send comments on the modifications to approved collection-of-information requirements to the Regional Director and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Paperwork Reduction Project 0648–0204 and 0648–0214, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds at (808) 522–8220; Svein Fougner at (310) 980–4034; or Alvin Z. Katekaru at (808) 973–2985.

SUPPLEMENTARY INFORMATION: The FMP was approved in 1983 and governs fishing for spiny and slipper lobsters in the NWHI. The history of the development of the FMP and Amendment 9 is summarized in the proposed rule (61 FR 15452, April 8, 1996) and will not be repeated here.

Amendment 9 includes the following measures, which are explained in more detail in the proposed rule published on April 8, 1996:

1. *Establish an annual harvest guideline based on a constant harvest rate and a specific level of risk of overfishing.* Under the constant harvest rate policy, the harvest guideline, which is expressed in terms of the total number of lobsters (spiny and slipper combined), is proportional to the estimated exploitable population size.

2. *Allow the retention of egg-bearing (''berried'') lobsters and eliminate size limits.* The FMP and implementing regulations currently prohibit fishers from retaining berried lobsters or lobsters with a tail width of less than 50 mm for spiny lobsters and 56 mm for slipper lobsters.

3. *Eliminate the in-season quota adjustment.* The in-season quota adjustment has proven to be unworkable, given the extreme sensitivity of the quota formula to changes in catch-per-unit-of-effort (CPUE). A harvest guideline will be set once annually and will not be adjusted during the year.

4. *Authorize the Regional Director to close the fishery by direct notice to fishermen.* The Council concluded that the fishery is sufficiently small (there are only 15 persons with limited entry permits) that direct notice to permit holders by telephone or radio is feasible and provides the most effective means of ensuring timely closure of the fishery with minimal likelihood of premature or late closure.

5. *Establish broad framework procedures for future regulatory changes.* The FMP currently has framework procedures dealing with protected species conservation, and the annual harvest quota is set under a specific framework (i.e., formula). Amendment 9 authorizes measures affecting the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort, and provides a mechanism to respond to new information quickly.

6. *Conduct a 5-year review of the new program.* The Council is aware that the proposed new management approach of Amendment 9 is an innovative approach to crustacean fishery management and that it warrants a complete review of its effectiveness. This analysis is in addition to the annual review of the fishery.

This rule eliminates the requirement that fishers notify NMFS in advance of plans to embark on each fishing trip so that NMFS may place observers on the fishing vessel. Although the single vessel fishing in 1994 under an Experimental Fishing Permit carried a NMFS observer, NMFS does not anticipate sending observers on lobster trips on a regular basis. Therefore, NMFS removes the requirement to report each trip in advance. This action accords with President Clinton's directive that agencies reduce public reporting requirements.

In compliance with the new procedures of Amendment 9, a harvest guideline of 186,000 lobsters for the NWHI crustacean fishery is announced for the 1996 fishing season, which begins July 1, 1996. This harvest guideline supersedes the initial quota published on February 21, 1996 (61 FR 6577), and is the final landings limit for the 1996 fishing season. The harvest guideline is computed by using a harvest rate associated with a 10 percent risk of overfishing applied to the estimate of the exploitable population. For 1996, the exploitable population is 1,432,586 lobsters.

Comments

Comments were received from the State of Hawaii Department of Land and Natural Resources, the Marine Mammal Commission (MMC), the U.S. Fish and Wildlife Service (USFWS), and the Small Business Administration (SBA). Similar comments have been combined.

Comment: Some comments suggested that NMFS was reopening or resuming the NWHI lobster fishery, implying that the fishery is now closed.

Response: The lobster fishery has been closed only when there was no announced quota or after available quota has been taken. Commercial fishing is allowed under the current system when there are lobsters to be harvested according to the formula contained in the FMP. Without Amendment 9, the fishery would open on July 1, 1996, under a quota system.

Comment: The regulations should require the retention of all small and berried female lobsters. Giving the fishermen no choice would minimize highgrading and would provide more sound information in the sales reports.

Response: This measure was not included by the Council in Amendment 9, so it cannot be implemented at this time. However, NMFS does not expect highgrading to occur because competition for the total number of lobsters set by the harvest guideline will encourage fishermen to keep all lobsters, but NMFS will provide the Council with catch, effort, and sales data to evaluate whether this expectation is realized. The Council has agreed to consider requiring retention if the first year of data demonstrates a need and provides a sound basis for such action.

Comment: A vessel monitoring system (VMS) should be required on each vessel. Such a system would monitor vessel traffic and determine if there were illegal entry to the Hawaiian Islands National Wildlife Refuge (HINWR).

Response: This measure was not included by the Council in Amendment 9, so it cannot be implemented at this time. The Council did not propose the use of VMS because VMS has not been justified to the satisfaction of the Council as being needed in the lobster fishery. The Council has agreed, however, to review the measure in the future within the framework procedures of the amendment.

Comment: Amendment 9 is deficient in its description of the HINWR. It is the USFWS position that the boundaries of the HINWR extend to the 20 fathom isobath around Necker Island and to the 10 fathom isobath around the other

islands of the refuge; and that permits are required for access to the HINWR. The Amendment could lead to the impression that, in the absence of the FMP, fishing would be allowed in the HINWR.

Response: The legal basis for this assertion of jurisdiction over offshore waters was not provided. The original Executive Order designating the HINWR does not indicate that offshore waters are included in the HINWR. The original FMP provides a more complete discussion of management agencies and their authorities in the NWHI, and there is no new information concerning USFWS authority or jurisdiction. The USFWS has been asked to provide to the Council more information concerning HINWR jurisdiction and controls for use in future planning efforts. The original FMP clearly explains that fishing in waters in the HINWR or in state waters is not controlled under the FMP; nothing in Amendment 9 changes that position.

Comment: An area-wide harvest guideline means that specific areas in the Hawaiian Islands chain could be severely depleted of lobster, possibly adversely affecting monk seals.

Response: Due to the lack of scientific data and enforcement resources, bank-by-bank management is not possible at this time. The stock assessment model is conservative, however, and guards against excessive harvests. Historically, most of the harvest has occurred at a small number of locations, and this is likely to continue unless productivity of the lobster stocks returns to the levels of the late 1970's and 1980's. The Council has agreed to evaluate the use of VMS, which could be useful in reporting the catch at sea. Such a system may be able to provide a basis for area specific management in the future.

Comment: Area specific spawning potential ratios (SPR) should be evaluated and used to restrict fishing in areas where it is important to maintain healthy lobster populations.

Response: As stated above, this is not possible at this time. If area-specific management becomes a reality, determining the SPR for individual areas would be a factor to be considered.

Comment: The conclusion that the proposed fishery will not affect Hawaiian monk seals is not supported by the information in Amendment 9 and the biological assessment. The Amendment should include a full discussion of the potential impacts, such as increasing entrapment hazards and decreasing food availability. Also, Amendment 9 does not address the status of monk seals at French Frigate Shoals (FFS), where the seal population is undergoing a severe decline due to starvation. If lobster and octopus are relatively important components of monk seal diets, the proposed lobster fishery could impact monk seals. The MMC recommends closing FFS to lobster fishing until the importance of lobster and octopus in the diets of monk seals is known. Amendment 9 should be disapproved and no fishing allowed until an adequate BO is completed.

Response: There are three records of direct interaction between monk seals and the lobster fishery. One occurred early in the fishery when a seal became entangled in a trap bridle and drowned. The second occurred in 1994, when a fisherman reported that a monk seal approached the vessel and fed on released lobster. In the third, a seal was observed attempting to move a lost trap, presumably in search of food underneath the trap. No reports have been received of dead or live monk seals with scars or injuries that suggest interaction with lobster fishing gear. No interactions have occurred on research cruises. With reduced effort in the fishery, the potential for direct entrapment or harm has greatly declined. There is no information on the number of lost lobster traps and the likelihood that a lost trap would harm a seal, but the maximum allowable size of the trap openings was set with the objective of protecting monk seals.

There may be indirect effects on monk seals from the lobster fishery, especially for the population at FFS, where overall prey availability appears to be low. However, NMFS has concluded that there is insufficient information to support closing waters around FFS at this time. The NMFS Honolulu Laboratory is conducting research on foraging and feeding behavior, as well as on the diet of monk seals through the use of remote video cameras attached to seals and by analyzing seal scats and spewings. Eventually, a better understanding of the relationship between monk seals and their food sources will be available. Amendment 9 recognizes a potential for impacts, but NMFS agreed with the Council's view that there is no basis to determine that impacts are likely. On May 24, 1996, the NMFS Office of Protected Resources issued a BO, under the Endangered Species Act, that concluded that the fishery, as it would be conducted under Amendment 9 and these implementing regulations, is not likely to jeopardize the continued existence of any listed species. The May 24, 1996, BO will be provided to the Council for use in future planning and management decisions.

Comment: The frameworking procedures may not be quick enough to respond effectively to rapidly occurring changes in the proposed fishery, including the implementation of measures to protect monk seals. The procedures should be streamlined to provide for quick action.

Response: Actions cannot be taken until effects of the actions are thoroughly analyzed. The new framework procedures will provide for a proper review, and actions can be taken without amending the plan, which is a much more lengthy process. The ability of the Regional Director to close the fishery by direct notice to fishermen is one of the benefits of the Amendment. Also, the Magnuson Act authorizes NMFS, on behalf of the Secretary, to take emergency action if necessary. Existing regulations in 50 CFR §§ 681.27 and 681.28 also provide authority for NMFS to issue quickly a short-term regulation (10 days to 6 months), specifically in the event of a monk seal mortality that appears related to the fishery.

Comment: Eliminating size limits introduces a strong incentive for highgrading and underreporting, which is to be detected by untested and unconvincing methods.

Response: NMFS expects highgrading to be minimal. The following year's harvest guideline will be adjusted for any identified highgrading following review of landings data through the monitoring system. The relationship between lobster size and price depends on the market, which varies from year to year. There is a market for all lobster, so a fisherman would have to decide whether the vessel's economic return would be sufficiently greater if some lobster were discarded in order to retain others. Competition for the available quota puts pressure on fishermen to catch as many lobsters as possible and return to port before the harvest guideline is reached. Highgrading is more likely to occur when fishing begins, and becomes less likely as the fishery approaches the limit on total harvest established by the annual quota. The fewer vessels harvesting the quota, the greater the possibility that highgrading will occur, depending on the size of the quota. High levels of harvest are required to sustain a lobster operation, and the decision to forego the catch of some lobster in anticipation of a more valuable catch is not a simple decision and not the most likely choice.

If highgrading occurs, it can be detected. Catch and effort reported in logbooks can be compared with historic catch and effort data and with the results of research cruise data from the same year. The specific management response to highgrading will depend on

the extent of the highgrading and the benefits and costs of corrective measures, which can be implemented through the framework process. The Council has agreed to evaluate the degree and effects of highgrading in the first year of the fishery under Amendment 9 to determine if adjustments are necessary.

Comment: The basis for the statement that mandatory escape vents reduce the number of undersized lobsters caught in traps by 50 percent should be stated. NMFS should explain why the percentage of sublegal lobsters in the catch doubled between 1985 and 1994. The increasing percentage of undersized lobsters suggests that the fishery has substantially reduced the number of large, preferred lobsters.

Response: The information on the effectiveness of escape vents was obtained through NMFS research. The most likely explanation for an increase in the percentage of sublegal lobsters caught is that the spatial nature of the fishery has changed. Before 1990, the main fishing areas were Maro Reef and Necker Island. Sublegal and legal spiny lobster inhabit separate areas on Maro Reef; however, they occur together on the fishing grounds at Necker Island. After 1990, fishing effort was targeted primarily on Necker Island, thus increasing the relative proportion of sublegal spiny lobster in the catch.

Comment: Past harvest projections designed to achieve sustainable harvest levels have exceeded sustainable catch levels, and the approach of Amendment 9 is untested.

Response: There have not been errors in projections of sustainable harvest. The in-season adjustment, however, has resulted in very large and unpredictable variations in harvest quotas due to extreme sensitivity to changes in CPUE. For example, in 1994 the initial quota was 200,000 lobsters, but was adjusted down to 20,000 lobsters using data from the first month of fishing and a target CPUE of 1.0 lobster/trap haul. However, the CPUE dropped to only 0.9 lobster/trap haul. The resource has not been overfished, and the resource has grown since a quota system was implemented.

Comment: An explanation should be provided as to why in-season harvest adjustments are administratively cumbersome and how fishery management would be improved by eliminating the measure.

Response: The in-season adjustment caused wide and unpredictable changes in the quotas for the fishery. As a result, it was difficult for permit holders to plan their activities and for NMFS to manage the opening and closing of the fishery in a rational manner. The 1994 experience cited by the reviewer demonstrated that the old quota formula was overly sensitive to very small changes in catch rates, such that a 10 percent change in catch rate led to a 90 percent change in the quota.

Comment: The best way to assess and detect highgrading is through observers.

Response: The FMP provides authority for the Regional Director to place observers on permitted vessels, and observers may be placed if deemed necessary and appropriate. As previously explained, highgrading can be detected without using observers.

Comment: The variability of the constant harvest proposal may force some fishermen out of business and ultimately interfere with the current competitive market structure, or could result in a number of fishermen deciding not to participate. This could result in excessive market power for remaining businesses. Also, a few of the companies could merge or a large business could decide to enter the market if it sees the small harvesters exiting the market. This could adversely affect other small businesses, such as markets and restaurants.

Response: Most of the kinds of prospective problems foreseen by the SBA are also inherent in the current management scheme and would arise if the constant catch alternative were chosen. However, monopolization of the harvesting capacity is not likely given that any single entity may not now hold more than one permit. Both now and under the proposed alternative, it is possible for a large business to enter the fishery. It should be noted that NWHI lobster fishermen are generally unable to set market prices due to the relatively low overall volume of the fishery (the projected average harvest guideline is 288,000 lobsters per year); the strong competition from other sources of lobsters (Australia and Brazil especially); and the limited season (not more than 6 months per year). It seems unlikely, therefore, that a large firm would enter the fishery. It is even more unlikely that any single firm could set prices because of competition from international sources. Neither the fishery in aggregate nor any one participant can affect supply or price in the long run to the extent that the consumer would be impacted. It is expected that the difference in ultimate supply of lobster under either the constant harvest rate or the constant catch approach would not be large enough to affect price or markets. However, as the ''use-or-lose'' provision has been eliminated, greater flexibility is provided to permit holders to decide when (if at all) they want to enter the fishery. They are already free to transfer their permits. Thus the proposed management program should result in the more efficient producers being more likely to participate in the fishery.

Comment: The proposal may affect small businesses by interfering with their ability to make short-term and long-term plans. Since the businesses will have to decide each year about whether or not to operate, the businesses may be apprehensive about making administrative decisions, expanding their fleets, upgrading or repairing vessels, or selecting a product price that is beneficial to the economy. The variable nature of the proposal will discourage long-term business expansion. It may be difficult for the business to obtain capital for long-term projects that may require payment over a number of years.

Response: The concerns expressed are generic to this fishery and would exist if the constant catch alternative were selected. The constant catch alternative does not eliminate variability because any harvest guideline would be based on the exploitable biomass, which fluctuates naturally. Since harvest guidelines must be linked to the biological status of the lobster stocks, the FMP cannot guarantee any particular long-term harvest for the industry, or for a particular vessel or business. Expansion of fleets is not likely given the limit on the number of permits any one entity (defined to include a business) can hold. Most participants in the fishery are active in other fisheries and make a decision each year about whether to go lobster fishing. In fact, the constant catch alternative would more likely discourage some prospective fishermen from entering the lobster fishery. The advantage of the constant harvest rate alternative, to these fishermen, is that some years with very strong recruitment may provide income that they would not expect in average years. It should be noted that the average expected harvest under any of the alternatives with a 10 percent risk level is not likely to be large enough to support a full year—s operation for a large portion of the fleet.

Comment: The constant harvest rate proposal is not the most viable alternative for small businesses. The net present value (NPV) analysis of the alternatives indicated that the constant catch alternative had the highest NPV. The constant catch approach involves less uncertainty, has low overall catch variability, and allows high catch rates. The SBA urges the Council to reconsider its decision and suggests that the Council execute the constant catch alternative.

Response: This reading of Table 7 of the Regulatory Impact Review is correct. However, in the Council's and NMFS' view, the constant harvest rate approach was preferred because it provides higher allowable catches with moderate to high CPUE, and takes greater advantage of years with exceptional lobster production, while still limiting uncertainty and providing full protection to stocks when production is low. While maximizing NPV was considered, tradeoffs were made based on biological and operational considerations, with the constant harvest rate option deemed the optimal strategy. Maximizing NPV was not the sole decision criterion. The Council recognizes that most lobster fishermen are not dependent on the lobster fishery. It is likely that only a few permit holders will be active most years and that most permit holders will not shift from other fisheries to lobster except in years of exceptional production. There would be greater incentive for permit holders to exit the fishery altogether if there were a constant catch approach with a relatively low and fixed harvest limit for a number of years. That is, with no potential for the harvest limit to increase for a period of time, many permit holders would appear more likely to leave the fishery, such that the concerns about the concentration of harvesting capacity and control over markets would be more likely to materialize. The constant harvest rate appears more likely to provide an incentive for potential harvest capacity to be maintained.

Changes From the Proposed Rule

When the harvest guideline is projected to be taken, NMFS will notify fishermen 5 days in advance that further landings are prohibited under § 681.29(b)(3). This is shorter notice than the 7 days provided in the former regulations at § 681.31(c)(4). The delay in prohibiting landings, after fishing for lobster has been prohibited, is intended to allow a minimum number of days for vessels to return to port. In most circumstances lobstermen in the NWHI do not need 7 days to get to port. Seven days notice provides additional time to fish, while weakening NMFS' ability to keep the harvest within the harvest guideline. Five days is sufficient time to get back to port from most areas under normal weather conditions. The requirement is for a minimum number of days and does not preclude NMFS from giving more than 5 days if circumstances warrant. Advance notice may be given by direct notice to fishermen or by publication in the Federal Register.

Classification

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule amends a recordkeeping and reporting requirement, 15 CFR 902.1(b) is revised to reference correctly the new sections resulting from the consolidation.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the Federal Register.

This rule includes a reduction in collection-of-information requirements subject to the Paperwork Reduction Act. The current rule, which was approved by the Office of Management and Budget (OMB) under OMB Control No. 0648–0204, requires that permits be renewed annually. Under the final rule, permits are effective until modified, suspended, or revoked. The permit holder must advise NMFS of changes in permit information such as change of ownership or the vessel covered by the permit. The estimated burden decreases from ½ hour per year to ½ hour per 3 years. Vessel owners are no longer required to notify NMFS prior to departing on each fishing trip, a requirement approved under OMB Control No. 0648–0214. This reduces the estimated burden by 5 minutes per vessel per trip, or up to 30 minutes per year. This rule also mentions the daily lobster and sales reports which take 5 minutes to complete, respectively, and have been approved under OMB control number 0648–0214. The total burden is estimated to decrease by about 10 hours per year. Send comments regarding these burden estimates or any other aspect of these collection-of-information requirements, including suggestions for reducing the burden, to the Regional Director and to OMB (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS has prepared a FRFA as part of the regulatory impact review, which describes the impact this rule would have on small entities. To the extent that there are impacts, they are expected to be beneficial. Under the proposed harvest guideline, there will likely be fewer years in which the fishery is closed. The increased harvest guideline and reduction in costs may result in a 5 percent or greater increase in gross annual revenues. All vessels in this fishery (15 vessels have permits) are considered small entities. No new reporting, recordkeeping, or compliance requirements are imposed by this rule. No Federal rules are known to duplicate, overlap, or conflict with this rule. The reasons for, objectives of, and legal basis for this rule are described elsewhere in this preamble. Multiple alternatives are analyzed in the FRFA. A copy of the FRFA is available for public review (see **ADDRESSES**).

The Southwest Region, NMFS, completed a formal consultation under section 7 of the ESA to consider the possible impacts of the fishery on Hawaiian monk seals and other listed species and critical habitat. The BO concludes that the fishery under Amendment 9 is not likely to jeopardize the continued existence of the listed species or adversely effect critical habitat within the management area.

The Assistant Administrator finds that under 5 U.S.C. 553(d)(1), this rule (except for § 681.21) is not subject to a 30-day delay in effectiveness date as it relieves restrictions on lobster fishermen. Therefore, except for new § 681.12, which is effective on August 5, 1996, the rule is effective June 28, 1996.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Nancy Foster, Ph.D.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR Chapter VI are amended as follows:

15 CFR CHAPTER IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS 0648–204 and 0648–214

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), the table is amended by removing in the left column under 50 CFR, the entry ''681.10'', and in the right column the corresponding control number.

50 CFR CHAPTER VI

In § 902.1, paragraph (b), the table, in the entries for 50 CFR in the left column, the following entry and corresponding OMB number are removed: ''681.10''.

PART 681—WESTERN PACIFIC CRUSTACEAN FISHERIES

1. The authority citation for part 681 continues to read as follows:

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

2. In § 681.2, the definitions of ''Final quota'', ''Initial quota'', ''Processing'', ''Processor'', ''Receiving Vessel'', ''Tail width of slipper lobster'', ''Tail width of spiny lobster'', and ''U.S.-harvested lobster'' are removed; the definition of ''Harvest guideline'' is added in alphabetical order, and the definition of ''Slipper lobster'' is revised to read as follows:

§ 681.2 Definitions.

* * * * *

Harvest guideline means a specified numerical harvest objective.

* * * * *

Slipper lobster means any crustacean of the family *Scyllaridae*.

* * * * *

3. In § 681.4, paragraphs (b) (2), (d), and (f) are revised, paragraph (g) is removed, and paragraphs (h) through (l) are redesignated as paragraphs (g) through (k) respectively, to read as follows:

§ 681.4 Permits.

* * * * *

(b) * * *

(2) Each application must be submitted on a Southwest Region Federal Fisheries application form obtained from the Pacific Area Office containing all the necessary information, attachments, certification, signature, and fees.

* * * * *

(d) *Change in application information.* Any change in information on the permit application form submitted under paragraph (b)(2) of this section must be reported to the Pacific Area Office at least 10 days before the effective date of the change. Failure to report such change is a basis for permit sanctions.

* * * * *

(f) *Expiration.* Permits issued under this section will remain valid indefinitely unless transferred, revoked, suspended, or modified under 15 CFR part 904.

* * * * *

4. In § 681.5, paragraphs (b) and (d) are removed, paragraphs (c) and (e) are redesignated as paragraphs (b) and (c) respectively, and paragraph (a) and newly redesignated paragraph (b) are revised to read as follows:

§ 681.5 Recordkeeping and reporting.

(a) *Daily Lobster Catch Report.* The operator of any vessel engaged in commercial fishing for lobster subject to this part must maintain on board the fishing vessel, while fishing for lobster, an accurate and complete NMFS Daily Lobster Catch Report on a form provided by the Regional Director. All information specified on the form, which has been approved under the Paperwork Reduction Act, must be recorded on the form within 24 hours after the completion of the fishing day. The Daily Lobster Catch Reports for a fishing trip must be submitted to the Regional Director within 72 hours of each landing of lobsters.

(b) *Lobster Sales Report.* The operator of any vessel engaged in commercial fishing for lobster subject to this part must submit to the Regional Director, within 72 hours of off-loading of lobster, an accurate and complete Lobster Sales Report on a form provided by the Regional Director, and attach packing or weigh-out slips provided to the operator by the first-level buyer(s), unless the packing/weigh-out slips have not been provided in time by the buyer(s). The form, which has been approved under the Paperwork Reduction Act, must be signed and dated by the vessel operator.

* * * * *

5. In § 681.7, paragraphs (a)(5), (b)(2) through (b)(4) are removed, paragraphs (b)(5) through (b)(14) are redesignated as paragraphs (b)(2) through (b)(11) respectively, and paragraphs (b)(1)(i) through (b)(1)(v), newly redesignated paragraphs (b)(6), (b)(7), (b)(9), and (b)(11) are revised to read as follows:

§ 681.7 Prohibitions.

* * * * *

(b) * * *

(1) * * *

(i) Without a limited access permit issued under § 681.28;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 681.22;

(iii) From closed areas for lobsters, as specified in § 681.21;

(iv) During a closed season, as specified in § 681.27; or

(v) After the closure date, as specified in § 681.29(b)(3), and until the fishery opens again in the following calendar year.

* * * * *

(6) Leave a trap unattended in the Management Area except as provided in § 681.22(f).

(7) Maintain on board the vessel or in the water, more than 1200 traps per fishing vessel, of which no more than 1100 can be assembled traps, as specified in § 681.22(e).

* * * * *

(9) Land lobsters taken in Permit Area 1 after the closure date, as specified in § 681.29 (b)(3), until the fishery opens again the following year.

* * * * *

(11) Refuse to make available to an authorized officer and employee of NMFS designated by the Regional Director for inspection and copying any records that must be made available in accordance with § 681.11(a).

* * * * *

6. Section 681.10 is revised to read as follows:

§ 681.10 Observers.

All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

7. In § 681.11, paragraph (a) introductory text is revised to read as follows:

§ 681.11 Availability of records for inspection.

(a) Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Director, to access, inspect, and copy all records relating to the harvest, sale, or transfer of management unit species taken by vessels that have permits issued under this part or that are otherwise subject to this part, including, but not limited to information concerning:

* * * * *

8. Section 681.12 is added effective (insert 30 days after publication in the Federal Register) to subpart A to read as follows:

§ 681.12 Framework procedures.

(a) *Introduction.* New management measures may be added through rulemaking if new information demonstrates that there are biological, social, or economic concerns in Permit Areas 1, 2, or 3. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(b) *Annual report.* By June 30 of each year, the Council-appointed Crustaceans

Plan Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedures for established measures.* (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council may recommend to the Regional Director that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

(d) *Procedure for New Measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council will publicize, including by Federal Register notification, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a Federal Register document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Director about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

9. In Subpart B, §§ 681.21 and 681.22 are removed and §§ 681.23 through 681.32 are redesignated as §§ 681.21 through 681.30, respectively.

10. In newly redesignated § 681.25, in paragraphs (b) and (g)(1), the words ''He'' and ''he'' are removed and the words ''The Regional Director'' and ''the Regional Director'' are added in their place, respectively.

11. In newly redesignated § 681.26, in paragraphs (a) introductory text, (b)(1), and (b)(3), the words ''he'', ''He'', and ''He'' are removed and the words ''the Regional Director'', ''The Regional Director'', and ''The Regional Director'' are added in their place, respectively.

12. In newly redesignated § 681.28, paragraphs (b) and (c) are removed, paragraphs (d), (e), and (f) are redesignated as paragraphs (b), (c), and (d), respectively, and paragraphs (a)(8) and newly redesignated paragraph (c) are revised to read as follows:

§ 681.28 Limited access management program.

(a) * * *

(8) A limited entry permit has no fixed expiration date.

* * * * *

(c) *Replacement of a vessel covered by a limited access permit.* A limited access permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that person.

* * * * *

13. In newly redesignated § 681.29, the section heading is revised, and paragraph (c) is removed, paragraph (d) is redesignated as paragraph (c), and paragraphs (a) and (b) are revised to read as follows:

§ 681.29 Harvest limitation program.

(a) *General.* A harvest guideline for Permit Area 1 will be set annually for the calendar year and shall:

(1) Apply to the total catch of spiny and slipper lobsters.

(2) Be expressed in terms of numbers of lobsters.

(b) *Harvest guideline.* (1) The Regional Director shall use information from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources, to establish the annual harvest guideline in accordance with the FMP.

(2) NMFS shall publish a document indicating the annual harvest guideline in the Federal Register by March 31 each year, and shall use other means to notify permit holders of the harvest guideline for the year.

(3) The Regional Director shall determine, on the basis of the information reported to NMFS during the open season by the operator of each vessel fishing, when the harvest guideline will be reached. Notice of this determination, with a specification of the closure date after which fishing for lobster or further landings of lobster taken in Permit Area 1 is prohibited, will be provided to each permit holder and operator of each permitted vessel or announced in the Federal Register. At least 5 days advance notice of the effective date of the prohibition on landings will be given.

* * * * *

14. Newly redesignated § 681.30 is revised to read as follows:

§ 681.30 Five-year review.

The Council, in cooperation with NMFS, will conduct a review of the effectiveness and impacts of the NWHI management program, including biological, economic, and social aspects of the fishery, by July 1, 2001.

[FR Doc. 96–17091 Filed 6–28–96; 5:11 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 61, No. 130
Friday, July 5, 1996

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

Food and Consumer Service

7 CFR Parts 210, 220, 225 and 226

RIN 0584–AC15

National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program and Summer Food Service Program for Children: Meat Alternates Used in the Child Nutrition Programs

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Consumer Service of the Department of Agriculture is proposing to amend regulations concerning the meal pattern requirements for the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP) and Child and Adult Care Food Program (CACFP) to allow yogurt to be credited as a meat alternate for all meals. Currently, yogurt may only be credited as a meat alternate for the supplement (snack) meal patterns of the SFSP and CACFP. Under this proposal, four ounces of yogurt would satisfy one ounce of the meat/meat alternate requirement for breakfasts and lunches served under any of the Child Nutrition Programs. This proposal responds to numerous recommendations for additional meat alternates and provides local food service operations with greater flexibility in planning and preparing meals using low-fat meat alternates.

DATES: To be assured of consideration, comments must be postmarked on or before August 19, 1996.

ADDRESSES: Comments may be mailed to Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie or Charles Heise at the above address or by telephone at 703–305–2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Consumer Service (FCS) has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule provides greater flexibility to schools, institutions and homes participating in the NSLP, SBP, SFSP and CACFP rather than imposing more restrictive requirements upon them. The overall types and frequency of service of foods used in the meals served in these four programs would not be significantly affected by this rule. Currently, yogurt may be served as an additional, uncredited food which is used to complement meal pattern requirements to meet regional and ethnic food preferences and as a meat alternate only in the supplement meal patterns of the CACFP and the SFSP.

Catalog of Federal Assistance

The NSLP, SBP, SFSP and the CACFP are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553, 10.559 and 10.558, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and final rule-related notice at 48 Federal Register (FR) 29112, June 24, 1983.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' section of this preamble. Prior to any judicial challenge to the provisions of this proposed rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the NSLP and SBP, the administrative procedures are set forth under the following regulations: (1) school food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR §§ 210.18(q) and 220.14(e); (2) school food authority appeals of FCS findings as a result of an administrative review must follow FCS hearing procedures as established pursuant to 7 CFR §§ 210.30(d)(3) and 220.14(g); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR § 235.11(b)) must follow the FCS Administrative Review Process as established pursuant to 7 CFR § 235.11(f). In the SFSP, (1) Program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR 225.13; and (2) disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR 225.17 and 7 CFR Part 3015. In the CACFP, (1) institution appeal procedures are set forth in 7 CFR 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR Part 3015.

Information Collection

This proposed rule contains no new information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). The programs being amended are approved by OMB under the following control numbers: NSLP, 0584–0006; SBP, 0584–0012; SFSP, 0584–0280; and CACFP, 0584–0055.

Background

Sections 9(a), 13(f) and 17(g) of the National School Lunch Act (42 U.S.C. 1758(a); 1761(f); and 1766(g) and Section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)) require the Secretary of Agriculture to set minimum nutritional requirements

for meals and supplements served in the Child Nutrition Programs. The Department meets these requirements by requiring the use of menu planning alternatives for lunches and breakfasts designed to enable these meals, over time, to provide approximately one-third and one-fourth of the Recommended Dietary Allowances (RDA) for key nutrients, respectively. Although SFSP and CACFP meal patterns are not designed to satisfy a particular percentage of daily required nutrients, the program requirements are designed to provide nutritious and well-balanced meals and supplements.

On June 13, 1995, the Department published a final rule (60 FR 31188) to update the nutrition standards for the school meals programs and to provide local schools with a variety of menu planning systems to choose from in meeting these standards. Under the School Meals Initiative for Healthy Children, beginning in School Year 1996/1997, school lunches must provide over a week's time one-third of the RDA for key nutrients as well as one-third of the Recommended Energy Intake (calories) needed by children (7 CFR 210.10(b)(1) and (2)). The meals must also comply with the recommendations of the 1990 *Dietary Guidelines for Americans*, including limits on calories from fat (no more than 30 percent of total calories) and saturated fat (less than 10 percent of total calories) (42 U.S.C. 1758(f); 7 CFR 210.10(b)(3)). Breakfasts must provide one-fourth of the RDA and calories and meet the recommendations of the Dietary Guidelines (7 CFR 220.8(a)).

The updated regulations also provide school meal planners with various menu planning options: Nutrient Standard Menu Planning (NuMenus), Assisted Nutrient Standard Menu Planning (Assisted NuMenus) and a food-based system. Subsequent to publication of the updated regulation, section 2 of Public Law 104–149, the Healthy Meals for Children Act, provided for additional food-based alternatives. The Department will discuss the effects of this law when it issues guidance for implementation.

Since NuMenus and Assisted NuMenus require that schools analyze the nutrient content of meals rather than consider specific food components, the crediting rules applicable to meal patterns are no longer relevant for these meal planning options. As long as the nutrition standards are achieved, meal planners have wide latitude in determining the foods they will serve and the size of the portions. Crediting rules continue to be necessary under any food-based systems, however, to ensure that all components are available to children in sufficient quantities to meet all of the nutrition standards. The nutrition requirements and NuMenus and Assisted NuMenus options of the School Meals Initiative for Healthy Children are not currently applicable to meals and supplements served in the SFSP or CACFP.

Crediting of Yogurt

One long-standing crediting issue involves the appropriate use of yogurt in the Child Nutrition Programs' meal patterns. In 1981 (46 FR 44452, September 4, 1981), in response to requests from program participants (principally child care providers) and the food industry, the Department proposed that yogurt be allowed, at local option, to meet either the milk or meat/meat alternate requirement in the Child Nutrition Programs. This proposed provision, which was included as part of a larger proposed rulemaking dealing with crediting issues, generated responses from over 1,000 commenters, many of whom were concerned about sugar content, cost, acceptability and the lower iron levels in yogurt relative to other meat alternates. Ultimately, the Department decided to withdraw the entire proposed rulemaking (46 FR 48688, October 2, 1981).

The issue of yogurt resurfaced in 1985 when a proposed rule (50 FR 49933, December 6, 1985) to allow certain nuts and seeds (and any nut or seed butter) to be credited as meat alternates also solicited comments on crediting yogurt as a meat alternate. In part, the Department requested comments on this program modification for a second time due to findings that the use of yogurt as or in main dish items was becoming increasingly popular in the diets of various segments of the population. That proposal requested comments on recommendations to permit plain or flavored yogurt, but not frozen yogurt. The Department stated that frozen yogurt was most commonly used as a dessert and, therefore, should not be allowed as a meat alternate (50 FR 49935).

The Department received 56 comments on this issue, 82 percent of which were in favor of allowing yogurt as a meat alternate in meals served in Child Nutrition Programs. However, while commenters were generally in favor of yogurt, some expressed the opinion that only ''plain'' yogurt should be allowed. The consensus opinion was that yogurt would be a nutritious addition to the meat alternates (comparable to cheese and cottage cheese) and a good source of calcium for lactose intolerant children while providing variety and flexibility to meals.

The commenters who were against allowing yogurt as a meat alternate were concerned about the nutritional equivalency of yogurt to meat (especially for iron) and the prevalence of sweetened yogurt. Several of these commenters suggested that yogurt might be more appropriate as a supplement item. Also, some commenters mentioned that yogurt is generally considered an alternative to milk as opposed to meat. The Department concluded that the responses to the 1985 proposal did not provide any new nutritional data or sufficient support for allowing yogurt as a meat alternate, and the decision was made to continue studying the issue.

The issue of yogurt's potential role in Child Nutrition Program meal patterns was not revisited again until 1989 when final regulations were published (54 FR 27151, June 28, 1989) to allow yogurt to be credited as a meat alternate for supplements in the CACFP and the SFSP. The Department limited the crediting of yogurt to snacks because of findings that yogurt was less appropriate as a meat alternate in other meals due to the sugar content of the majority of the yogurt products, the likelihood of decreased fluid milk consumption when yogurt was served in meals which required milk as a beverage, and yogurt's inherently low iron content (54 FR 27152).

Since the 1989 rulemaking, the Department has continued to receive requests from Program participants and the food industry to allow yogurt as a creditable food for other meals. Most recently, the Department received a number of comments on the proposed rules to implement the School Meals Initiative for Healthy Children urging that yogurt be authorized as a meat alternate in the food-based menu planning systems. In response to these comments, the Department stated in the preamble to the June 13, 1995, rule (60 FR 31206) that it would consider a future rulemaking on the role of yogurt in the Child Nutrition Programs.

Nutrition Issues

It is important to emphasize that yogurt made with lowfat milk can offer a low fat, low cholesterol source of protein and carbohydrates, while providing high levels of calcium, riboflavin and phosphorous.

In addition, the increasing popularity of yogurt (the per capita consumption in the United States has increased over 100% during the past decade) makes it an attractive addition to the meal

patterns for administrators and participants in the Child Nutrition Programs. The addition of yogurt as a meat/meat alternate may increase participation in programs and would certainly provide variety in the meal patterns while providing another non-meat option. Yogurt is also an excellent source of calcium for lactose intolerant individuals. Yogurt with active cultures is one of the few calcium-rich foods that is easily digested by most children. Finally, yogurt is an easy food to serve in that no preparation is needed; it comes pre-packaged. There are, however, several issues that need to be recognized.

Lower levels of some key nutrients—Yogurt is inherently low in two essential nutrients, iron and niacin, generally provided by the meat/meat alternate component. Yogurt, like other dairy products, is nutritionally inferior to meat or bread in these nutrients. Nevertheless, the Department recognizes that cheese and most of the fish used as a meat/meat alternate in the NSLP are also not major sources of iron. The crediting of an additional dairy product as a meat/meat alternate in the meal pattern may further reduce the iron level in the meals unless care is taken in menu planning or a nutrient analysis performed.

While recognizing these deficiencies, the Department is proposing that 4 ounces of flavored or unflavored yogurt be credited as 1 ounce of meat alternate in the NSLP, SBP, SFSP and CACFP. For example, under the enhanced food-based menu planning alternative (§ 210.10(k)), schools could serve 8 ounces of yogurt to fulfill the total 2 ounce meat/meat alternate requirement for children in grades 7–12 for lunch, or they might wish to use a 4 ounce portion of yogurt (one-half the meat/meat alternate requirement) served with a sandwich, hearty soup or salad which would have to contain a 1 ounce equivalent portion of a meat/meat alternate. For a school breakfast, 4 ounces of yogurt might be served to fulfill the 1 ounce meat/meat alternate for grades K–12. Used in these ways, yogurt could provide food service managers with additional variety of foods in their menus that would reflect changing food consumption habits and recognize the diversity of regional, cultural and ethnic food preferences.

Consumption of fluid milk—The Department has some concerns about the effects of yogurt service on fluid milk consumption. Fluid milk consumption could decrease if both milk and yogurt are served in the same meal. While another dairy food, cheese, has been allowed to be credited as a meat alternate for years, it is more likely to be consumed with fluid milk due to organoleptic differences. In a case study: *Yogurt Introduction in Michigan in Public Schools,* published in August 1991 by the Michigan Milk Producers Association, 120 students were observed in order to assess the willingness of the students to select and consume yogurt and the effects that choice would have on the selection of other NSLP items. Fifty-three percent chose milk, 49 percent chose yogurt and only 2 percent chose both.

Cost—Cost is also a consideration for programs that might choose to serve yogurt as a meat/meat alternate. In the Michigan study cited above, one of the objectives was to assess the willingness of food service directors to place yogurt on the menu as an alternate to milk. School district participation was much lower than anticipated by the research team. In the initial survey, 29 schools indicated a willingness to be included in the study. After contact with each school, only seven actually participated. The cost of serving yogurt was the reason schools gave for their inability and refusal to participate.

Conclusion

The Department wishes to stress that yogurt is being proposed as a meat/meat alternate in response to numerous requests from food service professionals and participants for increased flexibility in menu planning and to meet regional and ethnic food preferences. There are numerous products and formulations available in the yogurt market, and some may be more appropriately utilized as a meat alternate than others. The Department is aware that many of the yogurt products that could satisfy the regulatory requirements as the meat/meat alternate portion of the meal are actually more like dessert items. In proposing this rule, the Department fully expects that schools and institutions will exercise good judgment in the type of yogurt products selected.

Finally, this proposed rule applies only to commercially prepared products which meet the Standard of Identity for yogurt as established by the Food and Drug Administration in the Code of Federal Regulations for yogurt, lowfat yogurt and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203 and 21 CFR 131.206, respectively. As in the 1989 final rule permitting yogurt as a meat alternate for snacks in the SFSP and CACFP, the Department's proposal does not apply to noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grants programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grants programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements.

7 CFR Part 225

Food assistance programs, Grant programs—health, infants and children, Reporting and Recordkeeping requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

Accordingly, the Department proposes to amend 7 CFR Part 210, 220, 225 and 226 as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.2 a new definition for *Yogurt* is added in alphabetical order to read as follows:

§ 210.2 Definitions.

* * * * *

Yogurt means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added. These products are covered by the Food and Drug Administration's Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, 21 CFR 131.206, respectively.

3. In § 210.10

a. the meat or meat alternate section in the first column of the table in paragraph (k)(2) is amended by adding a new entry for yogurt after the entry for ''Peanut Butter or other nut or seed butters'';

b. new paragraph (k)(3)(iii) is added;

c. paragraph (n)(3)(iv) is amended by removing the words ''in the snack only''

from the first sentence of footnote 4 in the ''Meal Supplement Chart for Children''.

The additions read as follows:

§ 210.10 Nutrition standards for lunches and menu planning methods.

* * * * *

(k) *Food-based menu planning.* * * *

(2) *Minimum quantities.* * * *

Meal component	Minimum quantities required for Ages 1–2	Preschool	Grades K–6	Grades 7–12	Option for Grades K–3
* * *	*	*	*	*	*
Meat or Meat Alternate (quantity of the edible portion as served). * * *					
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or ½ cup	6 oz. or ¾ cup	8 oz. or 1 cup	8 oz. or 1 cup	6 oz. or ¾ cup.

* * * * *

(3) * * *

(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

4. In § 210.10a:

a. the meat or meat alternate section in the first column of the table in paragraph (c) is amended by adding a new entry for yogurt after the entry for ''Peanut Butter or other nut or seed butters'';

b. new paragraph (d)(2)(iii) is added;

c. paragraph (j)(3) is amended by removing the words ''in the snack only'' from the first sentence of footnote 4 in the ''Meal Supplement Chart for Children.''

The additions read as follows:

§ 210.10a Lunch components and quantities for the meal pattern.

* * * * *

(c) *Minimum required lunch quantities.* * * *

School Lunch Pattern—Per Lunch Minimums

Food components and food items	Minimum quantities Group 1, ages 1–2, (preschool)	Group II, ages 3–4 (Preschool)	Group III, ages 5–8 (K–3)	Group IV, age 9 and older (4–12)	Recommended quantities: Group V, 12 years and older (7–12)
* * *	*	*	*	*	*
Meat or Meat Alternate (quantity of the edible portion as served): * * *					
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or ½ cup	6 oz. or ¾ cup	6 oz. or ¾ cup	8 oz. or 1 cup	12 oz. or 1½ cup.

* * * * *

(d) *Lunch components.* * * *

(2) *Meat or meat alternate.* * * *

(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for Part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In § 220.2 a new paragraph (bb) is added to read as follows:

§ 220.2 Definitions

* * * * *

(bb) *Yogurt* means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added. These products are covered by the Food and Drug Administration's Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, 21 CFR 131.206, respectively.

3. In § 220.8, the meat or meat alternate section in the first column of the table in paragraph (g)(2) is amended by adding a new entry for yogurt after the entry for ''Nut and/or seeds'' to read as follows:

§ 220.8 Nutrition standards for breakfast and menu planning alternatives.

* * * * *

(g) *Food-based menu planning.* * * *

(2) *Minimum quantities.* * * *

Meal component	Minimum Quantities Required For			Option for grades 7–12
	Ages 1–2	Preschool	Grades K–12	
* * *	*	*	*	*
Meat or Meat Alternates * * *				
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ¼ cup	4 oz. or ½ cup.

* * * * *

4. In § 220.8a, the meat or meat alternate section in the first column of the table in paragraph (a)(2) is amended by adding a new entry for yogurt after the entry for ''Nuts and/or seeds'' to read as follows:

§ 220.8a Breakfast components and quantities for the meal pattern.

(a) * * *

(2) * * *

SCHOOL BREAKFAST PATTERN

[Required minimum serving sizes]

Food components/items	Ages 1 and 2	Ages 3, 4, and 5	Grades K–12
* * *	*	*	*
Meat/Meat Alternates: * * *			
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ½ cup

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for Part 225 continues to read as follows:

Authority: Sec. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

2. In § 225.16.

a. the Meat and Meat Alternates (Optional) section of the table in paragraph (d)(1) is amended by adding the word ''or'' and a new entry for yogurt after the entry for ''Peanut Butter or an equivalent quantity of any combination of meat/meat alternate'';

b. the Meat and Meat Alternates section of the table in paragraph (d)(2) is amended by adding the word ''or'' and a new entry for yogurt after the entry for ''Peanuts or soynuts or tree nuts or seed''.

The additions read as follows:

§ 225.16 Meal service requirements.

* * * * *

(d) * * *

Breakfast

(1) * * *

Food components	Minimum amount
* * *	* *
Meat and Meat Alternates (Optional) * * * or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup.

* * * * *

Lunch or Supper

(2) * * *

Food components	Minimum amount
Meat and Meat Alternates * * * or Yogurt, plain or flavored, unsweetened or sweetened.	8 oz. or 1 cup.
* * *	* *

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.20:

a. new paragraph (a)(2)(ii)(C) is added;

b. the Meat and Meat Alternates sections in the first column of the tables in paragraphs (c)(2) and (c)(3) are amended by adding the word ''or'' and a new entry for yogurt after the entries for ''Peanuts or soynuts or tree nuts or seeds;''

c. paragraph (d)(1) is amended by adding a semicolon and the words ''or 4 oz of yogurt;'' after the words ''peanut butter''.

The additions read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(2) * * *

(ii) * * *

(C) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or 1/2 cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

(c) * * *

Lunch

(2) * * *

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 [1]	Adult Participants [9]
* *	*	*	* *	*
Meat and Meat Alternates or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup	6 oz. or ¾ cup	8 oz. or 1 cup	8 oz. or 1 cup.
* *	*	*	* *	*

* * * * *

(3) * * *

Supper

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 [1]	Adult participants
Meat and Meat Alternates or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup	6 oz. or ¾ cup	8 oz. or 1 cup	8 oz. or 1 cup.
* *	*	*	* *	*

* * * * *

Dated: June 27, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–16992 Filed 7–3–96; 8:45 am]

BILLING CODE 3410–30–P

Food Safety and Inspection Service

9 CFR Parts 319 and 381

[Docket No. 95–056N]

Public Health Hazard Analysis Board Report; Availability

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability of report; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a report prepared by the Public Health Hazard Analysis Board on ''Bone Particles and Foreign Material in Meat and Poultry Products.'' The report contains an executive summary by the Public Health Hazard Analysis Board, which includes the Board's conclusions on the establishment of criteria for determining the safety of meat and poultry products containing bone particles and foreign materials such as glass, metal and plastic; a list of Board members and other participants; and a bibliography. FSIS is seeking comments on the need for and nature of any additional regulatory actions beyond those provided for in its meat and poultry regulations that should be taken regarding bone particle size and foreign material, such as glass, metal, and plastic, in boneless meat and poultry products deboned by hand or other means.

DATES: Comments will be accepted through August 19, 1996.

ADDRESSES: Interested persons may submit an original and two copies of written comments and requests for single copies of the report to: FSIS Docket Clerk, DOCKET #95–056N, Room 4352 South Agriculture Building, Washington, DC 20250–3700. Oral comments, as provided by the Poultry Products Inspection Act, can be given to Dr. Jill Hollingsworth, (202) 205–0293. The report and comments will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Jill Hollingsworth, Deputy Director, Epidemiology and Emergency Response Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2168 South Building, Washington, DC 20250–3700, (202) 205–0293.

SUPPLEMENTARY INFORMATION: FSIS is announcing the availability of a report prepared by the Public Health Hazard Analysis Board (the Board) on ''Bone Particles and Foreign Material in Meat and Poultry Products.'' The Board consists of public health, medical, and food safety experts in FSIS and other government agencies. Private medical specialists were contacted by the Board for additional information on the subject. The Board was charged with determining health and safety concerns related to bone particles or foreign material in boneless meat and poultry products. Consequently, the Board provided criteria for use by the Agency to determine the existence of a potential safety hazard, due to bone particles or foreign material, such as glass, metal, and plastic, in meat or poultry products, that warrant recall of the affected product in order to protect the public health.

The Board determined that bone particles less than 0.4 inches (10 mm) would not be considered a safety hazard. Bone particles from 0.4 to 0.8 inches (10 to 20 mm) may present a discomfort, but would be a low risk for a safety hazard, and bone particles greater than 0.8 inches (20 mm) have the potential to be a safety hazard and may cause injury to consumers. According to the Board, any occurrence of foreign material, such as glass, metal, and plastic, in meat or poultry products, has the potential to be a safety hazard and should be evaluated on a case-by-case basis to determine whether it presents such a hazard.

The Board agreed that boneless product produced in accordance with the provisions in 9 CFR 319.5 for mechanically-separated meat (MSM) and provisions in 9 CFR 381.173 (59 FR 62629, December 6, 1994, and 59 FR 55962, November 3, 1995) for mechanically-separated poultry (MSP) to be effective on November 4, 1996, does not present a safety hazard. Regulatory requirements limit bone particle size in MSM and MSP which is produced by crushing or grinding of bone before removal of edible tissue. Provisions in 9 CFR 319.5 for MSM require that at least 98 percent of bone particles present in MSM be no greater than 0.2 inches (5 mm) in their greatest dimension, with no bone particles larger than 0.034 inches (0.85 mm) in their greatest dimension. Similar provisions in 9 CFR 381.173 for MSP require that at least 98 percent of bone particles present in MSP be no greater than 0.06 inches (1.5 mm) in their greatest dimension, with no particles greater than 0.08 inches (2 mm) in their greatest dimension. FSIS has concluded that

these bone particle size limitations represent good manufacturing practices and reflect processes that are in control and protect finished product quality. Because bone particles are extremely small in MSM and MSP, they would not be considered to be a safety hazard.

Products containing bone fragments larger than 0.8 inches (20 mm) are of regulatory concern to FSIS, and the Agency will consider regulatory action, as appropriate, to protect consumers. There are currently no regulations that specifically address the limiting of bone particle size for boneless meat and poultry products deboned by hand, or for meat produced by an advanced mechanical method that does not involve crushing or grinding the bones (59 FR 62551, December 6, 1994). Safety determinations about boneless product produced by these methods are made on an ad hoc basis, based on the criteria recommended by the Board. Companies producing boneless meat and poultry products deboned by hand or produced by advanced mechanical separation generally employ manufacturing practices that keep the size of bone particles well below the 0.8-inch (20-mm) level considered to be a potential safety hazard by the Board.

FSIS's proposed rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' (60 FR 6774, February 3, 1995) proposes requiring meat and poultry processors to establish HACCP systems of preventive controls to ensure the safety of foods they produce. This would include the addressing of potential physical hazards in meat and poultry products, such as bone particles, in HACCP plans. The proposed HACCP system would place an affirmative duty on companies to establish procedures to prevent bone particles of foreign material from presenting a safety hazard in boneless meat and poultry products.

FSIS invites comments on whether additional regulatory action is needed, beyond that provided by FSIS in its regulations, regarding bone particle size and foreign material, such as glass, metal, or plastic, in boneless meat and poultry products deboned by hand, produced by advanced mechanical separation, or by other procedural means not identified in current meat and poultry regulations.

Done at Washington, DC, on: June 27, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96–17001 Filed 7–03–96; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076–AD76

Law and Order on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations governing Courts of Indian Offenses to clarify the authority of the Assistant Secretary for Indian Affairs to establish the courts, the jurisdiction of the courts, their relationship to tribal governments and the Department of the Interior, and to provide those courts with an updated code of laws.

DATES: Comments must be received on or before October 3, 1996.

ADDRESSES: Comments are to be mailed to Bettie Rushing, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW, MS 2611–MIB, Washington, DC 20240; or, hand delivered to Room 4603 at the same address.

FOR FURTHER INFORMATION CONTACT: Bettie Rushing, Bureau of Indian Affairs (202) 208–3463.

SUPPLEMENTARY INFORMATION:

Background

The comments received in response to a prior proposed rule published on October 24, 1985, and published as a final rule on October 21, 1993, included suggestions for the inclusion of new provisions in the Law and Order Code (Code). Because the inclusion of the suggested provisions in the final rule would have constituted new matter adopted without opportunity for general public comment, a separate rule is now proposed for those provisions to be added to the Code.

This proposed rule (1) provides for the establishment of courts when tribal justice systems are not functioning, (2) changes the method of listing Indian reservations to which the Code applies, (3) clarifies the provision on jurisdictional limitations which excludes from jurisdiction under this part Federal employees acting within the scope of their employment, (4) adds provisions for drug abuse, abuse of psychotoxic substances, child abuse, prostitution, and family violence, and (5) increases the maximum penalties for various offenses in the Code.

The increased penalties are proposed in response to the law enforcement provisions of the Anti-Drug Abuse Act of 1986, amending the sentencing limitations of the Indian Civil Rights Act, 25 U.S.C. 1302. Indian may courts to impose maximum fines up to $5,000 and sentences of imprisonment up to one year.

Inclusion in § 11.100, Listing of Courts of Indian Offenses, does not defeat the inherent sovereignty of a tribe to establish tribal courts and exercise jurisdiction under tribal law. *Tillett* v. *Lujan,* 931 F.2d 636, 640 (10th Cir. 1991) (C.F.R. courts ''retain some characteristics of an agency of the federal government'' but they ''also function as tribal courts''); *Combrink* v. *Allen,* 20 Indian L. Rep. 6029, 6030 (Ct. Ind. App., Tonkawa, Mar. 5, 1993) (C.F.R. court is a ''federally administered tribal court''); *Ponca Tribal Election Board* v. *Snake,* 17 Indian L. Rep. 6085, 6088 (Ct. Ind. App., Ponca, Nov. 10, 1988) (''The Courts of Indian Offenses act as tribal courts since they are exercising the sovereign authority of the tribe for which the court sits.''). Such exercise of inherent sovereignty and the establishment of tribal courts shall comply with the requirements set forth in 25 CFR § 11.100(c).

A clarifying sentence has been added to the jurisdictional limitations section to express unambiguously that Federal and state employees acting within the scope of their employment are not subject to the jurisdiction of Courts of Indian Offenses.

The new offenses are abuse of psychotoxic chemical solvents and dangerous drug offense. They are also proposed in response to the Anti-Drug Abuse Act, and are intended to enhance the ability of law enforcement agencies on Indian reservations to prevent and penalize the traffic of illegal narcotics and the misuse of dangerous substances. The two sections were suggested by the Anadarko Area Law Enforcement Office of the Bureau of Indian Affairs. No specific exception for peyote is included because peyote for religious use by the Native American Church is excluded from prosecution under the referenced federal statute.

Prostitution was inadvertently omitted from the revision of the Law and Order Code and is, therefore, included here. The crime is a continuation of the provision contained in 25 CFR Part 11 which has been in force for many years, with the addition of the crime of pandering which is intended to facilitate the prosecution of persons procuring for prostitutes.

Child abuse and neglect has been added as a separate criminal offense. Its inclusion was inspired by the Draft

Child/Family Protection Code developed by the National Indian Justice Center for the Bureau of Indian Affairs. Although there is some overlapping of these offenses and the sexual assault provisions of the revised Law and Order Code, the abuse provision is much broader and will give prosecutors more flexibility in protecting children from abuse. The mandatory reporting provision was added to conform with the Bureau's administrative reporting requirements.

The family violence subpart establishes a new procedure for acts of family violence. This approach to family violence reflects the decision set forth in *Thurman* v. *City of Torrington,* 595 F. Supp. 1521 (D. Conn. 1984). Thurman filed an action against the city alleging a violation of equal protection for the city's failure to provide the same type of protection to persons in a family relationship as it provides to other abused persons. The court, finding that Thurman had a cause of action under the equal protection clause, held that the city had an affirmative duty to treat family partners as it would other abused persons. The knowledge that arrests deter subsequent family violence has resulted in all states passing some type of special legislation for acts of family violence. Forty-eight states have warrantless arrest provisions and many have special protective orders. This subpart is drawn from those statutes. Although much of this subpart is procedural, we have not included it in the procedures sections. Because the procedure is complicated, comprehensive and applicable to only one general situation, we concluded that it deserved its own subpart under Part 11.

The proposed rule will not require additional staffing for these courts. It is not anticipated that this revision will have a significant effect on the annual caseload of these courts because it does not enlarge their jurisdiction. Prosecutors must routinely use their discretion in balancing their workloads with the time and prosecutorial resources available. Likewise, in sentencing convicted defendants, judges are acutely aware of the constraints imposed by limited jail space.

Courts of Indian Offenses are funded in their entirety by the Federal Government and do not receive additional funding from tribal governments. Because we do not foresee any economic effect on Courts of Indian Offenses as a result of these amendments, there will be no requirement of additional outlays by the Federal Government or the tribes affected by the proposed amendments.

Certification and Evaluation

The authority to issue this amendment is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9, and 25 U.S.C. 13 which authorize appropriations for ''Indian judges.''

Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the ''addresses'' section of this document.

Executive Order 12988

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

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

This proposed 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.).

Executive Order 12630

The Department has determined that this proposed rule does not have ''significant'' takings implications. The proposed rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this proposed rule 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 Statement

The Department has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Unfunded Mandates Act of 1995

This proposed rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Paperwork Reduction Act of 1995

This rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements.

Drafting Information

The primary authors of this document are Neil R. McDonald, Office of the Solicitor, Division of Indian Affairs, and Bettie Rushing, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement, Penalties.

For the reasons set out in the preamble, Part 11 of Chapter 1 of Title 25 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 11—COURTS OF INDIAN OFFENSES AND LAW AND ORDER CODE

1. The authority citation for 25 CFR Part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463; 25 U.S.C. 2; R.S. 465; 25 U.S.C. 9; 42 Stat. 208; 25 U.S.C. 13; 38 Stat. 586; 25 U.S.C. 200.

Subpart A—Application; Jurisdiction

2. Section 11.100 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 11.100 Where are Courts of Indian Offenses established?

(a) Unless indicated otherwise in this title, the regulations in this part apply to the Indian country (as defined in 18 U.S.C. 1151) occupied by the following tribes:

(1) Red Lake Band of Chippewa Indians (Minnesota).

(2) Confederated Tribes of the Goshute Reservation (Nevada).

(3) Lovelock Paiute Tribe (Nevada).

(4) Te-Moak Band of Western Shoshone Indians (Nevada).

(5) Yomba Shoshone Tribe (Nevada).

(6) Kootenai Tribe (Idaho).

(7) Shoalwater Bay Tribe (Washington).

(8) Eastern Band of Cherokee Indians (North Carolina).

(9) For the following tribes located in the former Oklahoma Territory (Oklahoma):

(i) Absentee Shawnee Tribe of Indians of Oklahoma

(ii) Apache Tribe of Oklahoma

(iii) Caddo Tribe of Oklahoma

(iv) Cheyenne-Arapaho Tribe of Oklahoma

(v) Citizen Band of Potawatomi Indians of Oklahoma

(vi) Comanche Tribe of Oklahoma (Except Comanche Children's Court)
(vii) Delaware Tribe of Western Oklahoma
(viii) Fort Sill Apache Tribe of Oklahoma
(ix) Iowa Tribe of Oklahoma
(x) Kaw Tribe of Oklahoma
(xi) Kickapoo Tribe of Oklahoma
(xii) Kiowa Tribe of Oklahoma
(xiii) Otoe-Missouria Tribe of Oklahoma
(xiv) Pawnee Tribe of Oklahoma
(xv) Ponca Tribe of Oklahoma
(xvi) Tonkawa Tribe of Oklahoma
(xvii) Wichita and Affiliated Tribes of Oklahoma.

(10) Hoopa Valley Tribe, Yurok Tribe, and Coast Indian Community of California (California Jurisdiction limited to special fishing regulations).

(11) Louisiana Area (includes Coushatta and other tribes in the State of Louisiana which occupy Indian country and which accept the application of this part);

Provided that this part shall not apply to any Louisiana tribe other than the Coushatta Tribe until notice of such application has been published in the Federal Register.

(12) For the following tribes located in the former Indian Territory (Oklahoma):
(i) Chickasaw Nation
(ii) Choctaw Nation
(iii) Thlopthlocco Tribal Town
(iv) Seminole Nation
(v) Eastern Shawnee Tribe
(vi) Miami Tribe
(vii) Modoc Tribe
(viii) Ottawa Tribe
(ix) Peoria Tribe
(x) Quapaw Tribe
(xi) Wyandotte Tribe
(xii) Seneca-Cayuga Tribe
(xiii) Osage Tribe.

(13) Ute Mountain Ute Tribe (Colorado).

(b) The purpose of the regulations in this part is to provide adequate machinery for the administration of justice for Indian tribes in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of state jurisdiction but where tribal courts have not been established to exercise that jurisdiction or where tribal justice systems are not functioning.

(c) The regulations in this part continue to apply to tribes listed in § 11.100(a) until a law and order code which includes the establishment of a court system has been adopted by the tribe in accordance with its constitution and by-laws or other governing documents has become effective, and the Assistant Secretary—Indian Affairs or his or her designee has received a valid tribal enactment identifying the future effective date of the code's implementation. The effective date of the code's implementation must allow 60 days for publication of the amendment to § 11.100(a) which provides public notice of the change. The tribally established future effective date will also be published as the effective date of the change.

* * * * *

3. The headings of the following sections are revised to read as follows:

Section	Old heading	New heading
11.101	Prospective application of regulations.	When are these regulations effective?
11.102	Criminal jurisdiction; limitation of actions.	What is the criminal jurisdiction of the Court of Indian Offenses?
11.103	Civil jurisdiction; limitation of actions.	What is the civil jurisdiction of the Court of Indian Offenses?

4. Section 11.104 is amended by revising paragraphs (a) through (d) to read as follows:

§ 11.104 What are the jurisdictional limitations of the Court of Indian Offenses?

(a) No Court of Indian Offenses may exercise any jurisdiction over a Federal or state official that it could not exercise if it were a tribal court. The jurisdiction of Courts of Indian Offenses shall not extend to Federal or state employees acting within the scope of their employment.

(b) Unless otherwise provided by a resolution or ordinance of the tribal governing body of the tribe occupying the Indian country over which a Court of Indian Offenses has jurisdiction, no Court of Indian Offenses may adjudicate an election dispute or take jurisdiction over a suit against the tribe or adjudicate any internal tribal government dispute.

(c) A decision of the Court of Indian Offenses, acting as a tribal forum by resolution or ordinance of a tribal governing body under paragraph (b) of this section, must be given great weight by the Bureau of Indian Affairs in deciding who is a tribal official.

(d) A tribe may not be sued in a Court of Indian Offenses unless its tribal governing body explicitly waives its tribal immunity by tribal resolution or ordinance.

* * * * *

Subpart B—Courts of Indian Offenses; Personnel; Administration

5. Section 11.200 is amended by revising the heading and paragraph (c) to read as follows:

§ 11.200 What is the composition of the Court of Indian Offenses?

* * * * *

(c) Appeals shall be heard by a magistrate who was not involved in the trial of the case.

* * * * *

6. Section 11.201 is amended by revising the heading and paragraph (a) to read as follows:

§ 11.201 How are magistrates for the Court of Indian Offenses appointed?

(a) Each magistrate shall be appointed by the Assistant Secretary—Indian Affairs or his or her designee subject to confirmation by a majority vote of the tribal governing body of the tribe occupying the Indian country over which the court has jurisdiction. In the case of multi-tribal courts, the appointment of the magistrate is subject to confirmation by a majority of the tribal governing bodies of the tribes under the jurisdiction of a Court of Indian Offenses. Only the Assistant Secretary—Indian Affairs may grant a waiver of this paragraph when discord precludes confirmation, and appoint a magistrate for a term not to exceed one year.

* * * * *

7. The headings of the following sections are revised to read as follows:

Section	Old heading	New heading
11.202	Removal of magistrates.	How is a magistrate of the Court of Indian Offenses removed?
11.203	Court clerks	How are the clerks of the Court of Indian Offenses appointed and what are their duties?
11.205	Standard governing appearance of attorneys and lay counselors.	Are there standards for the appearance of attorneys and lay counselors?
11.206	Court records	Is the Court of Indian Offenses a court of record?
11.207	Cooperation of Bureau of Indian Affairs employees.	What are the responsibilities of Bureau of Indian Affairs employees?

Section	Old heading	New heading
11.208	Payment of judgments from individual Indian money accounts.	May Individual Indian Money accounts be used for payment of judgments?
11.209	Disposition of fines.	How does the Court of Indian Offenses dispose of fines?

Subpart C—Criminal Procedure

8. Section 11.315 is amended by revising paragraph (a) to read as follows:

§ 11.315 Sentencing.

(a) Any person who has been convicted in a Court of Indian Offenses of a criminal offense under the regulations of this part may be sentenced to one or a combination of the following penalties:

(1) Imprisonment for a period not to exceed the maximum permitted by the section defining the offense, which in no case shall be greater than one year.

(2) A money fine in an amount not to exceed the maximum permitted by the section defining the offense, which in no case shall be greater than five thousand dollars ($5,000).

* * * * *

Subpart D—Criminal Offenses

9. Section 11.450 is amended by revising paragraph (a) to read as follows:

§ 11.450 Maximum fines and sentences of imprisonment.

(a) A person convicted of an offense under the regulations in this part may be sentenced as follows:

(1) If the offense is a misdemeanor, to a term of imprisonment not to exceed one year or to a fine not to exceed five thousand dollars ($5,000), or both;

(2) If the offense is a petty misdemeanor, to a term of imprisonment not to exceed six months, and to a fine not to exceed five hundred dollars ($500), or both;

(3) If the offense is a violation, to a term of imprisonment not to exceed three months or to a fine not to exceed two hundred fifty dollars ($250), or both.

* * * * *

10. Sections 11.451 through 11.455 are added to read as follows:

§ 11.451 Abuse of psychotoxic chemical solvents.

(a) It shall be unlawful purposely to smell or inhale the fumes of any psychotoxic chemical solvent, or to possess, purchase, or attempt to possess or purchase any psychotoxic chemical solvent, with the intention of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system; or to sell, give away, dispense, or distribute, or offer to sell, give away, dispense, or distribute any psychotoxic chemical solvent knowing or believing that the purchaser or another intends to use the solvent in violation of this section.

(b) This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) As used in this section, ''psychotoxic chemical solvent'' includes any glue, gasoline, paint, hair spray, lysol, or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, methyl ethyl, peptone, pentachlorophenol, petroleum ether, or other chemical substances capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. The statement of listing of the contents of a substance packaged in a container by the manufacturer or producer thereof shall be proof of the contents of such substances without further expert testimony if it reasonably appears that the substance in such container is the same substance placed therein by the manufacturer or producer.

(d) Abuse of psychotoxic chemical solvents, as defined in this section, shall be punishable as a petty misdemeanor, and the court may order any person using psychotoxic chemical solvents for inhalation to be committed to a facility for treatment for a term not to exceed six months.

(e) Such psychotoxic chemical solvents kept or used in violation of this section are hereby declared to be contraband and upon proof of a violation, following public notice and an opportunity for any person claiming an interest therein to be heard, shall be forfeited to the government by order of the court.

§ 11.452 Dangerous drug offense.

(a) It shall be unlawful, except as authorized and controlled by Federal law, to manufacture, distribute, possess with intent to distribute, dispense, create, possess, or cultivate a controlled or a counterfeit substance; or to obtain or acquire possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge; or to knowingly or intentionally use any communication facility in committing any of the above prohibited acts.

(b) Controlled or counterfeit substances shall consist of the substances listed in 21 U.S.C. 812, and any other chemical substance, natural or artificial, defined as a controlled or dangerous substance, the possession, sale, distribution, or use of which is prohibited by Federal law.

(c) Each of the unlawful acts listed in paragraph (a) of this section shall be punishable as a misdemeanor. Upon conviction under this section for sales distribution, possession with the intent to distribute, manufacture with intent to sell, or cultivation with intent to distribute, banishment may also be imposed for a term not to exceed ten years.

(d) Any substance handled in violation of this section is deemed and declared to be contraband and upon proof of such a violation, after public notice and an opportunity for any person claiming an interest in the substance to be heard, shall be forfeited to the government by order of the court.

(e) Any personal property used to transport, conceal, manufacture, cultivate, or distribute the controlled dangerous substance in violation of this section shall be subject to forfeiture to the government by order of the court upon proof of such use, following public notice and opportunity for any person claiming an interest in the property to be heard.

§ 11.453 Prostitution.

A person who commits prostitution or pandering or who knowingly keeps, maintains, rents or leases, any house, room, tent, or other place for the purpose of prostitution is guilty of a misdemeanor.

§ 11.454 Child abuse and neglect.

(a) A person commits a misdemeanor if he or she inflicts abuse or neglect on a child. Child abuse or neglect includes:

(1) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or is dead and such condition or death is not justifiably explained, or where the history given concerning such condition or death or circumstances indicate that such condition or death may not be the product of an accidental occurrence;

(2) Any case in which a child is subjected to sexual assault or molestation, sexual exploitation, or prostitution;

(3) Any case in which circumstances indicate that a child's health or welfare is harmed or threatened by negligent treatment or maltreatment by a person; and/or,

(4) Any case in which a child is in need of services because of the failure of the child's parent(s), legal guardian(s), or custodian(s) to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take.

(b) For purposes of this section, ''child'' means any individual who is not married and has not attained 18 years of age.

§ 11.455 Persons required to report child abuse and neglect.

(a) Any person having reasonable cause to know or suspect that a child was abused or neglected in Indian country shall report the incident. Any person shall also report any actions which would reasonably result in abuse or neglect.

(b) Any person who fails to report an instance of child abuse or neglect in Indian country of which he or she has knowledge or of which he or she should reasonably have knowledge is guilty of a misdemeanor. Any person who inhibits the making of a report is guilty of a misdemeanor.

(c) Any person making a report in good faith shall be immune from criminal and civil liability.

11. A new Subpart L is added to read as follows:

Subpart L—Child Protection and Family Violence Procedures

Sec.
11.1200 Child protection procedures.
11.1201 Family violence procedures.

Subpart L—Child Protection and Family Violence Procedures

§ 11.1200 Child protection procedures.

As required by the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. 3203, the following child protection procedures are established.

(a) *Reporting child abuse and neglect.* Oral reports of child abuse and neglect in Indian country must be made immediately to the local child protective services or local law enforcement.

(b) *Federal Bureau of Investigation.* If the report involves an Indian child or the person alleged to have abused or neglected the child is an Indian and the preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency (if other than the Federal Bureau of Investigation) must immediately report the incident to the Federal Bureau of Investigation.

(c) *Child protection report.* Within 36 hours, a written report must be prepared by the receiving agency. The report must include:

(1) The name, address, age, and sex of the child that is the subject of the report;

(2) The grade and the school in which the child is currently enrolled;

(3) The name and address of the child's parents or other persons responsible for the child's care;

(4) The name and address of the alleged offender;

(5) The name and address of the person who made the report to the agency;

(6) A brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and,

(7) Any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(d) *Investigation.* Any local law enforcement agency or local child protective services agency that receives a report alleging abuse or neglect described in § 11.454 must immediately initiate an investigation of such allegation and take appropriate steps to secure the safety and well-being of the child or children involved.

(e) *Investigative report.* Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency must prepare a final written report on such allegation.

(f) *Confidentiality.* The identity of any person making a report under this section must not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of the Indian tribe, state or Federal Government who needs to know the information in the performance of the employee's duties.

(g) *Complaint.* A complaint must be filed by a law enforcement officer.

§ 11.1201 Family violence procedures.

(a) *Warrantless arrest.* A law enforcement officer shall arrest a person and take that person into custody without a warrant when the officer has probable cause to believe that the person has committed a family violence act such as intentional or negligent infliction of bodily injury; unreasonable confinement; intimidation; cruel punishment resulting in physical harm, pain or mental anguish; any sexual contact intended to sexually gratify the person making the contact and which is without consent or obtained by intimidation or fraud; intentional infliction of threats, humiliation or intimidation; unauthorized or improper use of funds, property or other resources; or criminal trespass upon a spouse, former spouse, family member, present or former household member, or co-parent.

(b) *Definition of co-parent.* For purposes of this subpart ''co-parent'' means persons who have a child in common regardless of whether they have been married or have lived together at any time. For purposes of this subpart ''family member'' includes grandparents, aunts, uncles and cousins who are present or former household members.

(c) *Liability.* No law enforcement officer shall be held criminally or civilly liable for making an arrest pursuant to this subpart, provided he or she acts reasonably and in good faith.

(d) *Petition for order of protection.* A victim of a family violence act may petition the court under this subpart for an order of protection.

(1) The petition shall be made under oath or shall be accompanied by a sworn affidavit setting out specific facts describing the act of family violence.

(2) No petitioner is required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection. However, the petition shall state whether any other family action is pending between the petitioner and the respondent.

(3) Standard simplified petition forms with instructions for completion shall be available to petitioners not represented by counsel. Law enforcement agencies shall keep such forms and make them available upon request to victims of family violence.

(e) *Emergency order of protection.* Upon the filing of a petition for order of protection:

(1) The court may immediately grant an ex parte emergency order of protection if there is clear and convincing evidence from the specific facts shown by the affidavit or by the petition that a family violence act has occurred;

(2) The court shall cause the emergency order of protection together with notice of hearing to be served immediately on the person alleged to have committed a family violence act; and,

(3) The court shall hold a hearing on the question of continuing the order within ten days of granting the emergency order of protection; or

(4) If an ex parte order is not granted, the court shall serve notice to appear upon both parties and hold a hearing on the petition for order of protection within seventy-two hours after the filing of the petition; if notice of hearing

cannot be served within seventy-two hours, a temporary order of protection may be issued;

(5) If notice of hearing cannot be served within 10 days, the temporary order of protection shall be automatically extended for ten days; and,

(6) If after the 10-day extension notice to appear cannot be served, the temporary order of protection shall expire.

(f) *Order of protection.* Following a hearing and finding that a family violence act occurred, the court may enter an order of protection that specifically describes in clear language, understandable to the person who committed the family violence act, the behavior the court has ordered he or she do or refrain from doing. In any order of protection, the court:

(1) May order the person who committed the family violence act to refrain from acts or threats of violence against the petitioner or any other household member.

(2) May order that the person who committed the family violence act be removed from the home of the petitioner;

(3) May grant sole possession of the residence or household to the petitioner during the period the order of protection is effective, or order the person who has committed a family violence act to provide temporary suitable alternative housing for the petitioner and other household members to whom the respondent owes a legal obligation of support;

(4) May award temporary custody of any children involved when appropriate and provide for visitation rights, child support, and temporary support for the petitioner on a basis which gives primary consideration to the safety of the petitioner and other household members;

(5) May order that the person who committed a family violence act not initiate contact with the petitioner;

(6) May restrain the parties from transferring, concealing, encumbering, or otherwise disposing of one another's property or the joint property of the parties except in the usual course of business or for the necessities of life; and to account to the court for all such transferring, encumbrances, and expenditures made after the order is served or communicated;

(7) May order other injunctive relief as the court deems necessary for the protection of the petitioner including orders to law enforcement agencies as provided by this subpart;

(8) Shall give notice that violation of any provision of the order of protection constitutes contempt of court and may result in a fine or imprisonment, or both;

(9) Shall indicate whether the order of protection supersedes or alters prior orders pertaining to family matters between the parties;

(10) Shall not affect the title to any property or allow the petitioner to transfer, conceal, encumber, or otherwise dispose of respondent's property or the joint property of the parties.

(g) *Review hearing.* Either party may request a review hearing to amend or vacate the order of protection.

(h) *Service of the protection order.* An order of protection granted under this subpart shall be filed with the clerk of the court and a copy shall be sent by the clerk of the court to the law enforcement agency with the jurisdiction over the areas of Indian Country in which the court is located. The order shall be personally served upon the respondent, unless the respondent or his or her attorney was present at the time the order was issued. If the court finds the petitioner unable to pay court costs, the order shall be served without cost to the petitioner.

(i) *Duration of order of protection.* An order of protection granted by the court shall be effective for a fixed period of time not to exceed three months. The order may be extended for good cause upon motion of the petitioner for an additional period of time not to exceed three months.

(j) *Contempt of court.* Any willful disobedience or interference with any court order constitutes contempt of court which may result in a fine or imprisonment, or both in accordance with this part.

(k) *Remedies.* The remedies provided in this subpart are in addition to the other civil or criminal remedies available to the petitioner.

(l) *Emergency assistance.* The court shall require the local law enforcement agency to give notice of the availability of emergency assistance. Notice shall include telling all victims of family violence where a shelter or other services are available in the community and giving all victims immediate notice of their legal rights and remedies. The notice must also include furnishing all victims of family violence a copy of the following statement:

IF YOU ARE A VICTIM OF FAMILY VIOLENCE, you can ask the prosecutor to file a criminal complaint. You also have the right to go to court and file a petition requesting an order of protection from family violence. The order may include the following:

(1) an order restraining the person who has committed a family violence act from further acts of family violence;

(2) an order directing the person who has committed a family violence act to leave your household;

(3) an order preventing the person who has committed a family violence act from entering your residence, school, business, or place of employment;

(4) an order awarding you custody of or the other parent visitation with a minor child or children;

(5) an order directing the person who has committed a family violence act to pay support to you and the minor children if the person who has committed an act of family violence has a legal obligation to do so;

(6) an order directing the person who has committed a family violence act to account for your funds or property or to pay restitution for damages resulting from the wrongdoing;

(7) an order directing the appropriate human services agency to deliver protective services and provide the least restrictive alternatives for services, care, treatment, or placement.

Dated: June 6, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–16039 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–02–P

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25 CFR Part 12

RIN 1076–AD56

Indian Country Law Enforcement

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed Rule.

SUMMARY: The Bureau of Indian Affairs is proposing to establish standards for Bureau of Indian Affairs (BIA) and tribal law enforcement programs receiving Federal funding or performing duties using a cross commission. These regulations will insure that law enforcement, crime prevention and recidivism reduction programs are implemented and maintained in a constitutionally sound manner and comply with the Indian Law Enforcement Reform Act of 1990, Pub. L. 101–379 (25 U.S.C. 2801 *et seq.*).

DATES: Comments must be received on or before September 3, 1996.

Comments will be available for inspection at the address below from 9:00 a.m. to 4:00 p.m., Monday through Friday beginning approximately July 19, 1996.

ADDRESSES: Mail comments to Theodore R. Quasula, Director of Law Enforcement Services, Bureau of Indian Affairs, 1849 C Street, NW, Mail Stop 4443, Washington, D.C., 20240; OR, hand deliver them to Room 4443 at the above address.

FOR FURTHER INFORMATION CONTACT: Theodore R. Quasula, Director of Law

Enforcement Services, Bureau of Indian Affairs, Telephone: 202–208–5786.

SUPPLEMENTARY INFORMATION:

Background

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9.

What has provided Law Enforcement rules and standards for Bureau of Indian Affairs and tribal programs in the past?

Indian Police and Detention Standards regulations were published in 1975 and 1976, respectively, and have not been updated. *See* 25 U.S.C. Part 12. In 1990, the Indian Law Enforcement Reform Act (Pub. L. 101–379, 25 U.S.C. 2801 *et seq.*) specified changes for the Bureau of Indian Affairs and tribal law enforcement and detention programs that need to be implemented as rules of the Secretary of the Interior who was given the overall responsibility for providing, or assisting in the provision of law enforcement services in Indian country (as defined in 18 U.S.C. 1151). The law enforcement revision will be assigned to Part 12, and Detention and Rehabilitation will be found in Part 10, Chapter I of Title 25 Code of Federal Regulations.

The Office of Law Enforcement Services, Bureau of Indian Affairs, is updating and revising the *Bureau of Indian Affairs Manual (BIAM),* and accompanying operational handbooks that will provide policy, procedures, guidelines and standards for all law enforcement programs. This manual and accompanying handbooks will be available for the program managers and supervisors, the public, other agencies, and law enforcement officers or investigators. Self-governance tribes with compacts or other tribal entities with enforcement jurisdiction other than the Bureau of Indian Affairs or contracts, are encouraged to use the manuals and handbooks for guidance in developing or maintaining their own programs. The Indian Country Detention Facilities and Programs manuals and handbooks may be found in Chapter 69 *Bureau of Indian Affairs Manual (BIAM)* including an inmate handbook for all individuals who are incarcerated in a BIA or tribal detention facility.

Evaluation and Certification

Executive Order 12988

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

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

This proposed 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.*).

Executive Order 12630

The Department has determined that this proposed rule does not have ''significant'' takings implications. The proposed rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612

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NEPA Statement

The Department has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Unfunded Mandates Act of 1995

This proposed rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Paperwork Reduction Act of 1995

This rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements.

Drafting Information

The primary author of this document is Mark Mullins, Bureau of Indian Affairs, Office of Law Enforcement Services.

List of Subjects in 25 CFR Part 12

Indians—residential and holding facilities, Law enforcement.

For the reasons given in the preamble, Part 12, Chapter I of Title 25 of the Code of Federal Regulations is proposed to be revised as set forth below:

PART 12—INDIAN COUNTRY LAW ENFORCEMENT

Subpart A—Responsibilities

Sec.
12.1 Who is responsible for the Bureau of Indian Affairs law enforcement function?
12.2 What is the role of the Bureau of Indian Affairs Director of Law Enforcement Services?
12.3 Who supervises Bureau of Indian Affairs criminal investigators?
12.4 Who Supervises the Bureau of Indian Affairs uniformed police, detention and conservation enforcement functions?

Subpart B—Policies and Standards

Sec.
12.11 Do I have to follow these regulations?
12.12 What about self-determination?
12.13 What happens if I do not follow the rules in this part?
12.14 Where can I find specific policies and standards for law enforcement functions in Indian country?

Subpart C—Authority and Jurisdiction

Sec.
12.21 What authority is given to Indian country law enforcement officers to perform their duties?
12.22 Can Bureau of Indian Affairs law enforcement officers enforce tribal laws?
12.23 What are the jurisdictional limits in Indian country?

Subpart D—Qualifications and Training Requirements

Sec.
12.31 Are there any minimum employment standards for Indian country law enforcement personnel?
12.32 Do minimum employment standards include a background investigation?
12.33 Are Indian country law enforcement officers paid less than other law enforcement officers?
12.34 Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?
12.35 Do Indian country law enforcement officers complete any special training?
12.36 Does other law enforcement training count?

Subpart E—Records and Information

Sec.
12.41 Who keeps statistics for Indian country law enforcement activities?
12.42 Do Indian country law enforcement programs share information with their own communities or other agencies?

Subpart F—Conduct

Sec.
12.51 Must Indian country law enforcement officers follow a code of conduct?
12.52 How do I report misconduct?
12.53 Who investigates officer misconduct?
12.54 What can I do if I believe my civil rights have been violated?
12.55 Are there any limits on how much force an officer can use when performing law enforcement duties?

Subpart G—Support Functions

Sec.
12.61 Can I be paid for information that helps solve a crime?
12.62 Who decides what uniform an Indian country law enforcement officer can wear and who pays for it?
12.63 Do Indian country law enforcement officers perform other duties as well?

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

Subpart A—Responsibilities

§ 12.1 Who is responsible for the Bureau of Indian Affairs law enforcement function?

The Deputy Commissioner of Indian Affairs is responsible for Bureau of Indian Affairs operated and contracted law enforcement programs, and for overall policy development and implementation of the Indian Law Enforcement Reform Act, Public Law 101–379 (25 U.S.C. 2801 *et seq.*).

§ 12.2 What is the role of the Bureau of Indian Affairs Director of Law Enforcement Service?

The Director of the Office of Law Enforcement Services for the Bureau of Indian Affairs (Director) has been designed as the single individual responsible for the overall law enforcement and detention policies and standards, and management of all Bureau of Indian Affairs criminal investigations, drug enforcement, training, internal affairs, inspection and evaluation, emergency response forces, and other national level Indian country law enforcement initiatives. The Director publishes these policies and standards in law enforcement manuals and handbooks. The Director is also directly responsible for developing crime prevention and outreach programs within Indian country law enforcement.

§ 12.3 Who supervises Bureau of Indian Affairs criminal investigators?

All Bureau of Indian Affairs criminal investigators are supervised by other criminal investigators within the Office of Law Enforcement Services.

§ 12.4 Who supervises the Bureau of Indian Affairs uniformed police, detention and conservation enforcement functions?

The agency superintendent is directly responsible for the operation and management of Bureau of Indian Affairs uniformed police operations, detention facilities, and conservation enforcement operations at any agency having these programs. The agency superintendent must also ensure technical support is provided to any agency contracting the law enforcement and/or detention program.

Subpart B—Policies and Standards

§ 12.11 Do I have to follow these regulations?

You must follow the minimum standards outlined in the regulations in this part if you are part of a Bureau of Indian Affairs or tribal law enforcement program receiving Federal funding or operating under a Bureau of Indian Affairs law enforcement commission.

§ 12.12 What about self-determination?

The regulations in this part are not intended to discourage contracting of Indian country law enforcement programs under the Indian Self-determination and Education Assistance Act (Public Law 93–638, as amended, 25 U.S.C. 450). The Deputy Commissioner of Indian Affairs will ensure minimum standards are maintained in high risk activities where the Federal government retains liability and the responsibility for settling tort claims arising from contracted law enforcement programs. It is not fair to law abiding citizens of Indian country to have anything less than a professional law enforcement program in their community. Indian country law enforcement programs that receive Federal funding and/or commissioning will be subject to a periodic inspection or evaluation to provide technical assistance, to insure compliance with minimum Federal standards, and to identify necessary changes or improvements to Bureau of Indian Affairs policies.

§ 12.13 What happens if I do not follow the rules in this part?

Your Bureau of Indian Affairs law enforcement commission may be revoked, your law enforcement contract may be canceled, and you may no longer be eligible for tribal shares allocated from the law enforcement budget.

§ 12.14 Where can I find specific policies and standards for law enforcement functions in Indian country?

The Bureau of Indian Affairs will ensure that all Indian country law enforcement programs are provided a copy of the most current policy manuals and handbooks. Every Indian country law enforcement program covered by the regulations in this part must maintain an effective and efficient law enforcement program meeting minimal qualitative standards and procedures specified in Chapter 68 *Bureau of Indian Affairs Manual (BIAM)* and the *Law Enforcement Handbook*.

Subpart C—Authority and Jurisdiction

§ 12.21 What authority is given to Indian country law enforcement officers to perform their duties?

Bureau of Indian Affairs law enforcement officers are commissioned under the authority established in Title 28 U.S.C. 2803. The Bureau of Indian Affairs may issue law enforcement commissions to other Federal, State, local and tribal full-time certified law enforcement officers to obtain active assistance in the enforcement of applicable Federal criminal statutes, including Federal hunting and fishing regulations in Indian country. Any such deputization of personnel not employed by the Bureau of Indian Affairs will only be issued after an agreement is completed between the head of the local government or Federal agency requesting the authority and the Deputy Commissioner of Indian Affairs. Any such agreement will include language that allows the Bureau of Indian Affairs to evaluate the effectiveness of such delegated commissions and to investigate any allegations of misuse of authority involving these commissions. Tribal law enforcement officers operating under a Bureau of Indian Affairs contact or compact are not commissioned Federal officers; however, they may be commissioned on a case-by-case basis.

§ 12.22 Can Bureau of Indian Affairs law enforcement officers enforce tribal laws?

Bureau of Indian Affairs officers will only enforce tribal laws with the permission of the tribe. Local programs are encouraged to make arrangements and agreements with local jurisdictions to facilitate law enforcement objectives.

§ 12.23 What are the jurisdictional limits in Indian country?

The Department of the Interior and the Department of Justice must maintain and periodically review and update a memorandum of understanding describing the relationship between the Federal Bureau of Investigation and the Bureau of Indian Affairs in the investigation and prosecution of major crimes in Indian country. The guidelines in this memorandum of understanding and any local United States Attorney's guidelines for the investigation and prosecution of Federal crimes will be followed by any law enforcement programs performing duties or under the authority of 25 U.S.C. 2803.

Subpart D—Qualifications and Training Requirements

§ 12.31 Are there any minimum employment standards for Indian country law enforcement personnel?

The Director must develop, maintain, and periodically review the qualification standards, including medical qualification standards, for all Bureau of Indian Affairs law enforcement, detention and conservation enforcement occupational series. The standards will be no less stringent than the minimum standards established by the U.S. Office of Personnel Management (OPM) for these occupational series, and may exceed the OPM standards. The Bureau of Indian Affairs standards are available for review at any Bureau of Indian Affairs personnel office. All tribal programs are encouraged to develop standards at least as stringent as those established for Bureau of Indian Affairs officers.

§ 12.32 Do minimum employment standards include a background investigation?

Law enforcement authority is only entrusted to personnel possessing adequate education and/or experience, training, aptitude, and high moral character. All Indian country law enforcement programs receiving Federal funding and/or authority must ensure that all law enforcement officers successfully complete a thorough background investigation no less stringent than required of a Federal officer performing the same duties. The background investigations of applicants and employees must be adjudicated by trained and qualified security professionals. All background investigations must be documented and available for inspection by the Bureau of Indian Affairs.

§ 12.33 Are Indian country law enforcement officers paid less than other law enforcement officers?

The Deputy Commissioner of Indian Affairs must insure that all Bureau of Indian Affairs law enforcement officer positions are established at no lower grade level on the Federal scale than similar Federal law enforcement officer positions in other agencies. No Bureau of Indian Affairs position performing commissioned law enforcement duties will be classified in other than GS 0083, police officer series, for uniformed officers and the GS 1811, criminal investigating series, for criminal investigators.

§ 12.34 Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?

Any contract or compact with the Bureau of Indian Affairs to provide law enforcement services for an Indian tribe must require a law enforcement officer to be paid at least the same salary as a Bureau of Indian Affairs officer performing the same duties.

§ 12.35 Do Indian country law enforcement officers complete any special training?

Law enforcement personnel of any program funded by the Bureau of Indian Affairs must not perform law enforcement duties until they have successfully completed a basic law enforcement training course prescribed by the Director. The Director will also prescribe mandatory supplemental and in-service training courses.

§ 12.36 Does other law enforcement training count?

All requests for evaluation of equivalent training must be submitted to the Indian Police Academy for review, with final determination made by the Director. Requests for a waiver of training requirements to utilize personnel prior to completing the required courses of instruction must be submitted to the Director and approved or disapproved by the Deputy Commissioner of Indian Affairs. In no case will such a waiver allow personnel to be utilized in any position for more than one year without achieving training standards. Failure to complete basic training requirements will result in removal from a law enforcement position.

Subpart E—Records and Information

§ 12.41 Who keeps statistics for Indian country law enforcement activities?

The Director maintains a criminal justice information system for Indian country. The Director will prescribe the types of data to be collected and the reporting format to be used to collect information and assemble reports on crime reported in Indian country. These reports may be provided to the Department of Justice. Any law enforcement program receiving funding from the Bureau of Indian Affairs must use the same reporting format and submit the same statistical reports to the Office of Law Enforcement Services as prescribed by the Director and as are required of all Bureau of Indian Affairs law enforcement programs.

§ 12.42 Do Indian country law enforcement programs share information with their own communities or other agencies?

At intervals established by the Director, each Bureau of Indian Affairs criminal investigations program, and any investigations program receiving funds from the Bureau of Indian Affairs will consult with local tribal leaders and managers of local patrol and detention programs. They will discuss the quality of the local investigations program and offer feedback and technical assistance. There will be no requirement to disclose confidential investigative information or to compromise on-going investigations during this process.

Subpart F—Conduct

§ 12.51 Must Indian country law enforcement officers follow a code of conduct?

All law enforcement programs receiving Bureau of Indian Affairs funding or commissioning must establish a law enforcement code of conduct which establishes specific guidelines for conduct on and off duty, impartiality and professional conduct in the performance of duty, and acceptance of gifts or favors. Each officer must acknowledge receipt and understanding of this code of conduct in writing and it will remain on file with the law enforcement program manager as long as the officer is employed there. Training will be conducted on this code of conduct and other ethics issues at least once each year.

§ 12.52 How do I report misconduct?

The Director will develop and maintain a reporting system which allows any resident of or visitor to Indian country to report officer misconduct. Each law enforcement program in Indian country will maintain instructions on how to register a complaint. An overview of these steps will be posted for public viewing at each law enforcement facility in Indian country.

§ 12.53 Who investigates officer misconduct?

The Director, Office of Law Enforcement Services maintains an internal affairs program which investigates all allegations of misconduct by Bureau of Indian Affairs officers, and any officer receiving funding and/or authority from the Bureau of Indian Affairs. All allegations of misconduct must be thoroughly investigated and appropriate action taken when warranted. Any person having knowledge of officer misconduct must report that information to the officer's supervisor. The supervisor

must immediately report allegations to the internal affairs unit. Depending upon the severity of the allegation, the matter may be dealt with locally or it will be investigated by the internal affairs unit. Failure of any Bureau of Indian Affairs employee to report known allegations may be considered misconduct in itself. Citizens may report officer misconduct directly to the internal affairs unit if that is more practical.

§ 12.54 What can I do if I believe my civil rights have been violated?

All allegations of civil rights violations must be reported immediately to the internal affairs unit. That office will insure such allegations are immediately reported to the Civil Rights Division of the U. S. Department of Justice through established procedures. The Bureau of Indian Affairs internal affairs unit may also conduct an investigation into the matter and make recommendations for additional action as necessary.

§ 12.55 Are there any limits on how much force an officer can use when performing law enforcement duties?

The Director will develop and maintain the use of force policy for all Bureau of Indian Affairs law enforcement personnel, and for programs receiving Bureau of Indian Affairs funding or authority. Training in the use of force, to include non-lethal measures, will be provided annually. All officers will successfully complete a course of instruction in firearms, to include judgement pistol shooting, approved by the Indian Police Academy prior to carrying a firearm on or off duty.

Subpart G—Support Functions

§ 12.61 Can informants be paid for information that helps solve a crime?

The Director has the authority to expend money for the purchase of evidence or information, or to offer a reward, in the investigation of a crime. This is subject to the availability of funds. This authority may be delegated in writing to supervisory criminal investigators within the Office of Law Enforcement Services in the Bureau of Indian Affairs. The Director must develop policies and procedures for the expenditure, control, and audit of these funds prior to their use.

§ 12.62 Who decides what uniform an Indian country law enforcement officer can wear and who pays for it?

Each local law enforcement program must establish their own uniform requirements for patrol and detention personnel. Uniformed Bureau of Indian Affairs police officers may be paid an annual uniform allowance not to exceed $400. Local programs may provide uniforms and related equipment to officers in lieu of this payment. All law enforcement officers must also have their official identification on their person at all times when performing law enforcement duties. Uniforms, when worn, will be plainly distinguishable from the uniforms of any non-law enforcement personnel working on the reservation.

§ 12.63 Do Indian country law enforcement officers perform other duties as well?

Law enforcement commissions will only be issued by the Bureau of Indian Affairs to persons occupying positions as full-time officers. Bureau of Indian Affairs funded or commissioned criminal investigators will not be responsible for supervising or managing any patrol, detention, or other uniformed police programs.

Dated: May 31, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–16040 Filed 7–03–96; 8:45 am]

BILLING CODE 4310–02–P

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25 CFR Part 171

RIN 1076–AD44

Irrigation Projects and Systems

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is revising its regulations governing irrigation projects. The purpose of the revisions is to make it easier to read and understand for the customers of Indian irrigation projects; provide for consistent administration; establish the process for updating practices, policies, and procedures for the administration, operation, maintenance, and rehabilitation of irrigation projects; and provide uniform accounting and record keeping procedures.

DATES: You may send us written comments. We must receive them by September 3, 1996.

ADDRESSES: You must mail or hand carry your comments to Terrance Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4513 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ross Mooney, Chief, Branch of Irrigation and Power, Division of Water and Land Resources, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., Mail Stop 4513 MIB, Washington, D.C. 20240, Phone Number (202) 208–5480.

SUPPLEMENTARY INFORMATION: We are publishing this revised rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Our policy is to give the public an opportunity to participate in the rule making process by submitting written comments regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to this preamble's ''ADDRESSES'' section for where you must submit your written comments on this proposed rule.

We have determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

This rule is not a significant rule under Executive Order 12866 and does not require approval by the Office of Management and Budget.

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the *Unfunded Mandates Act of 1995.*

We determined this proposed rule:

(a) Does not constitute a major Federal action significantly affecting the human environment, and no detailed statement is needed under the Environmental Policy Act of 1969;

(b) Does not have significant takings implications in accordance with Executive Order 12630; and

(c) Does not have significant federalism effects.

Paperwork Reduction Act of 1995

Sections 171.214 and 171.215 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Bureau of Indian Affairs has submitted a copy of these sections to the Office of Management and Budget for its review.

Water users must apply for water delivery. The information to be collected includes: name; watery deliver location; time and date of requested water delivery; duration of water delivery; rate of water flow; number of acres irrigated; crop statistics; and other operational information identified in the local administration manuals. The Bureau needs and uses the information to operate and maintain its irrigation projects and fulfill our reporting requirements.

All information is to be collected annually from each water user. Annual

reporting and record keeping burden for this collection of information is estimated to average 40 minutes for each response for approximately 51,500 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 4,292 hours.

Organizations and individuals wishing to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202, New Executive Office Building, Washington, D.C. 20503; Attention Desk Officer for U.S. Department of Interior.

The Bureau of Indian Affairs considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the Bureau, including whether the information will have practical utility;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate collection techniques or other form of information technology.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to the OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Bureau of Indian Affairs on the proposed rule.

List of Subjects in 25 CFR Part 171

Indians-lands, Irrigation.

For the reasons set out in the preamble we are proposing to revise Part 171 of Title 25 of the Code of Federal Regulations, as follows:

PART 171—IRRIGATION PROJECTS AND SYSTEMS

Subpart A—General Provisions

Sec.
171.101 Definitions.
171.102 How we will administer irrigation projects.
171.103 How we will establish local administration manuals for each project.
171.104 What are the responsibilities and authorities of irrigation districts?
171.105 How can you appeal our decisions?

Subpart B—How We Will Distribute Water

171.201 Water delivery points for farm units.
171.202 What if my farm is too high?
171.203 What must I do if I subdivide a farm unit?
171.204 What must I do if I combine farm units?
171.205 How we will distribute water.
171.206 What restrictions are there on my use of water?
171.207 Will you deliver water to my farm unit if I have not paid my assessments?
171.208 May I ever receive water if I cannot pay my assessments on time?
171.209 May I use water for leaching?
171.210 Is there a deadline by which I must use water that you deliver for leaching?
171.211 May I use water for domestic and stock purposes?
171.212 Will you deliver water over my quota?
171.213 How can I get water delivered to my service or farm ditch?
171.214 How do I apply for water delivery?
171.215 How we record your water delivery.
171.216 What are my responsibilities concerning waste water and surface drainage?
171.217 When will we establish carriage agreements?

Subpart C—Project Facilities

171.301 Who is responsible for obtaining rights of way?
171.302 Who is responsible for structures on our property or rights of way?
171.303 May I ever take over a structure that you have built?
171.304 Can you install a fence on our property or rights of way?
171.305 Can you place an obstruction on our property or rights of way?

Subpart D—Financial Matters and Records

171.401 Definitions for this subpart.
171.402 What costs must I pay?
171.403 How will I know what fees you will charge me?
171.404 How do you compute the costs that you charge me?
171.405 How will I be billed for the water that I use?
171.406 Uniform accounting and billing procedures are required.
171.407 What procedures apply if there are assessment or construction repayment charges?
171.408 How will you recover late payments?

Subpart E—Miscellaneous

171.501 Information you must provide us.
171.502 Your responsibility concerning refuse.

Authority: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385. Sec. 171.4(b) also issued under 34 Stat. 1024, 38 Stat. 583, and 68 Stat. 1026. Secs. 171.4(a), 171.4(c), 171.16(b), and 171.17(f) also issued under sec. 11, 39 Stat. 142.

Subpart A—General Provisions

§ 171.101 Definitions.

Administration Manual means the written compilation of policies, procedures, and practices we must use to govern the local day-to-day administration, operation, maintenance, and rehabilitation of our individual projects.

Construction assessment means the periodic charge you must pay us to repay appropriated funds we used to build project facilities that the United States Congress has determined to be reimbursable to us.

Farm ditch means a ditch or canal located on your farm unit which you own, operate, maintain, and rehabilitate.

Farm unit means the smallest parcel of land for which we will establish a delivery point.

Farm unit size will be defined by us for each project in the local Administration Manual.

Irrigation district means an organization representing water users, established under proper legal authority to represent all of, or a portion of, the water users for the purposes of the fair and beneficial use of irrigation water, and conferring with us on the administration, operation, maintenance, and rehabilitation of our project serving it.

Operation & Maintenance (O&M) Assessment means the computed per acre cost you must pay us for administering, operating, maintaining, and rehabilitating our facilities.

Project means a facility we own, including all appurtenant works, for the delivery, diversion, and storage of irrigation water, authorized and established by specific Congressional legislation. For the purposes of this part, we will reference both projects and systems using the term ''project.''

Service ditch means a ditch or canal you own, operate, maintain, and rehabilitate into which we deliver water.

Severance agreement means an agreement between us and a landowner to provide access, if we, through construction or extension of a project, cause severance of the owner's property.

System means a facility we own, including all appurtenant works, for the delivery, diversion, and storage of irrigation water, which we established under the authority of the Snyder Act (25 U.S.C. 13).

Waste water means the runoff of water we deliver to you.

Water means water we deliver from, or return to, our facilities for the general purpose of irrigation.

Water user means any person, business, government, or other entity we provide water.

Water users' ledger means our record of water user accounts.

We means the United States Government, the Secretary of the Interior, the Bureau of Indian Affairs, and all who are authorized to represent us in matters covered under this part.

You means all interested parties receiving beneficial use of our projects, such as water users and landowners, irrigation districts, or other entities affected by this part.

§ 171.102 How we will administer irrigation projects.

(a) We must enforce the regulations in this part and the provisions of the local administration manuals to ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of our facilities.

(b) Our enforcement includes refusing water delivery to you.

(c) We must use the construction debt repayment funds we collect from you to repay the construction debt of the particular project where we collect the money.

(d) You must agree to a construction debt repayment plan for the project where you are located if repayment of the appropriated construction funds is required.

§ 171.103 How we will establish local administration manuals for each project.

(a) We will establish policies, procedures, and practices for the local administration, operation, maintenance, and rehabilitation of each project and compile them in a local administration manual.

(b) We must publish a notice in the Federal Register before establishing, or amending, a project's administration manual.

(c) We must consult with the water users, or their authorized representatives, and tribal representatives to seek comment on administration manuals and other matters of irrigation priorities and policies.

§ 171.104 What are the responsibilities and authorities of irrigation districts?

(a) Water users may form an irrigation district to represent their interests.

(b) An irrigation district must do the following before we will deliver water:

(1) Properly execute a construction repayment contract;

(2) Pay all charges in accordance with the construction repayment contract;

(3) Pay us all past and current construction assessment charges; and

(4) Pay us all past and current O&M assessment charges.

(c) Irrigation districts may make rules, policies, and procedures they may find necessary to administer water delivery within their district.

(d) Irrigation districts cannot make rules, policies, or procedures that conflict with the regulations in this part, or the local administration manual.

§ 171.105 How can you appeal our decisions?

(a) You may appeal our decisions in accordance with subchapter A, part 2 of Title 25 or in accordance with the established local administrative manual, whichever has specific application for what you are appealing.

(b) Until your appeal is settled, you must:

(1) Conform to our requirements for us to deliver water; and

(2) Pay the charge(s) or rates, if you are appealing assessments, rates, or fees.

Subpart B—How We Will Distribute Water

§ 171.201 Water delivery points for farm units.

(a) We will normally deliver water to your farm unit at a single point we designate.

(b) We may establish additional delivery point(s) under the following conditions:

(1) We determine it is impractical for you to irrigate your farm unit from a single delivery point;

(2) You must bear all costs for establishing additional delivery point(s); and

(3) We may establish your delivery point(s) at a well head.

§ 171.202 What if my farm is too high?

(a) We will not change our water level to deliver water to you.

(b) You may install, operate and maintain equipment, at your expense, to put our water on your land:

(1) From a point we designate; and

(2) In accordance with specifications we approve.

§ 171.203 What must I do if I subdivide a farm unit?

(a) Legally record a plat or map of the subdivision and provide us a copy; and

(b) Show on the plat or map how water is to be delivered within the subdivision; and

(c) Assume full responsibility for the facilities within your subdivision.

§ 171.204 What must I do if I combine farm units?

(a) If you combine farm units, or portions of farm units, under a lease, or ownership, we must modify or remove existing delivery points to comply with § 171.203 (a) and (b). You must pay us the cost of modification or removal to meet this requirement. Any modifications must not disrupt water delivery to other water users.

(b) Should you change your mind about combining farm units after we have modified or removed our facilities:

(1) We must approve reestablishment of the water delivery points;

(2) Other water users must not have their water delivery service disrupted to reestablish the water delivery points, and

(3) You must pay us all costs to reestablish the delivery points.

§ 171.205 How we will distribute water.

We will follow the distribution procedures in the local administration manual. We will notify you in writing when your quota of water for the season has been delivered.

§ 171.206 What restrictions are there on my use of water?

(a) You must not interfere with, or alter, water flow, storage, or delivery without our authorization.

(b) You must not possess or use water in any way without our permission.

§ 171.207 Will you deliver water to my farm unit if I have not paid my assessments?

No. You must pay all O&M and construction assessments before we will deliver water to your farm unit. The only limited exceptions to this rule are contained in § 171.208.

§ 171.208 May I ever receive water if I cannot pay my assessments on time?

We may agree to deliver water to your farm unit if you cannot pay your assessments on time and if you meet one of the conditions in the following table.

We may deliver water to you if:	and . . .
your farm unit is held in trust or is restricted land.	(1) we certify in writing that you are an Indian owner and are financially unable to pay on time; (2) you make arrangements to pay us eventually; and (3) you allow us to place a first lien against your land until you pay the assessments.

We may deliver water to you if:	and . . .
your farm unit is leased trust or restricted land and the lease was negotiated by the Indian owner.	you make delayed payment arrangements with us.
you have asked us for an adjustment or cancellation for the assessment on your land.	we have not yet acted on your request.
you have an approved deferred payment contract on your land that was executed under the Act of June 22, 1936 (49 Stat. 1803).	

§ 171.209 May I use water for leaching?

We may deliver water to your farm unit for leaching land that is impregnated by alkali. We may charge for this water. We will deliver this water if:

(a) The water is available;

(b) You have a plan of operation that we have approved;

(c) You have made a written agreement with us to correct the alkali problem; and

(d) You do not owe us any money.

§ 171.210 Is there a deadline by which I must use water that you deliver for leaching?

Yes. You must make full beneficial use of water delivered for leaching purposes by the date in the administration manual. If you have not:

(a) We must refuse to deliver water to you for leaching; and

(b) We must charge you for any delivered water.

§ 171.211 May I use water for domestic and stock purposes?

We may deliver water for domestic and stock purposes if it will not:

(a) Interfere with the operation, maintenance, or rehabilitation of our facilities;

(b) Be detrimental to, or endanger, our facilities;

(c) Adversely affect the stored water supply, and

(d) Incur additional costs to us.

§ 171.212 Will you deliver water over my quota?

We may deliver additional water above your quota:

(a) If we determine excess water is available;

(b) You request the water in writing; and

(c) You agree to pay for the water at published rates.

§ 171.213 How do I get water delivered to my service or farm ditch?

For us to deliver water to your service or farm ditch you must:

(a) Put the water to beneficial use;

(b) Make sure your ditch has sufficient carrying capacity;

(c) Properly maintain and rehabilitate your ditch; and

(d) Make sure your ditch has minimal losses.

§ 171.214 How do I apply for water delivery?

(a) You must request water delivery in accordance with the administration manual we have established for your project.

(b) Your request must contain at least the following information:

(1) Your name;

(2) Where you want water delivered;

(3) The time and date you want water delivered;

(4) How long you want water delivered;

(5) The rate of water flow you want; and

(6) How many acres you are irrigating.

§ 171.215 How we record your water delivery.

(a) We maintain the water delivery records in accordance with the administration manual.

(b) We will keep at least the following information as part of your water delivery record:

(1) Your name;

(2) Beginning date and time of your water delivery;

(3) Ending date and time of your water delivery;

(4) Amount of water we delivered to you; and

(5) The actual acreage you irrigated.

§ 171.216 What are my responsibilities concerning waste water and surface drainage?

(a) You are responsible for conveying your irrigation waste water back to our facilities for drainage.

(b) You are responsible for all costs we might incur in helping you meet your responsibility as described in paragraph (a) of this section.

(c) You will return waste water to our facilities only at points we designate, and in a way we approve.

(d) When there are two or more landowners or water users, it is their responsibility to work out a satisfactory arrangement for conveying their irrigation waste water to our facilities.

(e) Your waste water must not flow upon, or collect on, our rights of way or roads, except at points we designate, and in a way we approve.

§ 171.217 When will we establish carriage agreements?

(a) We may enter into an agreement to deliver non-project water to non-project land if we have determined there is excess capacity in our facilities to do so.

(b) We may enter into an agreement with a private enterprise or individual to convey water through other than our own facilities to isolated project land you are irrigating.

(c) You must pay us all administrative, operating, maintenance, and rehabilitation costs associated with these agreements before we will convey the water.

Subpart C—Project Facilities

§ 171.301 Who is responsible for obtaining rights of way?

You must obtain rights of way necessary for us to construct or extend facilities to deliver water to your farm unit, in accordance with the following:

(a) For rights of way across trust or restricted lands, you must obtain these rights-of-way in accordance with 25 CFR part 169.

(b) For rights of way across fee patented lands, you must obtain the right-of-way from the property owner(s).

(c) You must provide the rights of way to us at no cost.

(d) The right of way must be wide enough to permit passage and use of our equipment for construction, operation, maintenance, and rehabilitation of our facilities.

§ 171.302 Who is responsible for structures, on our property or rights-of-way?

(a) We must build, operate, maintain, and rehabilitate our own structures, including bridges and other crossings, unless we authorize someone else to do it, in writing.

(b) When we are building, or extending our existing facilities, we may build other structures or facilities for private use when justified by severance agreements, or other considerations.

(c) We own these structures unless we decide to do otherwise.

(d) If we build and own a structure for your benefit, we may require you to maintain it. If you do not, and we perform the necessary maintenance ourselves, you must pay us all costs incurred.

(e) You may build a structure encroaching on our rights of way for your private use after:

(1) We approve in writing;

(2) We approve the plans for construction; and

(3) You sign a written agreement with us stating you will bear all costs of installation, maintenance,

rehabilitation, and possible future removal.

(f) If any structure built under this part is no longer needed, we may remove it.

§ 171.303 May I ever take over a structure that you have built?

(a) If you want to use a structure we plan on removing, you may request in writing to take ownership of the structure.

(b) We may transfer ownership of a structure to you under an agreement which:

(1) Relieves us from any future liability or responsibility for the structure;

(2) Relieves us from any future costs incurred for maintaining the structure; and

(3) Stipulates all that is granted and accepted by you.

(4) Provides that if you do not regularly use a structure for a period of one year, or do not properly maintain and rehabilitate the structure, we will notify you in writing that:

(i) You must either remove it or correct any unsafe condition; and

(ii) If you do not comply with our notice, we may remove the structure and you must pay us all costs we incur.

§ 171.304 Can you install a fence on our property or rights of way?

(a) You must not place a fence across or within our property or rights of way without our written approval.

(b) We will approve fences on our property or rights of way only if it:

(1) Is properly installed;

(2) Does not interfere with the flow or delivery of water; and

(3) Does not interfere with the passage of our equipment and employees.

(c) We must notify you in writing to remove fences we do not approve.

(d) If you do not remove the fence in accordance with our notice, we will remove the fence at your expense.

§ 171.305 Can you place an obstruction on our property or rights of way?

No. You must not place obstructions on our property or rights-of-way. If you do, we will notify you in writing that you must remove it. If you do not remove the obstruction in accordance with our notice, we will remove it at your expense.

Subpart D—Financial Matters and Records

§ 171.401 Definitions for this subpart.

Administrative costs means all expenses we incur to administer our project at the local level. This does not include the agency, area, or central office expenses.

Assessment rate means the published charge you must pay for us to deliver water to your farm unit.

Costs means the expenses we incur to provide direct support or benefit to your project's activities for administration, operation, maintenance, and rehabilitation. Depending on the activity, we must include at least:

(1) Salary and benefits for the project engineer/manager and our employees under his or her control;

(2) Materials and supplies;

(3) Major and minor vehicle and equipment repairs;

(4) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(5) Capitalization expenses;

(6) Acquisition expenses; and

(7) Other expenses we determine necessary to properly perform the activities and functions necessary for an irrigation project.

Maintenance costs means all expenses we incur to maintain and repair our facilities and equipment of our project.

Operation costs means all expenses we incur to operate the facilities and equipment of our project.

Rehabilitation costs means all expenses we incur to maintain our project facilities to original design specifications.

Total assessable acres means the total authorized acres within a project to which we can deliver water.

Total cost means the total of all administrative, operating, maintenance, and rehabilitation costs we incur to deliver water at the particular project you are located. These costs do not generally include costs above the project engineer/manager.

Total cost per acre means the computed cost we incur on a per acre basis by dividing the total cost by the total assessable acres, as follows:

Total Costs per Acre equals Total Cost divided by Total Assessable Acres.

§ 171.402 What costs must I pay?

You must pay us for the total costs we incur for operating and maintaining the project where you are located. You must pay your assessment, in accordance with the local administration manual, before we will deliver water to your farm unit.

§ 171.403 How will I know what fees you will charge me?

(a) We will establish, and adjust as necessary, rates, charges, and fees for recovering our total cost.

(b) When we establish or adjust the fees for your project, we will notify you by publishing a notice in the Federal Register. We will review our costs for your project each year, and adjust the rates, charges, and fees when necessary to comply with § 171.402.

(c) We must use the assessed money we collect from you to support the administration, operation, maintenance, and rehabilitation activities of the project where you are located.

§ 171.404 How do you compute the costs that you charge me?

We will base our assessments for your farm unit on the computed total cost per acre times the total number of assessable acres in your farm unit. If you subdivide your farm unit into smaller farming acreages we may set a higher assessment rate for your subdivided acreage. If we do this, we will notify you by publishing a notice in the Federal Register.

§ 171.405 How will I be billed for the water that I use?

(a) We will maintain water users' ledgers in accordance with the administration manual on all projects where we levy and collect assessment and construction repayment charges.

(1) We will make separate entries in the ledger for each water user, and issue bills to the water users of record.

(2) When we receive payment, we will credit it to the proper ledger account.

(3) If water is used for leased trust or restricted land, we will bill the lessee.

(b) Where irrigation districts have been established and have executed a construction repayment contract, the district will bill you and will follow the procedures in paragraph (a) of this section.

§ 171.406 Uniform accounting and billing procedures are required.

All projects under the jurisdiction of the Bureau must follow the accounting and billing procedures that we establish.

§ 171.407 What procedures apply if there are assessment or construction repayment charges?

Where payment of assessment or construction repayment charges is required, refer to 4 CFR Parts 102, 103, 104, 105, and 25 CFR Part 115, in addition to this part.

§ 171.408 How will we recover late payments?

(a) We will file liens in accordance with the administration manual, against fee patent or trust lands within a project to recover delinquent payments.

(b) Federal, State, and tribal government agencies are exempt from interest, penalty, and administrative charges for delinquent payments.

(c) We will file and execute liens against Individual Indian Moneys (IIM) in accordance with 25 CFR 115.10.

Subpart E—Miscellaneous

§ 171.501 Information you must provide us.

(a) You must provide us with the information we request to assist in the proper administration, operation, maintenance, and rehabilitation of our facilities.

(b) We will request all information in accordance with the local administration manual.

§ 171.502 Your responsibility concerning refuse.

You must not use our property or rights of way to dispose of sewage, trash, or other refuse.

Dated: May 24, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–16184 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–02–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

Procedure Governing Advisory Opinions and Rules Governing Summary Judgment Motions and Advisory Opinions

AGENCY: National Labor Relations Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of its ongoing efforts to streamline its operations by eliminating unnecessary and inefficient procedures, the National Labor Relations Board (NLRB) is proposing to revise its rules to eliminate the notice-to-show-cause procedure in summary judgment cases and to remove provisions which permit parties to pending state proceedings to file petitions for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards.

DATES: All comments must be received on or before August 5, 1996.

ADDRESSES: All written comments should be sent to the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. The comments should be filed in eight copies, double spaced, on 8 1/2 by 11 inch paper and shall be printed or otherwise legibly duplicated.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: Over approximately the last two years, the NLRB has been conducting an intensive internal review of its procedures at all levels of the Agency. The purpose of this internal review has been to find ways to maintain and improve the Agency's case-processing efficiency in light of the Agency's diminishing resources. Many initiatives have already been implemented by the Board as part of this ongoing review, such as the recent initiative authorizing the use of settlement judges and providing judges with the discretion to dispense with briefs and to issue bench decisions, which was published as a final rule on February 23, 1996, following a one-year experimental period (61 FR 6940). Other initiatives are currently under consideration. Two such initiatives, involving the elimination of the notice-to-show-cause procedure in summary judgment cases and the removal of provisions permitting parties to pending state proceedings to file petitions for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards, are set forth below.

1. Notices to show cause in summary judgment cases. Section 102.24(b) of the Board's rules currently requires the Board to issue a notice to show cause to the parties prior to granting a motion for summary judgment or dismissal. Such notices have historically served several purposes or functions, including providing notice of the motion to the opposing party, postponing any scheduled hearing date, and setting the deadline for responding (normally 14 days from the date of the notice).

All of these functions are essentially unnecessary, however. The motion itself must be served on the opposing party and the motion therefore provides its own notice to the opposing party. No further notice is necessary.

With respect to postponing the hearing date, the Regional Director has the unrestricted authority under Section 102.16 of the Board's rules to do so at any time prior to 21 days before the hearing. Thus, the General Counsel need not rely on the Board to postpone the hearing upon filing a timely motion for summary judgment, which under Section 102.24(b) of the Board's rules must normally be filed at least 28 days before the scheduled hearing. In the event the General Counsel does not determine that a motion for summary judgment is warranted until after expiration of the 28-day deadline for filing such motions with the Board and the 21-day deadline on the Regional Director's unrestricted authority to postpone the hearing, the General Counsel may in that event seek a postponement from the Division of Judges prior to filing the motion for summary judgment. See, e.g., *R. B. Contracting Co.*, 321 NLRB No. 41 (May 20, 1996).

Of course, it may still be necessary in certain circumstances for the Board to issue an order postponing the hearing in response to a respondent's motion for summary judgment or dismissal. The Board's experience with such motions, however, indicates that in the vast majority of such cases there are factual issues which make summary judgment or dismissal inappropriate. Thus, the Board in the past has only rarely issued notices to show cause postponing the hearing in response to respondent motions, and there is no reason why this experience would change under the revised rule. In any event, as under the current rule, under the revised rule the respondent may request the Regional Director, administrative law judge, and/or the Board to postpone the hearing when it files the motion for summary judgment or dismissal. The Board normally completes its initial review of the respondent's motion prior to the hearing, and in the event that its initial review indicates that summary judgment may be appropriate, and the hearing has not already been postponed, as under the current rule the Board may issue an order postponing the hearing.

With respect to setting the time for responding, there is no reason why the deadline for responding cannot be established by rule in all cases. Similar deadlines are set forth in the Board's rules for the filing of other pleadings (see, e.g., Sec. 102.20 of the Board's rules, setting 14-day deadline for filing an answer to the complaint), and no further or special notice of the deadline is required with respect to those pleadings. See, e.g., *Superior Industries*, 289 NLRB 834, 835 n. 13 (1988) (no further reminder or warning of the failure to file an answer required).

Moreover, we note that the General Counsel's practice with respect to complaints and compliance specifications has been to specifically advise the respondent in the complaint or specification itself of the time for filing an answer. See NLRB Casehandling Manual, Sec. 10267 (complaints) and 10622.1 and App. 14 (compliance specifications). We approve of this practice and anticipate that the General Counsel would also adopt this practice with respect to default and other summary judgment motions in the event the proposed revisions are adopted by the Board.[1]

[1] The General Counsel's failure to include such notice in the motion for summary judgment would

Accordingly, the Board is proposing to revise Section 102.24(b) of its rules to eliminate the notice-to-show-cause procedure in summary judgment cases, and to instead provide that the 14-day period for responding to the motion shall commence upon service of the motion. The revised rule specifically provides that the hearing is not automatically postponed upon filing of the motion for summary judgment, and that it is the responsibility of the party moving for summary judgment to postpone the hearing (if the General Counsel files the motion for summary judgment) or to file a request for a postponement with the regional director, administrative law judge, and/or the Board (if the respondent or charging party files the motion for summary judgment or dismissal). This latter provision is intended to make clear that the General Counsel should not rely on the Board to postpone the hearing or assume that the Board will issue an order postponing the hearing, which was a function of the traditional notice to show cause. Thus, when the General Counsel files the motion for summary judgment, the General Counsel should also postpone the hearing (assuming the General Counsel wishes to postpone the hearing and has the authority to do so under Section 102.16 of the Board's rules.)

2. Party petitions for an advisory opinion. Sections 102.98(a) and 102.99(a) of the Board's rules, and Section 101.39 of the Board's statements of procedures, currently authorize parties to pending state proceedings to file a petition for an advisory opinion with the Board as to whether the Board would assert jurisdiction under its current commerce standards. There is no statutory requirement that the Board entertain such advisory opinions, however, and the procedure is not widely utilized.[2] Further, the Board's jurisdictional standards are generally well developed, and are readily available in numerous published decisions and opinions. Experience with past party petitions has shown that the parties themselves, or the state agency or court, could just as easily have researched and applied the Board's current commerce standards without invoking the Board's processes.

Moreover, there are other, often more speedy, avenues available for obtaining a jurisdictional determination or opinion. For example, Section 101.41 of the Board's statements of procedure provides that persons may seek informal opinions on jurisdictional issues from the Regional offices. And the Regional Office will also make a jurisdictional determination early in its investigation of any representation petition or unfair labor practice charges filed with that office. See NLRB Casehandling Manual, Sec. 11706.

Finally, the proposed change would not affect the provisions of current Section 102.98(b) and 102.99(b) of the Board's rules and Section 101.39 of the Board's statements of procedure, which permit the state or territorial agency or court itself to file a petition for an advisory opinion on whether the Board would decline to assert jurisdiction based either on its commerce standards or because the employer is not within the jurisdiction of the Act. The provisions permitting such petitions are retained, with minor modification to Section 101.39 of the Board's statements of procedure to conform it with Board decisions indicating that the Board will not issue an opinion unless the relevant facts are undisputed or the state agency or court has already made the relevant factual findings. See *Correctional Medical Systems,* 299 NLRB 654 (1990); *University of Vermont,* 297 NLRB 291 (1989); and *St. Paul Ramsey Medical Center,* 291 NLRB 755 (1988). See also *Brooklyn Bureau of Community Service,* 320 NLRB No. 157 (April 15, 1996).

Although the Agency has decided to give notice of proposed rulemaking with respect to these rule changes, the changes involve rules of agency organization, procedure or practice and thus no notice of proposed rulemaking is required under Sec. 553 of the Administrative Procedure Act (5 U.S.C. 553). Accordingly, the Regulatory Flexibility Act (5 U.S.C. 601), does not apply to these rule changes.

List of Subjects in 29 CFR Parts 101 and 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, the NLRB proposes to amend 29 CFR parts 101 and 102 as follows:

PART 101—STATEMENTS OF PROCEDURE

1. The authority citation for 29 CFR part 101 continues to read as follows:

Authority: Sec. 6 of the National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 522(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Pub. L. 100–236, 28 U.S.C. 2112(a)(1).

2. § 101.39 is revised to read as follows:

§ 101.39 Initiation of advisory opinion case.

(a) The question of whether the Board will assert jurisdiction over a labor dispute which is the subject of a proceeding in an agency or court of a State or territory is initiated by the filing of a petition with the Board. This petition may be filed only if:

(1) A proceeding is currently pending before such agency or court;

(2) The petitioner is the agency or court itself; and

(3) The relevant facts are undisputed or the agency or court has already made the relevant factual findings.

(b) The petition must be in writing and signed. It is filed with the Executive Secretary of the Board in Washington, DC. No particular form is required, but the petition must be properly captioned and must contain the allegations required by § 102.99 of the Board's Rules and Regulations. None of the information sought relates to the merits of the dispute. The petition may be withdrawn at any time before the Board issues its advisory opinion determining whether it would or would not assert jurisdiction on the basis of the facts before it.

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a(j) and (k) of the Privacy Act (5 U.S.C. 552a(j) and (k). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.24(b) is revised to read as follows:

§ 102.24 Motions; where to file; contents; service on other parties; promptness in filing and response; summary judgment procedures.

* * * * *

(b) All motions for summary judgment or dismissal shall be filed with the Board no later than 28 days prior to the scheduled hearing. Where no hearing is scheduled, or where the hearing is scheduled less than 28 days after the

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not necessarily require denial of the motion, but would be considered by the Board as a factor in ruling on any subsequent motion filed by the respondent for reconsideration of the Board's decision granting the General Counsel's motion for summary judgment.

[2] The Board typically receives about 10–15 party petitions for advisory opinion each year. Although relatively few in number, substantial staff resources are consumed in preparing and issuing the Board's opinion in each case.

date for filing an answer to the complaint or compliance specification, whichever is applicable, the motion shall be filed promptly. Any opposition to the motion shall be filed within 14 days after the service of the motion for summary judgment on the opposing party. It is not required that the opposition be supported by affidavits or other documentary evidence showing that there is a genuine issue for hearing. The Board in its discretion may deny the motion where the motion itself fails to establish the absence of a genuine issue, or where the opposing party's pleadings and/or opposition indicate on their face that a genuine issue may exist. If the opposing party files no opposition, the Board may treat the motion as conceded, and summary judgment or dismissal, if appropriate, shall be entered. The hearing shall not be automatically postponed upon filing of the motion for summary judgment. It shall be the responsibility of the party filing the motion to postpone the hearing (if the General Counsel files the motion for summary judgment, subject to the provisions of § 102.16 of the Board's rules and regulations) or to file a request for a postponement with the Regional Director, administrative law judge, and/or the Board (if the respondent or charging party files the motion).

§ 102.98 [Amended]

3. In § 102.98, paragraph (a) and the paragraph designation (b) are removed.

§ 102.99 [Amended]

4. In § 102.99, paragraph (a) is removed and paragraphs (b) and (c) are redesignated as paragraphs (a) and (b) respectively.

Dated, Washington, DC, June 28, 1996.

By direction of the Board:

John J. Toner,

Executive Secretary.

[FR Doc. 96–16986 Filed 7–3–96; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 062596B]

RIN 0648–AH68

Groundfish of the Gulf of Alaska; Pacific Ocean Perch; Amendment 38

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 38 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) for Secretarial review. Amendment 38 would provide the flexibility for the Council to recommend a total allowable catch amount for Pacific ocean perch (POP) below the level currently established in the FMP. NMFS is requesting comments from the public on the proposed amendment. Copies of the amendment may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on the FMP amendment should be submitted on or before August 30, 1996.

ADDRESSES: Comments on the FMP amendment should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK.

Copies of Amendment 38 and the environmental assessment and the economic analysis prepared for the amendment are available from the North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving a fishery management plan or amendment, immediately publish a notice that the fishery management plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

Decline of the POP stock since the early period of the foreign fishery (mid 1960's) prompted the Council to recommend a rebuilding plan for POP. The Pacific Ocean Perch Rebuilding Plan (Rebuilding Plan) was established in Amendment 32 to the FMP. Details of the justification for the Rebuilding Plan can be found in the Notice of Availability for Amendment 32 (59 FR 295; January 4, 1994). The POP Rebuilding Plan provides a specific rebuilding strategy for POP stocks, based on available biological and economic information. The Rebuilding Plan establishes a formula to determine annually the POP TAC, which is then apportioned among Gulf of Alaska (GOA) regulatory areas based on biomass distribution. However, the amendment does not provide for any flexibility to reduce the TAC below the amount specified by the formula.

Under the current Rebuilding Plan, the potential exists for the calculated TAC to be greater than the acceptable biological catch (ABC), which would be inconsistent with the current management practice for other groundfish stocks. The Council has also expressed concern that it does not have the flexibility to lower the POP TAC under the Rebuilding Plan to accomodate other resource conservation concerns. Therefore, the Council adopted Amendment 38 to the FMP at its December 1995 meeting. Amendment 38 would not prescribe a TAC lower than that specified by the formula; however, it would allow the Council the flexibility to recommend a TAC below the level of the specified formula in one or more GOA regulatory areas or districts. To be consistent with the Rebuilding Plan for POP, any downward adjustment of TAC would be based on biological or resource conservation concerns.

Under the Rebuilding Plan, an ABC is set for POP in the GOA and this ABC is apportioned among regulatory areas based on biomass distribution. The TAC is determined using the formula and is then apportioned to each regulatory area according to the percentage biomass distribution used for the ABC apportionment.

Under Amendment 38, once the TAC is apportioned among regulatory areas, as specified by the current FMP, the Council could recommend a further downward adjustment of the POP TAC in one or more of the GOA regulatory areas or districts. Any downward adjustments would be based on biological or resource conservation concerns about the POP resource or associated with the POP fishery that are not accounted for in the Rebuilding Plan or the annual Stock Assessment and Fishery Evaluation (SAFE) reports, or to maintain the TAC below the ABC. NMFS will consider information provided by a recognized scientific body such as the Council's Scientific and Statistical Committee, Plan Team, or by

NMFS stock assessment scientists regarding any downward adjustment of the TAC.

The FMP amendment would only give the Council the alternative of recommending a lower POP TAC in the annual specifications process to address biological or resource conservation concerns that are not addressed under the Rebuilding Plan or SAFE reports. If socioeconomic concerns exist with respect to the management of the POP fishery, particularly in the Eastern GOA, the Council would need to consider a separate amendment to address these issues.

Amendment 38 is intended to improve conservation and management of POP and to further the goals and objectives of the FMP. No regulatory changes are necessary to implement this FMP amendment. The TAC would be considered for implemention during the annual specification process under regulations at § 679.20(c).

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

Dated: June 27, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–17123 Filed 7–1–96; 3:18 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 130
Friday, July 5, 1996

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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 5, 1996.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

On February 23 and March 29, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 6977 and 14088) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Pad, Energy Dissipating

1670–00–753–3928

Web Door Assembly

5340–02–000–0319

Tape, Pressure-Sensitive

7510–00–680–2395
7510–00–680–2450
7510–00–680–2470
7510–00–680–2471
7510–00–680–8784
7510–00–680–4963

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 96–17269 Filed 7–3–96; 8:45 am]

BILLING CODE 6353–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: July 9, 1996; 9:00 a.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to 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 issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6)). The BBG meeting will be followed by closed meetings of the members of the boards of RFE/RL, Inc., and Asia Pacific Network, both nonprofit private corporations.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Barbara Floyd at (202) 401–3736.

Dated: July 2, 1996.

David W. Burke,
Chairman.

[FR Doc. 96–17303 Filed 7–1–96; 2:51 pm]

BILLING CODE 619–0493–M

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the Hawaii 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 Hawaii Advisory Committee to the Commission which was to have convened at 2:00 p.m. and adjourned at 5:30 p.m. on Wednesday, July 31, 1996, at the Ala Moana Hotel, 410 Atkinson Drive, Hawaii, has been canceled.

The original notice for the meeting was announced in the Federal Register on June 18, 1996, FR Doc. 96–15428, 61 FR 30851–30852.

Persons desiring additional information should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435).

Dated at Washington, DC, June 28, 1996.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.

[FR Doc. 96–17124 Filed 7–3–96; 8:45 am]

BILLING CODE 6335–01–P

Sunshine Act Meeting

July 1, 1996.

DATE AND TIME: Friday, July 12, 1996, 9:30 a.m.

PLACE: U.S Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of June 14, 1996 Meeting
III. Announcements
IV. Staff Director's Report
V. Continuation of General Programmatic Theme Discussion
VI. State Advisory Committee Report

''The Enforcement of Affirmative Action Compliance in Indiana Under Executive Order 11246'' (Indiana)

VII. Future Agenda Items

11:00 a.m. Briefing on Three Strikes and You're Out—Mandatory Life Sentences After Three Felony Convictions

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376-8312.

Miguel A. Sapp,

Parliamentarian.

[FR Doc. 96–17268 Filed 7–2–96; 2:10 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part.

SUMMARY: On September 29, 1995, the Department of Commerce (the Department) published the preliminary results of administrative reviews and notice of intent to revoke in part the antidumping duty order on polyethylene terephythalate (PET) film, sheet, and strip from the Republic of Korea. The reviews cover four manufacturers/exporters of the subject merchandise to the United States and the periods June 1, 1992 through May 31, 1993 and June 1, 1993 through May 31, 1994.

As a result of comments we received, the antidumping margins have changed from those we presented in our preliminary results.

EFFECTIVE DATES: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4475/0649.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1995 (59 FR 50547), the Department published the preliminary results of administrative reviews and notice of intent to revoke in part the antidumping duty order on PET film from the Republic of Korea (56 FR 25669, June 5, 1991). At the request of petitioners and three respondents, we held a hearing on April 9, 1996.

These reviews cover four manufacturer/exporters: Cheil Synthetics, Inc. (Cheil), Kolon Industries (Kolon), SKC Limited (SKC), and STC Corporation (STC).

We are revoking the order for Cheil because Cheil has sold the subject merchandise at not less than foreign market value (FMV) in these reviews and for at least three consecutive periods. Cheil has also submitted certification that it will not sell at less than FMV in the future.

Scope of the Review

Imports covered by these reviews are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review 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) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The reviews cover the periods June 1, 1992 through May 31, 1993 (second review period) and June 1, 1993 through May 31, 1994 (third review period). The Department has conducted these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. We received timely comments from the petitioners and all four respondents. At the request of the petitioners and three respondents, we held a public hearing on April 9, 1996.

Comment 1: Petitioners argue generally that the methodologies employed by SKC and Cheil to value recycled chip (RC) assign an unreasonably low cost to recycled resin. Petitioners contend that the cost of processing recycled film is directly associated with the cost of the chemicals which are reclaimed. Petitioners assert that to properly account for the cost of producing PET film, the Department must include both the cost of the materials content of the recycled film and the cost of the recycling. Petitioners also argue that both virgin resin and recycled resin contain the same basic chemicals in the same quantities, and that recycled resin is a nearly ''one for one'' substitute for virgin resin. Petitioners assert that the differences between virgin resin and recycled resin are ''minimal.'' While limits exist on the amount of recycled resin that can be used in PET film production, petitioners note that in many instances recycled resin accounts for more than 50 percent of the raw material inputs. Petitioners further note that the bill of materials (''recipes'') for PET films can be adjusted to tolerate a greater or lesser volume of recycled resin, and that producers can adjust the molecular weight of virgin chip (VC) to accommodate varying usage of recycled resin. Petitioners also assert that producers can modify the production process to minimize problems related to discoloration caused by using recycled resin.

Petitioners contend that, in general, the methodologies used by Cheil and SKC to value recycled resin do not reflect the actual cost of that material. Petitioners assert that the Statement of

Administrative Action (SAA), Congressional Reports on the Uruguay Round Agreements Act, and the Court of Appeals for the Federal Circuit (CAFC) decision in *Ipsco Inc.* v. *the United States*, 965 F. 2d 1056, 1059–1061 (Fed. Cir. 1992) (*Ipsco Appeal*), preclude the Department from using cost calculations which substitute assigned values for actual costs. Even if the methodologies employed by Cheil and SKC to account for recycled film are consisted with Korean Generally Accepted Accounting Principles (GAAP), petitioners argue that Cheil's and SKC's methodologies are unacceptable because they fail to reasonably reflect the costs associated with recycled material. Petitioners contend that the Department has accepted from Cheil and SKC different, contradictory accounting treatments of the cost of RC.

Cheil: Specifically with regard to Cheil, petitioners assert that the number of sales used by Cheil to establish the net realizable value (NRV) of recycled resin is too small to be representative of the actual cost of the material. Petitioners further argue that the customers who purchase resin from Cheil are using the resin in a less demanding process. These customers, petitioners assert, do not require recycled resin of the same quality as PET film producers. Petitioners argue that there is no indication that the grades of PET film sold by Cheil on the open market are the same as that which Cheil uses internally.

Petitioners contend that most PET films can be made within a broad range of virgin resin/recycled resin ratios. petitioners argue that given the flexibility to increase or reduce the usage of recycled resin, Cheil's decision to sell a small amount of PET resin at a price that is much lower than the price of virgin resin makes little economic sense. Petitioners suggest that Cheil's rationale for selling a small amount of recycled chip on the open market could be to establish an artificially low value for the recycled chip used in PET film exports to the United States.

In response, Cheil argues that the appropriate accounting treatment for valuing its recycled resin (pellets) is the NRV that Cheil assigns to these pellets. Cheil notes that the NRV methodology is consistent with both Korean and U.S. GAAP. Cheil contends that Departmental review, analysis, and verification of the cost data submitted by Cheil uncovered no evidence that Cheil's NRV methodology is manipulative, or that Cheil substituted increasing quantities of pellets for VCs in an attempt to minimize its dumping liability.

Cheil contends that the NRV established for recycled pellet represents a market price for that merchandise. Cheil argues that the Department has no basis to exclude these sales because such sales are ''too small'' to constitute a valid market. Cheil further contends that its NRV methodology was in place before the onset of the Department's less-than-fair-value (LTFV) investigation in 1991, and that the Department accepted and used that methodology during the fair value investigation and the first administrative review. Cheil also argues that precedent obligates the Department to accept Cheil's practice of valuing RC at its NRV. Cheil cites to thirteen separate cases in which NRV methodologies have been applied. Moreover, Cheil argues that the Court of International Trade (CIT) has approved the use of NRV for valuing by-products in *Asociacion Colombiana de Exportadores de Flores* v. *United States*, 704 F. Supp. 1114, 1125 (CIT 1989). Cheil contends that there is nothing on the record that distinguishes the instant facts from the numerous other cases in which the Department has used an NRV methodology to value by-products.

Cheil also asserts that VCs and the resin it recycles as pellets are not physically one-for-one substitutes, and, thus, its practice of valuing pellets at an NRV below that of VC is economically sound. Cheil argues that pellets and VCs have different molecular structures and chemical compositions. Cheil contends that a mixture of pellet and VC can create blending problems. Because of differences in the molecular structure of pellets and VCs, Cheil contends that VCs and pellets melt at different temperatures. Cheil also claims that additional production problems (such as contamination) will result if too many pellets are employed in the production process.

Cheil argues that waste film production has a direct costs impact on PET film through lower yields, and that higher pellet usage increases fabrication costs. Cheil contends that the Department has no basis to assume that historical production yields would remain constant if the production process utilizes 100 percent VCs. Based on these factors, Cheil argues that pellets should be assigned a lower cost than VCs.

Cheil contends that, contrary to petitioners' assertion, its usage of VC relative to pellets has actually increased from the second to the third review. Cheil asserts that the true value of pellets (because of the lack of substitutability between VC and pellet) is actually lower than their NRV.

Cheil argues that the NRVs that it assigned to pellets reflect the same set of assumptions and market behavior as the NRVs that it assigned to off-grade chip production. Cheil thus concludes that if the Department decides to back out the NRVs at the virgin and chip level, it must also back out the NRVs at the chip production cost level.

Cheil further contends that any methodology which assigns an equal value to VCs and RCs would not properly account for the valuation of beginning and ending inventory. Cheil contends that this is because VCs and recycled pellets would be valued according to one cost methodology, while period-of-review costs would be valued according to a completely different methodology.

SKC: With regard to SKC, petitioners contend that its methodology for costing recycled resin is economically unreasonable and was concocted especially for the Department's fair value investigation. Petitioners assert that prior to the fair value investigation of this case, SKC calculated an average materials cost without distinguishing between virgin and recycled resin. Petitioners assert that the methodology used by SKC in these reviews ignores the costs of the material content of the recycled resin. Petitioners argue that the true cost of the recycled resin is much higher than the value assigned to it by SKC.

Petitioners argue that SKC's normal method of accounting for recycled resin correctly accounts for the processing costs (*i.e.*, labor, overhead, etc.) of recycling, but fails to address the cost of the chemicals which are reclaimed as the recycled resin. Petitioners maintain that SKC must recognize the presence of valuable PET resin in the chips that SKC recycles. By omitting material costs in determining the cost of RC, petitioners assert that SKC understates the cost of films that use a higher proportion of recycled materials.

In response, SKC maintains that its cost accounting methodology does not exclude the cost of the raw materials of recycled resin from PET film cost of production (COP). SKC argues that the PET film production process is a closed cycle, and that all costs are fully accounted for in the system. SKC explains that both VCs and RCs are released into the production line to form PET film as follows: at the end of the film production line scrap film is recovered; the recovered scrap is then reprocessed to produce recycled resin, and the recycled material is then used together with VC to produce more PET film, a portion of which will again be reclaimed. According to SKC raw

materials (ethylene glycol (EG) and dimethyl terephthalate (DMT) or terephthalic acid (TPA)) are used exclusively for the production of VC; the recycled material is produced entirely from scrap film without input of additional raw materials. In other words, all recycled resin is produced from VCs that were released into the film production line during a previous production cycle. SKC states that it does not take a credit for the scrap which it recycles. Therefore, SKC argues that the finished film bears the cost of all raw materials consumed in the film production process, including the cost of raw materials that are later reclaimed to produce RCs.

SKC argues that the Department should continue to value recycled resin according to the methodology employed by SKC in its internal cost accounting system. SKC contends that its cost methodology is reasonable and consistent with accepted accounting concepts. SKC contends that recycled resin has a ''lower intrinsic viscosity, lower molecular weight, and increased discoloration'' than do VCs. SKC notes that the Department determined that there is no evidence on the record suggesting that SKC has manipulated its chip blends to alter production costs. Finally, SKC asserts that its blending ratios have been stable over time.

Department's Position: We believe that Cheil's and SKC's methods of accounting for their recycled raw materials are reasonable and have relied on them for these final determinations. The legislative history of section 773(b) states that ''in determining whether merchandise has been sold at less than cost [the Department] will employ accounting principles generally accepted in the home market of the country of exportation if [the Department] is satisfied that such principles *reasonably reflect* the variable and fixed costs of producing the merchandise.'' H.R. Rep. No. 571, 93d Cong., 1st Sess. 71 (1973) (emphasis added). The CIT has upheld the Department's use of expenses recorded in the company's financial statements, when those statements are prepared in accordance with the home country's GAAP and do not significantly distort the company's actual costs. *See, e.g., Leclede Steel Co.* v. *United States,* Slip Op. 94–160 at 22 (CIT 1994).

Accordingly, our practice is to adhere to an individual firm's recording of costs, if we are satisfied that such principles reasonably reflect the costs of producing the subject merchandise, and are in accordance with the GAAP of its home country. *See, e.g., Canned Pineapple Fruit from Thailand: Final Determination of Sales at Less Than Fair Value (Canned Pineapple from Thailand),* 60 FR 29553, 29559 (June 5, 1995); *Certain Stainless Steel Welded Pipe from the Republic of Korea; Final Determination of Sales at Less Than Fair Value,* 57 FR 53693, 53705 (November 12, 1992); *and Furfuryl Alcohol from South Africa: Final Determination of Sales at Less Than Fair Value,* 60 FR 22550, 22556 (May 8, 1995) (''The Department normally relies on the respondent's books and records prepared in accordance with the home country GAAP unless these accounting principles do not reasonably reflect the COP of the merchandise''). Normal accounting practices provide an objective standard by which to measure costs, while allowing respondents a predictable basis on which to compute those costs. However, in those instances where it is determined that normal accounting practices result in an unreasonable allocation of production costs, the Department will make certain adjustments or may use alternative methodologies that more accurately capture the costs incurred. *See, e.g., New Minivans from Japan; Final Determination of Sales at Less Than Fair Value,* 57 FR 21937, 21952 (May 26, 1992).

In the instant proceeding, therefore, the Department examined whether the respondents' normal recycled resin accounting methodology results in costs of producing the *subject merchandise* (finished PET film) that reasonably reflect its cost of production. Notably, we found that a characteristic of the PET film production process is that a substantial amount of film becomes unusable during production. The PET film production process generally takes place in two stages. In the first stage, a mixture of basic chemicals and special additives are used to crate VCs. Both Cheil and SKC produce several different types of VCs, each from a specific chemical recipe designed to promote certain physical attributes in the finished PET film product.

In the second production stage, one or more VC types are measured and mixed with recycled material. The mixture of VC and recycled material is then melted. The molten polymer is extruded onto a chilled casting drum, where it spreads into a continuous polymer film. From the casting drum the film passes through a series of stretching machines. As the finished film cools, it is wound onto a master roll. The master rolls of finished film undergo quality inspection for various physical characteristics. Films that fail this inspection are either sold as off-quality PET film or recycled.

As previously stated, the PET film manufacturing process and finished film quality standards are such that substantial quantities of recyclable waste film are generated. This film is recycled as a raw material input to the production process for PET film. Each type of PET film has a maximum amount of recycled materials that can be added while still allowing the film to meet its quality requirements. We note that the respondents use different processes for recycling the waste film and different methods of accounting for the recycled materials. (See recycled raw materials accounting memorandum, August 17, 1995). However, each company's method is similar in that they assign significantly less cost to the recycled material than they do to the original VC.

Under its normal cost accounting system, SKC attributes to its recycled film only the costs related to recycling. SKC assigns no costs to the waste film used in the recycling process. Thus, SKC records as the cost of recycled material, only the labor and overhead costs incurred for shredding the film and reprocessing it.

Cheil recycled film is treated as a by-product of the film production process and valued at its NRV. Cheil's NRV represents the revenues received (less disposal costs) for recycled material sold as filler for mattresses and toys. Cheil deducts the pellets' NRV from the cost of producing the good PET film output.

On March 20, 1996, the CIT issued its decision in the appeal of the underlying investigation in this proceeding, *E.I. Dupont de Nemours & Co., et al.* versus *United States,* Slip. Op. 96–56, Court No. 91–07–00487 (March 20, 1996) (*Dupont II*). The CIT's decision recognized the above facts with respect to the production of PET film and each respondent's accounting for recycled materials. In light of those facts, the CIT found that:

> [petitioners'] argument that pellets should be costed like virgin chip because they are functionally equivalent defies common sense and arithmetic logic. The reason that PET film production utilizes recycled material is that it is cheaper to recycle scrap film than to manufacture virgin chip; this being the case, assigning pellets the cost of virgin chip would overstate the actual costs of PET film production. *Dupont II,* at 9.

The CIT further noted that the record did not support the allegation that Cheil manipulated the usage rate of pellet in order to shift costs away from PET film exported to the United States.

The CIT also rejected petitioners' arguments concerning SKC's accounting practices. The Court noted that the

reason SKC uses a ''zero value'' for the material cost of RC is that ''SKC did not subtract the value of pellets resulting from PET film production runs from the accounting cost of producing PET film; therefore, there was no basis for adding any pellet value back into the accounting cost of PET film manufactured with pellet material input.'' *Dupont II,* at 10. While the CIT determined that the Department's refusal to address SKC's methodology for valuing pellet was proper under the scope of the remand, it indicated that even if such instructions ''had been part of the remand order, SKC's methodology is reasonable and fully accounts for the value of'' its recycled resin. *Dupont II,* at 11.

In this review, we continue to find that Cheil and SKC have reasonably valued RC. We determined that although differing in approach, both methodologies reasonably capture the cost of producing PET film. As previously noted, every PET film production run uses both virgin chip and recycled material. The scrap film resulting from each production run is recycled into subsequent production passes. Each respondent's method of accounting for the recycled material is used in the normal course of business and is GAAP-consistent.

We examined Cheil's and SKC's books and records and found that each company relies on its recycled resin methodology in the normal course of business and has done so for at least the last several years. We further found that each respondent's allocation methodology is consistent with GAAP practiced in Korea.

We disagree with petitioners' argument that the cost basis for recycled materials should be the purchase price of the raw material. The record in this case demonstrates that recycled resin is not the functional equivalent of VC, since the production process degrades the chemicals and introduces contaminants into the process. Thus, while recycled material can be used in place of VC within certain limits, recycled resin and VC are not completely equivalent.

We also do not accept petitioners' contention that SKC's methodology is economically unreasonable. SKC's methodology fully accounts for all costs because each type of film is charged with the cost of the material consumed in its production (as well as the material which will be reused in later production runs). Thus, all production costs are fully charged to the subject merchandise.

We also disagree with petitioners' arguments that Cheil's NRV should be disallowed because it is not representative of a market value. Despite the fact that Cheil's recycled film purchasers use the pellets in less demanding processes, there is no evidence that these transactions do not represent a fair valuation for this material. Moreover, we note that a petitioner also makes sales of recycled film chips or pellets to manufacturers of pillows and carpet. This company indicated that it sells the recycled chip at a price significantly less than the cost to manufacture VC. In addition, the company explained that it had recently adopted a costing methodology based on the relative sales value of RC that is similar to that used by Cheil. (See plant tour memorandum, April 5, 1995.)

Comment 2: Petitioners contend that Cheil and SKC have understated their costs and overstated their U.S. selling prices by misrepresenting the quantities of film that they produce and sell, and that the quantity of films actually shipped are not the quantities of film actually billed. Petitioners assert that since producers will be penalized if they include too little film on a roll, producers will generally include more film on a roll than they actually invoice. Petitioners assert that exhibits collected as part of the verifications for the second and third reviews of Cheil and SKC support their assertion that SKC and Cheil are providing more film on a roll than they have actually reported to the Department. Petitioners additionally contend that the verification exhibits collected in these reviews provide further evidence that reported costs are incorrect because the sales and production quantities used to derive those costs and prices are either ''conceptionally inappropriate'' or ''simply wrong.'' Petitioners assert that the production quantities reported by Cheil fail to account for losses occurring in the second slitting process. Petitioners suggest that SKC's shifting of the reporting period form 1/1/93–12/31/93 to 7/1/93–6/30/94 for the third administrative review distorted the valuation of RCs and scrap. Petitioners assert that Cheil may have distorted its costs through a similar shifting of the reporting period.

SKC and Cheil contend that the Department verified reported production quantities. SKC and Cheil assert that there is no evidence on the record supporting petitioners' assertion that production quantities were understated or that either company shipped more film on a roll than was reported in SKC's or Cheil's responses.

Department's Position: We disagree with petitioners because there is no evidence on the record to support their claim that either Cheil or SKC understated their production quantities, or that either company shipped more PET film on a roll than the customer ordered. During these verifications, we traced reported production of PET film to the PET film production records of Cheil and SKC. Our trace of production quantities for Cheil accounted for the amount of film (sold exclusively to third countries) that underwent second slitting. (*See* Cheil July 28, 1995 second review period verification report at page 5; Cheil January 26, 1996 third review period verification report at page 3.) The Department also verified the production quantities reported by SKC. (See SKC July 28, 1995 second review period verification report at page 15; SKC February 27, 1996 third review period verification report at page 10.)

Moreover, we disagree with the petitioners' assertion that Cheil's and SKC's valuation of RC and scrap was distorted because they shifted the reporting period. The Department directed Cheil and SKC to report costs for the third review period from July 1, 1993 through June 30, 1994, rather than for the calendar year January 1, 1993 through December 31, 1993, so that the period for reporting COP/CV information would more closely correspond to the time frame covered by the third review. We have not allowed either Cheil or SKC to manipulate to their advantage the period for reporting cost information.

Comment 3: Petitioners note that the language used to determine whether below-cost sales were made over an extended period of time for Cheil and Kolon fails to identify such sales of merchandise that were sold in less than three months of each period of review. Petitioners contend that this programming error exists for each of the respondents included in these reviews.

Department's Position: We agree. For each of the respondents included in these reviews, we have amended our computer programs to exclude from FMV below-cost sales that were sold in less than three months of the PORs and that made over an extended period of time.

Comment 4: Petitioners contend that the Department erred in adjusting Cheil's home market price for pre-sale inland freight from its factory to its warehouse. Petitioners contend that this deduction contravenes *Ad Hoc Comm. of AZ–NM–TX–FL Producers of Gray Portland Cement* v. *United States,* 13 F.3d 398, 401 (Fed. Cir. 1994).

Cheil contends that Departmental practice is to treat pre-sale inland freight as a direct expense in instances where

products are channeled or customized for certain buyers.

Department's Position: We disagree with petitioners. As noted in *Canned Pineapple Fruit from Thailand,* in *Ad Hoc Committee,* the Court ruled that the Department could not use its inherent authority to deduct home market pre-sale movement expenses. Instead, we will adjust for these expenses under the circumstance-of-sale provision as long as we determine that these expenses are directly related to the sales under investigation. The Department generally treats pre-sale movement expenses as direct where those expenses ''involve products channeled or customized'' for certain buyers (*Id.* at 29563). Because Cheil knew the identity of its customer and the product specifications of that customer prior to the shipment of film from the factory to the warehouse, we have treated Cheil's pre-sale inland freight as a direct selling expense. This is consistent with our position in past segments of this proceeding. (*See Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Determination of Sales at Less than Fair Value* 56 FR 16300, 16303 (April 21, 1991) (*Final Determination*)).

Comment 5: Petitioners contend that certain sales that Cheil has characterized as ''samples'' were sold in significant volume and should be included in the Department's calculations. Petitioners contend that Cheil's failure to report these sales mandates use of the best information available for Cheil.

Cheil contends that the Department verified that its zero-priced samples were not commercially valued. Cheil contends that the Department's decision to exclude there sales was consistent with past Departmental practice.

Department's Position: We do not consider Cheil's zero-priced samples to be sales within the meaning of the antidumping law. This is consistent with the position taken in *Granular Polytetrafluoroethylene Resin from Japan; Final Results of Antidumping Duty Administrative Review (PTFE from Japan)* 58 FR 50343, 50345 (September 27, 1993), in which we did not include zero-priced samples in our calculations because the samples were used for product evaluation purposes rather than for commercial consumption.

During the PORs Cheil provided a limited number of zero-priced samples to the United States. Cheil provided full documentation that the shipments were not commercially valued, and were for product evaluation purposes only. Accordingly, we did not include these zero-priced samples in our analysis.

Comment 6: Petitioners assert that Cheil has failed to report related-party commissions associated with its U.S. sales. Petitioners assert that these expenses are directly related to U.S. price.

Cheil contends that the mark-up between the price charged by Cheil to its U.S. subsidiary and the price charged by Cheil's U.S. subsidiary to Cheil's U.S. customer is not a ''commission.'' Cheil notes that a commission is ''a sum or percentage allowed to agents, sales representatives, etc., for their services.'' (See *Timken Co.* v. *United States,* 37 F.3d 1470, 1478 (Fed. Cir. 1994).) To receive a commission, Cheil argues that a commissionaire must make a sale on another party's behalf. Because there is no evidence on the record suggesting that Cheil's U.S. subsidiary solicits sales for Cheil, or engages in any activity to generate sales on Cheil's behalf, Cheil argues that the mark-up between the price charged by Cheil to its U.S. subsidiary and the price charged by Cheil's U.S. subsidiary to Cheil's U.S. customer is not a ''commission'' within the meaning of the antidumpting law.

Department's Position: We agree with Cheil. Because Cheil's U.S. subsidiary did not solicit sales for Cheil, we do not consider the mark-up between the price charged by Cheil to its U.S. subsidiary and the price charged by Cheil to Cheil's U.S. customer to be a commission within the meaning of the antidumping law.

Comment 7: Petitioners assert that the Department should use quality control criteria values (QCCVs) rather than product codes to match Cheil's home market and U.S. sales. Petitioners contend that matching sales through QCCVs would be less susceptible to manipulation.

Cheil asserts that use of QCCVs instead of product codes would result in comparisons of home market merchandise that is less similar to the merchandise sold in the United States.

Department's Position: We disagree with petitioners. As noted in *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et. al.,* 57 FR 28360, 28366, (June 24, 1992) our policy is to ''maintain a stable, normal and predictable approach'' with regards to model match, and not to alter that methodology unless compelling reasons exist. In these reviews we have used the same methodology for matching Cheil's home market sales that we employed in the less than fair value (LTFV) investigation and in the first review. There is no evidence on the record to suggest that use of product codes has enabled Cheil to manipulate the matching of home market sales.

Finally, we note that use of QCCVs would in several instances result in the matching of merchandise that is less similar to the U.S. merchandise than would the product codes submitted by Cheil. In one instance this dissimilarity would result in the comparison of a product that is coated with a product that is non-coated, and in another instance this would result in comparison of merchandise that is of different chemical compositions.

Comment 8: Petitioners contend that the Department should calculate the credit period for Cheil's U.S. sales from the date of shipment from Cheil's factory to the U.S. customer rather than from the date of export shipment from Korea. Petitioners also assert that the Department should require Cheil to provide the actual date of payment for those U.S. sales for which Cheil had not received payment at the time that Cheil prepared its U.S. response.

Cheil contends that the Department should recalculate Cheil's inventory carrying cost expenses, if it decides to recalculate the credit period from the date of shipment from Cheil's factory.

Department's Position: In these final results we have followed our normal policy and calculated the U.S. credit period beginning with the date that the merchandise leaves the factory. (*See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et. al.,* 60 FR 10900, 10916, (February 28, 1995).) We have also recalculated Cheil's inventory carrying costs to avoid double counting of Cheil's credit expenses. Because we noted no significant discrepancies between payment term and the date that Cheil actually received payment, we used payment terms to calculate Cheil's U.S. credit expense for those U.S. sales for which Cheil had not received payment at the time that it prepared its response.

Comment 9: Petitioners contend that the Department should adjust U.S. sales for advertising and promotion expenses that Cheil incurred on its U.S. sales.

Cheil contends that it had no direct advertising or sales promotion expenses during the PORs.

Department's Position: We disagree with petitioners. In response to our questionnaire and our request for supplemental information, Cheil indicated that it had no direct promotion or advertising expenses during the periods of review, and there is no contrary evidence on the record. Since all of Cheil's sales were PP transactions and there were no commissions incurred for home market

sales, the issue of whether Cheil had indirect advertising or sales promotion expenses is moot because in PP transactions we do not adjust for indirect selling expenses, absent commissions in the other market.

Comment 10: SKC contends that the Department's reallocation of its manufacturing costs between A- and B-grade film is contrary to Department practice and unreasonably overstates SKC's B- grade film costs. SKC asserts that B-grade film cannot be used by its normal PET film customers, and should not bear the same cost as A-grade film. SKC contends that the Department's allocation of cost to B-grade film should reflect the economic value of the products manufactured. SKC argues that B-grade film is a by-product of PET film rather than a co-product, and that B-grade film is an unavoidable consequence of manufacturing A-grade film. SKC contends that it seeks to minimize the production of B-grade film, and that B-grade film does not undergo significant processing prior to sale. SKC asserts that sales of B-grade film constitute a small (less than 10 percent) and declining portion of its PET film revenues.

SKC notes that in *Canned Pineapple from Thailand,* The Department did not use physical measures to allocate joint products but rather used an allocation methodology that recognized the significantly different economic values of the products. Based on the dissimilarity of A-grade and B-grade film, SKC contends that the Department's joint allocation of costs between these two products is economically unreasonable.

SKC further asserts that it valued B-grade film in accordance with its longstanding practice. SKC contends that the Department has consistently rejected the use of physical allocation methodologies in cases where the one joint product has a significantly lower economic value than the other product. SKC cites to *Elemental Sulphur from Canada: Final Results of Antidumping Finding Administrative Review,* 61 FR 8239, 8241–8243 (March 4, 1996) (*Sulphur*), and *Oil Country Tubular Goods from Argentina, Final Determination of Sales at Less than Fair Value,* 60 FR 33539, 33547 (June 28, 1995), as two such cases where the Department did not use physical measures to allocate costs. SKC contends that the Department's general practice is to use a company's normal accounting system unless that system results in an unreasonable allocation of costs. SKC further argues that the Department's methodology of allocating yield losses equally between A-grade and B-grade film produces absurd results because the methodology allocates expenses associated with one type of scrap to another part of scrap. SKC also contends that the physical defects inherent in B-grade film compel SKC to (1) sell B-grade film for non-PET film applications, and (2) assign B-grade film a lower value than A-grade film.

SKC asserts that the Department's decision to allocate yield losses equally between A-grade and B-grade film conflicts with the model-match and cost test methodologies employed in these reviews. SKC notes that for model-match purposes, the Department restricted comparisons of U.S. B-grade film to home market sales of B-grade film. SKC asserts that the Department cannot ignore differences between A-grade and B-grade film for purposes of its cost analysis.

Finally, SKC asserts that the Department should accept its cost methodology even if the Department determines that B-grade film is a co-product rather than a by-product of A-grade film. SKC asserts that its cost system is consistent with the *Ipsco Appeal* decision, since, unlike *Ipsco,* SKC does not rely upon sales value to allocate costs. SKC asserts that this is consistent with the methodology employed by the Department in *Polyvinyl Alcohol from Taiwan,* 61 FR 14064 (March 29, 1996). (See Memorandum to Chris Marsh from Art Stein, September 27, 1995.)

Petitioners argue that the Department was correct in equalizing the yield loss that SKC experienced between A-grade and B-grade films. Petitioners contend that allocating all yield loss to A-grade film would result in a misallocation of SKC's costs, an improper use of below-cost sales in the Department's margin calculations, and an understatement of margins for SKC's sales of slitted B-grade film.

Petitioners point out that in various submissions filed in the course of the initial investigation, respondents as a group (including SKC) stated that the essential facts in the administrative proceedings underlying the *Ipsco Appeal* are indistinguishable from the facts in this case.

Petitioners contend that the Department's reallocation reflects the mandate of the *Ipsco Appeal,* and also the realities of PET film production. Petitioners explain that from a batch of resin, a single production run will generate a given amount of A-grade film and a given amount of B-grade film. Regardless of the quality of film, the actual costs of producing a run of film are borne equally. Petitioners maintain that it takes the same volume of raw materials and the same processing effort to make A-grade film as B-grade film.

Petitioners argue that the fact that the *Ipsco Appeal* involved oil country tubular goods instead of PET film is irrelevant. Petitioners maintain that B-grade PET film is not a *by-product* of the PET film production process, but is PET film. B-grade PET film is used in PET film applications, and is generated from the same production run as A-grade film using the same materials and processes. Petitioners therefore conclude that SKC's A-grade and B-grade film must bear the same costs.

Department's Position: We believe that A-grade and B-grade PET film have identical production costs and we have relied on equal costing for this final determination. The CIT's decision in the remand of the underlying investigation (*Dupont II*) affirmed the Department's remand calculation of the cost of production for prime and off-grade film (*i.e.,* A-grade and B-grade film). *Dupont II,* at 6–7. The CIT determined that our recalculation of Cheil's and SKC's production costs was reasonable. As we explained in the remand, we recalculated the cost of off-grade film to reflect actual costs by allocating production costs based on actual production quantities.

Moreover, our use of an equal costing methodology in this proceeding is based on substantial evidence and is otherwise in accordance with law. In the instant reviews, the A-grade and B-grade film undergo an identical production process, involving an equal amount of material and fabrication expenses. The only difference in the resulting A- and B-grade film is that at the end of the manufacturing process a quality inspection is performed during which some of the film is classified as high quality A-grade product, while other film is classified as lower quality B-grade film. The identification of different grades of merchandise does not transform the manufacturing process into a joint production process which would require the allocation of costs.

SKC mischaracterizes the continuous production process of PET film as joint processing. A joint production process occurs when ''two or more products result simultaneously from the use of one raw material as production takes place.'' (*See Management Accountants' Handbook,* Keeler, et. al., Fourth Edition at 11:1.) The essential point of a joint production process is that ''the raw material, labor, and overhead costs prior to the initial split-off can be allocated to the final product only in some arbitrary, although necessary, manner,'' *Id.* In this case, the costs attributable to PET film yield losses can clearly be allocated to

the production of specific types of PET film.

SKC argues incorrectly that its method of accounting for lesser quality product is consistent with the *Ipsco Appeal*. Ipsco Appeal involved the Department's use of an appropriate methodology for allocating costs between two grades of steel pipe. These two grades of steel pipe were distinguished on the basis of quality. *Ipsco Appeal*, 965 F.2d at 1058. The same production inputs for materials, labor, and overhead went into the manufacturing lot that yielded both grades of pipe. *Id*. Given these facts, in our final determination we allocated production costs equally between those two grades of pipe. We reasoned that because they were produced at the same time, on the same production lines, and following the identical manufacturing process, the two grades of pipe in fact had identical production costs. *Id*.

SKC's reliance on *Sulphur, Canned Pineapple Fruit from Thailand,* and *Polyvinyl Alcohol from Taiwan* is misplaced. Those cases relate primarily to by-product/co-product costing methodologies. In none of the cases cited by SKC were both products within the scope of the same antidumping order. The PET film production process produces two finished products, both of which are salable, and both of which are PET film products. B-grade PET film (like A-grade film) is sold as *PET film* and consumed as *PET film*. By contrast, the resulting joint products or by-products in the cases cited by SKC were of a different class or kind of merchandise than the products that the manufacturer set out to produce. Pineapple shells, cores, and ends are made into pineapple juice. Natural gas is not of the same class or kind as elemental sulphur, nor are polyvinyl alcohol and methyl acetate. Moreover, we note that in the ordinary course of business SKC treats methanol, and not B-grade film, as the by-product of the PET film production process. Accounting literature identifies by-products as separate and distinct products, not grades of the same product. Unlike the chemical reaction that occurs in the production of polyvinyl alcohol resulting in the by-product methyl acetate, B-grade film is not a by-product. Theoretically the production of B-grade film is avoidable since the PET film manufacturing process need not result in poor quality product.

Finally, SKC's argument that matching A- and B-grade film to identical merchandise necessitates that each of these models have a unique cost is without merit. Two products that are not ''identical'' for model-match purposes may indeed have the same costs. For purposes of determining COP/CV, however, we must account for all of the costs associated with the production of the merchandise.

Comment 11: Petitioners contend that SKC understated the cost of extending credit to Anacomp on its U.S. sales. Petitioners contend that the credit terms offered to Anacomp by SKC do not constitute a normal extension of credit between buyer and seller, but rather involve an ''incentive to finance Anacomp's film purchases at below market rates.'' Further, petitioners argue that the antidumping statute does not contemplate a circumstance-of-sale adjustment to U.S. price for interest payments that offset credit risk. Finally, petitioners argue that if the Department accepts the Anacomp payments as interest income, it should ''impute SKC's interest expense'' using an interest rate that is the ''equivalent of the market rate sales to Anacomp.''

SKC contends that petitioners have offered no grounds for reversing the Department's previous decision to offset interest income against SKC's imputed credit expense.

Department's Position: We disagree with petitioners because, as noted in the first review of this order, ''* * * failure to adjust for SKC's interest income received from Anacomp would overstate SKC's U.S. credit expense, and distort our dumping analysis.'' (*See Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea, Final Results of Antidumping Administrative Review* (*Final Results of the First Review*), 60 FR 42835, 42838 (August 17, 1995). During our verification of SKC we determined that SKC and Anacomp adhered to all of the terms of the ''Master Supply Agreement'' which governed the payment of interest income to SKC. We also verified the amount of interest income received by SKC. Accordingly, in these final results we have continued to make an offset for interest income as we did in the preliminary results of this review.

Comment 12: Petitioners note that Kolon Industries (Kolon) did not include home market sales of scrap film in its sales listing because ''this scrap is not PET film.'' Petitioners contend that Kolon has failed to substantiate its claim that these scrap sales were not of PET film.

Kolon asserts that the scrap material is not PET film. Kolon contends that the material consists of (1) molten PET material that is deposited in the filters of the extruder before the molten PET material is extruded onto the cooling drum and formed into sheet and film, and (2) shredded trimmings from the film production process. Because the scrap material is not PET film, Kolon argues that it is not within the scope of the order.

Department's Position: We agree with Kolon. Because the scope of the antidumping order is limited to PET ''film, sheet and strip,'' and this material is not PET film, we have not included these scrap sales in our calculations.

Comment 13: Petitioners contend that the Department should include Kolon's U.S. sample sales in its margin calculations. Petitioners contend that while the Department has the authority to omit zero-price samples if the samples were not used for commercial consumption, that exception does not apply for Kolon since those sales were consumed commercially. Petitioners note that the Department included Kolon's zero-price samples in its calculations for the first review.

Kolon contends that the Department should exclude these zero-price samples from its analysis. Kolon notes that in *PTFE from Japan*, the Department excluded such transactions even though the merchandise was not returned to the manufacturer. Kolon contends that the Department's decision to include zero-price sales in its first period analysis was based upon ''the incorrect belief that there is no evidence on the record that Kolon's U.S. sample sales are destroyed or rendered unusable.'' Kolon contends that the nature of PET film requires the tester to unwind the film, and to usually coat the film, stamp it, or use it on a machine. Kolon contends that such testing, by its nature, renders the PET film unusable.

Department's Position: As noted in response to *Comment 5*, in *PTFE from Japan* we determined that zero-priced transactions were not ''sales'' within the meaning of the antidumping law because the zero-priced samples were used for product evaluation purposes rather than commercial consumption. In the *Final Results of the First Review,* we indicated that *PTFE from Japan* was not applicable because there was no evidence on the record that Kolon's U.S. samples were destroyed or rendered unusable. (*See Final Results of First Review*, at 42841.)

However, the record in these reviews demonstrates that Kolon provided the zero-priced samples for product evaluation and testing purposes rather than commercial consumption. Kolon stated that its one shipment of zero-priced samples during the third review was used for product testing. Moreover, we find that record evidence shows that like PTFE resin, the nature of PET film

is such that once it has been tested, it cannot be re-used. Therefore, consistent with *PTFE from Japan,* we did not include Kolon's zero priced samples in our analysis.

Comment 14: Petitioners contend that Kolon incorrectly used home market adjustments applicable to other reviews in compiling its second and third review responses. Petitioners contend that such a methodology results in inconsistencies.

Kolon contends that it did not revise sales data that it had reported in previous questionnaires in order to avoid inconsistencies from one review to the next.

Department's Position: We disagree with petitioners. It is the Department's longstanding practice to base USP and FMV price comparisons on reasonably contemporaneous sales of similar merchandise. (*See Certain Forged Steel Crankshafts from the United Kingdom,* 56 FR 5975, 5976 (February 14, 1991).) In compliance with our instructions, during the second review Kolon reported data for its sales for the period from December 1991 through July 1993. For the third review, in order to ensure contemporaneous matches, we requested data on sales for the period December 1992 through July 1994. Kolon complied with our request and did not make any revisions to the sales and adjustment data that is had previously reported in prior reviews. Because revising these data previously submitted would result in inconsistencies for identical sales, we determine that Kolon's approach is a reasonable methodology to avoid such inconsistencies.

Comment 15: Petitioners content that Kolon has incorrectly omitted labor and overhead expenses from its calculation of home market packing expenses. Petitioners contend that this error results in an understatement of FMV.

Kolon contends that its cost accounting system does not permit it to retrieve the labor and overhead costs attributable to packing.

Department's Position: We disagree with the petitioners. In Kolon's cost accounting system, because packing and labor costs for PET film are recorded in a single cost center, Kolon cannot separate the specific amount of labor and overhead expenses that are attributable to packing from the labor and overhead expenses that are attributable to the production of PET film. Moreover, since the merchandise that Kolon sold in the home market and the United States is identical, the labor and overhead expenses attributable to packing (were Kolon able to isolate them) would have no effect upon the calculations.

Comment 16: Petitioners contend that expenses associated with replacing defective film for Kolon's home market customers do not qualify as indirect selling expenses. Furthermore, rather than directly-related selling expenses, petitioners argue that these replacement shipments should be included in Kolon's home market sales listing.

Kolon argues that, consistent with past practice, the Department properly treated the costs associated with defective film as indirect selling expenses.

Kolon contents that it reported the movement expenses incurred on its ESP transactions with as much specificity as possible.

Department's Position: We disagree with the petitioners. The cost of replacing defective film is properly classified as a warranty cost rather than as new sale since these expenses are associated with replacing defective merchandise that had previously been sold. Kolon's accounting records do not separately record the costs for replacing defective film. Because the warranty expenses can not be isolated to specific sales, Kolon properly treated these expenses as indirect selling expenses. (*See, e.g., Color Television Receivers from Korea; Final Results of Antidumping Duty Administrative Review,* 51 FR 41365, 41377 (November 14, 1986).)

Comment 17: Petitioners argue that Kolon should be required to report Korean inland freight on a transaction-specific basis where Kolon's accounting records would permit such reporting. Petitioners contend that for certain exporter's sales price (ESP) transactions, Kolon could provide transaction-specific movement expenses.

Kolon contents that it reported the movement expenses incurred on its ESP transactions with as much specificity as possible.

Department's Position: We disagree with the petitioners. We accept Kolon's approach of allocating movement expenses as reasonable. Generally, the Department will accept a party's alternative methodology for allocating expenses if the party's normal accounting records do not permit it to provide data in the format requested and the party provides data in a manner that approaches the Department's preferred methodology as close as its records will allow. We have stated that we will allow this alternative methodology as long as we determine that it is reasonable. (*See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany,* 56 FR 31692, 31715 (July 11, 1991). In calculating its U.S. movement expenses Kolon did not use a single average expense for inland freight. Kolon attempted to match each ESP sale to the particular entry. Since ESP merchandise was sold from inventory, however, Kolon could not normally tie a particular ESP sale to an individual entry. Therefore, Kolon allocated movement expenses to the particular group of entries on which that merchandise could have entered. We verified Kolon's data and have no evidence that Kolon's methodology is unreasonable.

Comment 18: Petitioners argue that to the extent that the lower U.S. interest rate was available to the borrower, the Department should use that rate to calculate Kolon's home market credit expense. Petitioners assert that the Department should follow the precedent established in *LMI La Metalli Industriale, S.p.A.* v. *United States,* 912 F.2d 455 (Fed. Cir. 1990), (*LMI*) wherein the Department applied the lowest rate available to the borrower to calculate U.S. and home market interest expenses.

Kolon contends that U.S. dollar interest rates only measure the time value of money for dollars. Kolon argues that the U.S. interest rate cannot be used to determine the opportunity cost of a delayed payment in another currency, such as Korean won.

Department's Position: We disagree with the petitioners. We have used Kolon's calculation of U.S. and Home market credit expenses in these final results because Kolon's calculation of credit expenses is consistent with 'reasonable business behavior' and because we find that Kolon's actual borrowing experience is the best indicator of Kolon's cost of extending credit. *LMI* requires us to use 'usual and reasonable business behavior' to calculate credit expenses. Kolon based its calculation of both home market and U.S. credit expenses on its actual borrowings in the home market and the United States. In the home market, Kolon used the interest expenses incurred in Korea to represent its interest expense. In the United States, Kolon used the interest rate charged on borrowings by its U.S. subsidiary because the U.S. subsidiary was the entity that bore the cost of delayed payment from the customer.

Comment 19: Petitioners argue that Kolon should be required to provide customer- or transaction-specific U.S. rebates where such information is available in Kolon's accounting records. Petitioners contend that the Department should apply second-tier best

information available to those sales for which Kolon has reported rebates, but did not quantify the rebate on a transaction- or customer-specific basis.

Kolon contends that it did not provide transaction-specific rebates because such a methodology would not capture rebates that were granted after the preparation of the response. Kolon contends that its methodology of dividing total rebate expense during the POR by total PET film sales is not distortive, and was adopted so that Kolon would not understate its rebate expense.

Department's Position: We agree with petitioners that our normal policy is to calculate discounts or rebates on a transaction- or customer-specific basis. (*See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et. al.*, 58 FR 39729, 39762 (July 26, 1993). In reporting its rebate expense for the first review of this order, however, Kolon discovered that a number of rebates were paid several months after Kolon filed its questionnaire response for that review. To avoid understating its rebate expenses in these reviews, Kolon divided the total rebate amount granted on PET film sold during the POR by the total U.S. sales of PET film during the period. Because we did not ask Kolon to provide customer-specific rebates, and because there is no evidence on the record suggesting that Kolon's allocation of rebates is manipulative, we have used Kolon's calculation of rebate expense in these reviews.

Comment 20: Petitioners contend that the Department should make an adjustment to PP for post-sale warehousing expenses incurred on Kolon's PP sales.

Kolon contends that the Department's normal practice is to treat post-sale warehousing expense as direct only if the expense can be tied to particular sales. Kolon asserts that in this case, the after-sale expense does not vary with specific sales. Consistent with past practice, Kolon argues that the Department should treat these warehousing expenses as indirect.

Department's Position: We disagree with the petitioners. During the PORs Kolon maintained a warehouse as its Korean factory. The expenses associated with maintaining that warehouse were fixed and did not vary with individual sales. Accordingly, we properly treated these expenses as indirect selling expenses. *See Professional Electric Cutting Tools and Professional Electric Standing/Grinding Tools from Japan: Final Determination of Sales at Less Than Fair Value*, 58 FR 30144, 30147–30148 (May 26, 1993).

Comment 21: Petitioners contend that in its margin calculations the Department overstated the value of STS Corporation's (STC) further-processed sales by using the wrong variable to represent the quantity sold.

Department's Position: We agree and have adjusted our calculations accordingly.

Comment 22: Cheil contends that the Department should use the transfer price paid to a related supplier to represent the material cost of EG in the Department's second record period calculations. Cheil contends that Departmental practice is to accept transfer prices where direct or indirect ownership is less than 50 percent between buyer and seller. Cheil notes that the equity interest between Cheil and its supplier of EG was much less than 50 percent, and asserts that there is no evidence that Cheil had control over its suppliers.

Petitioners claim that the Department was correct in its determination that Cheil is related to one of its suppliers of EG and that the Department correctly adjusted Cheil's COP/CV calculations to reflect its supplier's cost of producing EG.

Department's Position: We agree with petitioners that Cheil is related to one of its suppliers of EG. Section 773(e)(4)(F) of the Tariff Act of 1930, as amended, defines ''related parties'' as ''two or more persons directly or indirectly controlling, *controlled by*, or under common control with, any person'' (emphasis added). Cheil has stated that it was a member of the Samsung Group, which is a group of companies under common management control. (*See* Cheil September 27, 1993 Questionnaire Response at Exhibit 1, *E.I. Dupont de Nemours, et. al.* v. *United States*, 841 F. Supp. 1237, 1247–48 (CIT 1993).) The Samsung Group owns more than 50 percent of Cheil's supplier of EG. By virtue of these relationships, we consider that both Cheil and its supplier are under common control by the Samsung Group. Therefore, they are related parties within the meaning of § 773(e)(4)(F).

Based on this relationship, we tested the transactions between Cheil and its related supplier of EG. During verification we collected a schedule that reported the production costs of the related supplier. The schedule indicated that the product cost of EG exceeded the average price paid by Cheil. (See Memorandum to Chris Marsh from Art Stein, p.3, September 7, 1995.) Accordingly, consistent with our general practice, we relied on the supplier's cost as the value for EG in PET film production.

Comment 23: Cheil contends that the Department should subtract its short-term interest income from its interest expense to derive Cheil's net interest expense. Cheil asserts that the record indicates that its interest income was clearly short-term in nature. Cheil contends that the methodology which it employed in these reviews to derive net interest expense is identical to that which was accepted by the Department in the fair value investigation and the first review of this case. Cheil contends that the Department may not depart from its established practice without explaining its basis for so long. Finally, Cheil asserts that there is no statutory or regulatory basis for denying interest income as an offset to interest expense because that interest income is restricted.

Petitioners claim that the Department correctly denied Cheil's claimed short-term interest income offset because the income generating assets were pledged as collateral for loans. Petitioners note that the Department's standard questionnaire allows the respondent to reduce its interest expense by any interest income earned on short-term investments of its working capital. Petitioner contends that the assets that were collateralized have, in effect, been transformed from short-term to long-term assets.

Department's Position: We have disallowed Cheil's claimed offset of short-term interest income against interest expense. We allow an offset for interest expense only with interest income from short-term investments. (*See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plat from Canada*, 61 FR 13815, 13819 (March 28, 1996).) While this interest income was classified as ''short-term'' in Cheil's financial statements, the financial statements indicate that the assets are ''pledged for collateral for borrowings,'' and ''are restricted as to use and are not subject to immediate withdrawal.'' (See notes (3) and (5) to Cheil's 1992 audited financial statements, Section A Questionnaire Response, September 27, 1993). Because these assets are not readily available to Cheil, we consider it inappropriate to treat them as short-term investments of working capital.

Comment 24: Cheil, Kolon, and STC contend that the Department should make a tax-neutral adjustment to U.S. price for home market taxes which were forgiven by virtue of export of the product to the United States.

Department's Position: We agree. In light of the CAFC's decision in *Federal Mogul Corp.* v. *United States*, 63 F. 3d 1572 (Fed. Cir. 1995) the Department

has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. We have adjusted our calculations accordingly.

Comment 25: Cheil contends that the Department should include indirect selling expenses in its calculation of COP.

Department's Position: We agree. Since indirect selling expenses were included in the price compared to COP, we have included indirect selling expenses in our calculation of COP.

Comment 26: Cheil contends that the Department should include duty drawback in the home market price that is compared to COP.

Department's Position: We agree. Duty drawback was applicable to Cheil's local export sales. Accordingly, when comparing the home market price to COP, we have included the duty drawback incurred on Cheil's ''local export'' sales.

Comment 27: Cheil contends that in calculating profit the Department should not use net price rather than gross price.

Department's Position: We agree. Because profit represents the arithmetic difference between sales revenue and the expenses incurred in realizing that revenue, we have used Cheil's home market price net of adjustments to calculate home market profit.

Comment 28: Cheil contends that in its second review period calculations, the Department used an incorrect amount for differences in merchandise (difmer). Cheil further contends that the Department erroneously added rather than subtracted difmer from FMV in the second review period. Finally, Cheil contends that since its difmer claim is denominated in Korean won, the Department should convert difmer into U.S. dollars prior to adding this amount to an FMV stated in dollars.

Department's Position: We agree and have adjusted our calculations accordingly.

Comment 29: Cheil contends that the Department should exclude direct selling expenses from its CV calculations because they are comprised exclusively of movement expenses.

Department's Position: We agree and have excluded these expenses from our calculation of CV.

Comment 30: Cheil and SKC contend that the Department double-counted packing in its CV calculations.

Department's Position: We agree and have revised our CV calculations to eliminate the double-counting of packing expenses.

Comment 31: Cheil, SKC, and STC contend that for U.S. sales which were compared to CV, the Department should make an addition to U.S. price for duty drawback. Cheil, SKC, and STC contend that this adjustment is necessary because they included these duties in the cost of manufacture (COM) component of CV.

Department's Position: We agree. Because Cheil, SKC, and STC included import duties in their calculation of COM, we have made an addition to U.S. price in these final results for duty drawback.

Comment 32: Kolon contends that for comparisons to CV, home market inventory carrying costs would be included in the pool of indirect selling expenses.

Department's Position: We agree. In these final results we included inventory carrying costs in the pool of indirect selling expenses.

Comment 33: SLC argues that the Department should accept the price charged to SKC by its related supplier of DMT and TPA. SKC notes that the equity interest between SKC and its supplier of DMT and TPA was much less than 50 percent, and asserts that there is no evidence that SKC has control over its supplier. SKC asserts that it demonstrated that its purchases of DMT and TPA were at arms-length. SKC also asserts that it purchased DMT and TPA at ''market prices.'' SKC further contends that a proper analysis of the cost of producing DMT and TPA provides no evidence that prices for these materials were below cost.

Petitioners contend that the Department correctly adjusted SKC's COP/CV calculations to reflect the supplier's cost of producing DMT and TPA. Petitioners contend that SKC and its supplier are related within the meaning of the antidumping law because an equity relationship exists between SKC and that supplier.

Department's Position: We agree with petitioners that SKC is related to one of its suppliers of DMT and TPA. During the PORS, SKC owned more than a 5 percent interest in its supplier. (*See* SKC October 12, 1993 questionnaire response at § VIII at 18, and SKC October 11, 1994 questionnaire response § VIII at 21.) Thus, pursuant to § 773(e)(4)(E) of the statute, these parties are related.

Based on this relationship, we tested the transactions between SKC and its related supplier. Analysis of these prices indicated that the transfer price between SKC and its supplier was less than the supplier's cost of producing DMT and TPA. During our verification of SKC, we met with the supplier, who furnished us with a copy of the detailed inventory statement from its financial statement. The inventory statement listed the total and per-unit cost of goods sold in the supplier's finished inventory.

SKC's supplier suggested that selling, general and administrative expenses, and interest expense should be based on the cost of goods sold (COGS) from the supplier's income statement. We calculated the full cost of producing DMT and TPA based on that methodology. We then compared these costs to the average monthly transfer prices reported on attachments 4 and 5 of SKC's March 13, 1995 submission, and determined that the supplier's cost for TPA exceeded the average transfer price charged to SKC. We also determined that the supplier's cost for DMT exceeded the average transfer price charged to SKC. (See Memorandum to Chris Marsh from Paul McEnrue, August 18, 1995, at page 3.) Accordingly, consistent with our general practice, we relied on the supplier's cost as the value for TPA and DMT purchased from related suppliers.

Comment 34: SKC asserts that if the Department does not use the prices charged to SKC from a related supplier, the Department should ensure that it relies upon a reasonable estimate of the supplier's cost. SKC argues that the Department used an erroneous rate for SG&A expenses in its analysis of the cost of producing DMT and TPA. SKC also asserts that the Department in its third review calculations erroneously compared the prices for DMT and TPA charged by all of its suppliers for these materials, rather than the prices paid by SKC to its related suppler.

Petitioners argue that the calculation methodology reflects a reasonable and proper exercise of the Department's discretion. Petitioners note that the methodology was proposed by SKC's related supplier in the second review. Petitioners maintain that SKC, unhappy with the results, proffered an alternative methodology in the third review to achieve more favorable results. Petitioners argue that the Department should reject SKC's request for changes since it failed to substantiate why a change in mehtodology would be appropriate.

Department's Position: For the third review we changed the SG&A rate used in our analysis of SKC's cost of DMT and TPA. Prior to verification, we requested supplemental information for the third review. Specifically; we asked SKC to document that its purchases of major inputs were at arm's length. Based on the information provided by SKC,

and for the reasons noted in response to *Comment 33,* we have revised our calculations of the supplier's cost of producing DMT and TPA for the third review period.

SKC also attempted to supply this information for the second review period. The information, however, was provided outside the time constraints of 19 CFR 353.31(a)(1)(ii), and was not provided in response to our request. Therefore, we did not use this untimely and unverified information in our second review period calculations.

Comment 35: SKC contends that if the Department does adjust RC costs, it should calculate a uniform cost for VCs and for RCs. SKC asserts that such an approach would be preferable to calculating the cost of RC as the full cost of the scrap film plus the cost of recycling.

Department's Position: As noted in our response to *Comment 1,* because we did not adjust RC costs, this issue is moot.

Comment 36: For the third review SKC argues that the Department should adjust its COM for certain period costs. SKC asserts that these period costs could not be determined until the end of its fiscal year. SKC assets that correction of these period costs is necessary in order to ensure that the Department's cost calculations reflect the most complete and accurate data available.

Department's Position: We agree, and for the final results of the third review we have adjusted the COM of all products to reflect the final, audited cost results.

Comment 37: SKC asserts that for the second that third reviews, the Department erroneously used CV for all U.S. sales that had sufficient home market comparisons. SKC asserts this error resulted from the Department's erroneous reading of SKC's product concordance.

Department's Position: We agree with SKC that we misread its product concordance in our preliminary results. In these final results we amended our calculations to match U.S. sales with home market sales of identical merchandise according to the concordance data provided by SKC.

Comment 38: SKC asserts that due to a spreadsheet formula error, the Department overstated the COM for products SM30/12 and SS01/12 in the second review.

Department's Position: We agree, and for the final results of the second review we have recalculated the COMs of these products.

Comment 39: SKC asserts that in these reviews the Department erroneously overstated home market profit by failing to include selling expenses in COP.

Department's Position: We agree. In these final results we have included SKC's selling expenses in our calculation of home market profit.

Comment 40: SKC contends that the Department erroneously included inventory carrying costs in CV for purchase price (PP) sales.

Department's Position: We agree with SKC that inventory carrying costs should be excluded from CV for comparisons with PP sales, and we have amended our calculations accordingly.

Comment 41: SKC asserts that the Department overstated CV financing expenses in these reviews by not including notes receivable in the calculation of the financing expense offset.

Department's Position: We agree and have added notes receivable in the offset used to calculate net finacning expenses for CV.

Comment 42. SKC asserts that for the third administrative review the Department erroneously used COMs for the second review for products SS01/12 and SS01/15.

Department's Position: We agree and have amended these final results accordingly.

Comment 43: STC asserts that the Department should exclude aberrant U.S. sales of obsolete merchandise from its margin analysis. STC contends that the CIT determined in *American Permac, Inc.* v. *the United States,* 783 F. Supp. 1421 (CIT 1992) that the Department had the discretion to exclude such U.S. sales.

Department's Position: We disagree with STC. As noted in the *Final Results of the First Review,* there is no provision in the statute for the exclusion of U.S. sales based upon those U.S. sales being ''aberrant'' or outside the ordinary course of trade (*See Final Results of First Review,* (42842).) Therefore, we have included these sales in our calculations.

Comment 44: STC asserts that if the Department includes sales of obsolete merchandise in its margin calculations for the third review, it should compare them to comparable home market sales, even if such sales were below cost. STC asserts that the legislative history of the sales-below-cost provision and the SAA accompanying the Uruguay Round support the use of below-cost sales of obsolete merchandise in the calculation of FMV.

Department's Position: We disagree with STC. As explained in our preliminary determination, all comparable home market sales were excluded because they were below cost. Section 773(b) of the Act explicitly mandates the exclusion of below cost sales if such sales have been made in substantial quantities over an extended period of time and are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. Because the language of the statute unambiguously requires the exclusion of all below cost sales that have satisfied the listed criteria, it is unnecessary to resort to the legislative history for further guidance. *See Davis* v. *Michigan Dep't. of Treasury,* 489 U.S. 803, 808, n.3 (1989) (''Legislative history is irrelevant to the interpretation of an unambiguous statute.'').

Moreover, it is a primary tenet of statutory construction that, if possible, legislative history must be read to be consistent with the meaning of a clear statutory mandate. *See* Sutherland Stat. Const. § 48.06 (5th ed. 1992). Therefore, the references to obsolete and end-of-model year merchandise in the legislative history of the COP provision merely provide examples of instances when below cost sales may not satisfy the statute's criteria of being made in substantial quantities over an extended period of time and at prices which permit recovery of costs.

Therefore, because we determined that STC's below-cost sales satisfied the statutory criteria for exclusion, we complied with the clear statutory mandate to disregard STC's below cost sales, including these sales of obsolete merchandise. When necessary, we have used CV, in accordance with section 773(b).

Comment 45: STC contends that the Department should correct its calculation of profit for value-added sales by adjusting for movement expenses.

Department's Position: We agree and have adjusted our calculations accordingly.

Comment 46: STC contends that for third period ESP sales compared to CV, the Department should include inventory carrying costs in the pool of indirect selling expenses.

Department's Position: We agree that inventory carrying costs should be included in the pool of indirect selling expenses for the calculation of CV when used as the comparison for ESP sales. We have adjusted our calculations accordingly.

Final Results of Review and Revocation in Part

Upon review of the comments submitted, the Department has determined that the following margins exist for the periods indicated:

Company	Period	Margin (percent)
Cheil	92–93	0
Cheil	93–94	0.01
Kolon	92–93	0.11
Kolon	92–93	0.12
SKC	92–93	5.89
SKC	93–94	0.52
STC	92–93	0.47
STC	93–94	0.93

Based upon the information submitted by Cheil during these reviews and the first administrative review, we further determine that Cheil has met the requirements for revocation set forth in § 353.25(a)(2) and § 353.25(b) of the Department's regulations. Cheil has demonstrated three consecutive years of sales at not less than fair value and has submitted the certifications required under 19 CFR 353.25(b)(1). The Department conducted a verification of Cheil as required under 19 CFR 353.25(c)(2)(ii).

On the basis of no sales at less than FMV for a period of three consecutive years, and the lack of any indication that such sales are likely, the Department concludes that Cheil is not likely to sell the merchandise at less than FMV in the future. Therefore, the Department is revoking the order with respect to Cheil.

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions concerning each respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed firms will be the rates outlined above for the third review period except for Cheil and Kolon; because Kolon's weighted-average margin is *de minimis,* its cash deposit rate will be zero percent; because we are revoking Cheil, no cash deposit will be required for Cheil; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 4.82 percent, the all-others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 26, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–17159 Filed 7–3–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–489–501]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey in response to a request by the petitioners.[1] This review covers shipments of this merchandise to the United States during the period May 1, 1994, through April 30, 1995.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the differences between the United States price and NV.

Interested parties are invited to comment on the preliminary results. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner or Magd Zalok, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1673 or (202) 482–4162, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On May 10, 1995 (60 FR 24831), the Department published in the Federal Register a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on *Certain Welded Carbon Steel Pipe and Tube from Turkey* covering the period May 1, 1994, through April 30, 1995 (58 FR 53709). In accordance with 19 CFR 353.22(a)(1), in May 1995, the petitioners requested a review of the following producers and exporters of certain welded carbon steel pipe and tube: (1) The Borusan Group [2] (Borusan); (2) Mannesmann-Sumerbank Boru Industrisi T.A.S. (Mannesmann); (3) Yucelboru Ihracat, Ithalat ve Pazarlama A.S./Cayirova Boru Sanayi ve Ticaret A.S. (Yucelboru); and (4) Erbosan

[1] Allied Tube & Conduit and Wheatland Tube Company.

[2] Including Borusan Birlesik Boru Fabrikalar A.S., Kartal Boru Sanayi ve Ticaret A.S., and Borusan Ihracat Ithalat ve Dagitim A.S.

Erviyas Boru Sanayii ve Ticaret A.S. (Erbosan). On June 15, 1995, the Department published a notice of initiation of this antidumping duty administrative review (60 FR 31447). The Department is conducting this administrative review in accordance with section 751 of the Act.

On June 30 and November 13, 1995, respectively, Yucelboru and Mannesmann stated that they did not have any shipments during the period of review (POR). In November 1995, Borusan and Erbosan submitted responses to the Department's September 12, 1995, questionnaire. We issued supplemental questionnaires to Borusan and Erbosan in May 1996. Responses to these questionnaires were received in June 1996.

On January 16, 1996, the petitioners alleged that Borusan made sales at below its cost of production (COP). On May 3, 1996, we initiated an investigation of sales below cost. In June 1996, Borusan submitted a response to the Department's May 23, 1996, cost questionnaire.

Scope of the Review

The products covered by this review include circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe application. All carbon steel pipes and tubes within the physical description outlined above are included in the scope of this review, except for line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Facts Available

In November 1995, we received a questionnaire response from Erbosan. In addition, Erbosan responded to a supplemental questionnaire in June 1996. In its responses, Erbosan did not provide: (1) The data necessary for the Department to quantify the cost attributable to physical differences in its U.S. and home market merchandise; (2) U.S. and home market packing expenses; and (3) duty drawback amounts.

Section 776(a)(1) states that if necessary information is not available on the record, the Department ''shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Section 782(e) provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties. Accordingly, in using the facts available, the Department may disregard information submitted by a respondent if any of the five criteria has not been met.

Due to the above-referenced omissions, we have determined that Erbosan's response is so incomplete that it cannot serve as a reliable basis for calculating dumping margins for these preliminary results (section 782(e)(3) of the Act). Therefore, pursuant to section 776(a) of the Act, we are using facts available to calculate a margin for Erbosan.

The Department must then determine whether an adverse inference is warranted. Section 776(b) of the Act provides that, where the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from (the Department) * * * (the Department) may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.''

Despite there being insufficient information to calculate a preliminary margin, we believe that Erbosan has cooperated to the best of its ability in supplying the requested information in this review. Therefore, we are not using an adverse inference in selecting from among the facts otherwise available (*see* section 776(b) of the Act).

Erbosan is a new respondent that has not been investigated before. Therefore, its past entries have been subject to the ''All Others'' rate from the original investigation. We have determined that continued use of the rate is warranted as a cooperative facts available rate for purposes of these preliminary results. Accordingly, we have assigned to Erbosan a margin of 14.74 percent, the ''All Others'' rate from the original investigation.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA), provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* H. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1996).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as facts available, the Department will disregard the margin and determine an appropriate margin (see, e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review (61 FR 6812, 6814, February 22, 1996)) (where the Department

disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this case there are no circumstances present to indicate that the selected margin is not appropriate to use as facts available.

Although we are using facts available for the preliminary results, we intend to provide Erbosan an opportunity to submit the missing information referenced above as part of a response to another supplemental questionnaire. If Erbosan's reported information is accurate, complete and verified, we will use such information in the final results.

Product Comparisons

In accordance with section 777A(d)(2) of the Act, we calculated for Borusan transaction-specific Export Prices (EPs) for comparison to either weighted-average NVs or constructed values. The EPs and NVs were calculated and compared by product characteristics and levels of trade. For price to price comparisons, we compared identical merchandise, where possible. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar comparisons based on the characteristics listed in the Department's antidumping questionnaire. We excluded certain products in the home market from our analysis because there were either missing values or because the merchandise was not part of the foreign like product.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the SAA accompanying the URAA, at 829–831, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different levels of trade (see also, Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy (61 FR 30326, June 14, 1996) (Pasta from Italy)).

In accordance with section 773(a)(7)(A) of the Act, if sales at different levels of trade are compared, the Department will adjust the normal value to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and the level of trade of the normal value sale. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which normal value is determined.

In implementing these principles in this case, the Department's first task was to obtain information about the selling activities of the producers/exporters. Information relevant to level of trade comparisons and adjustments was requested of Borusan in our May 1996 supplemental questionnaire. We asked Borusan to establish any claimed levels of trade based on the selling functions provided to each proposed customer group, and to document and explain any claims for a level of trade adjustment.

Our review of Borusan's submission shows that it has identified levels of trade based on its selling activities by customer categories and channels of distribution. In order to confirm whether separate levels of trade actually existed within or between the U.S. and home markets, we reviewed the selling functions attributable to the levels of trade claimed by Borusan. Pursuant to section 773(a)(1)(B)(i) of the Act, and the SAA at 827, in identifying levels of trade for directly observed export price and normal value sales, we considered the selling functions reflected in the starting price, before any adjustments. In reporting selling functions, whenever sales within a level of trade were made by or through an affiliated company or agent, Borusan ''collapsed'' the affiliated parties before considering the functions performed.

The selling functions and activities examined for each reported level of trade were: (1) Inventory maintenance; (2) technical services; (3) warranty services; (4) customer advice and product information; (5) agent coordination of production and delivery; (6) general vs. speciality sales staff; (7) delivery arrangements; (8) sales from warehouse vs. direct sales; and (9) direct advertising. We did not consider trade discounts as a selling function (see Pasta from Italy).

In reviewing the selling functions reported by Borusan for each claimed level of trade, we considered all types of selling functions, both claimed and unclaimed, that had been performed. Where possible, we further examined whether the selling function was performed on a substantial portion of sales within the relevant level of trade. In analyzing whether separate levels of trade exist in this review, we found that no single selling function in the pipe and tube industry was sufficient to warrant a separate level of trade (see, Notice of Proposed Rulemaking and Request for Public Comments (61 FR 7307, 7348, February 27, 1996)).

In determining whether separate levels of trade existed in or between the U.S. and home markets, the Department considered the level of trade claims of Borusan, but the ultimate decision was based on the Department's analysis of the selling functions associated with the levels of trade reported by Borusan.

For Borusan, we determined that there is one U.S. level of trade and three home market levels of trade, one of which we determined to be identical in aggregate selling functions to that found in the United States. We compared sales at the sole level of trade in the U.S. market to sales at the identical home market level of trade. If no match was available at the same level of trade, we compared sales at the sole level of trade in the U.S. market to sales at the next most similar home market level of trade. We then examined whether a level of trade adjustment was appropriate for Borusan when comparing sales at its U.S. level of trade to sales at the two non-identical home market levels of trade.

To determine whether a level of trade adjustment was necessary, we examined, on a monthly basis, the prices of comparable product categories, net of all adjustments, between sales at the one identical home market level of trade and sales at each of the two non-identical home market levels of trade. We found a consistent pattern of price differences between sales at these levels of trade. Therefore, for non-identical level of trade matches, we made a level of trade adjustment based on the weighted-average difference between the prices of the product at the identical home market level of trade and each of the products at the two non-identical home market levels of trade in the given month. If no match was found, we compared EP to constructed value.

Fair Value Comparisons

To determine whether sales of pipe and tube to the United States were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Turkey experienced an inflation rate of over 75 percent during the POR, as measured by the wholesale price index published in International Financial Statistics. Accordingly, to avoid the distortions caused by the effects of this level of inflation on prices, we limited our comparisons to sales in the same month and did not apply the Department's 90/60 day rule.

Export Price

For Borusan, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and Constructed Export Price (CEP) methodology was not otherwise warranted based on the facts of this investigation.

We based EP on prices to unaffiliated purchasers in the United States. We made deductions from the starting price (gross unit price), where appropriate, for foreign inland freight, foreign inland insurance, international freight and charges. We recalculated credit expenses due to errors in Borusan's credit methodology. Additionally, we added countervailing duties and duty drawback. We disallowed Borusan's claimed value-added tax drawback because no statutory authority exists for such an adjustment.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Borusan's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since Borusan's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. We calculated NV as noted in the ''Price to Price Comparisons'' and ''Price to CV Comparisons'' sections of this notice.

Cost of Production Analysis

Based on the petitioner's allegation, the Department found reasonable grounds to believe or suspect that Borusan's sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Borusan made home market sales during the POR at prices below its COP within the meaning of section 773(b) of the Act.

A. Calculation of COP

We calculated the COP based on the sum of Borusan's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. As noted above, we determined that the Turkish economy experienced significant inflation during the POR. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Borusan submit monthly production costs incurred during each month of the POR. For a small number of sales, Borusan did not report production costs. These sales were not matched to any U.S. sales. We therefore excluded these sales from our analysis. We calculated a simple-average cost for each product after indexing the reported monthly costs of manufacturing during the POR to an equivalent currency level using the wholesale price index for Turkey. The simple-average cost of manufacturing was then restated in the currency value of each respective month and used to calculate monthly COP and CV for each product. We relied on Borusan's submitted costs except in the following specific instances where the reported costs were improperly valued:

(1) Borusan reduced its reported coil costs by inventory holding gains. Our current cost methodology for economies with significant inflation requires valuing any materials used to produce the subject merchandise at the average purchase price of those materials during the month of shipment. We therefore adjusted coil costs by removing these holding gains.

(2) Borusan reported interest expenses which reflect a deduction for foreign exchange gains. We adjusted these interest expenses by excluding the foreign exchange gains since Borusan did not describe the nature of the transactions giving rise to the gains.

B. Test of Home Market Prices

We used Borusan's adjusted monthly COP amounts and the wholesale price index from the government of Turkey's State Institute of Statistics to compute an annual weighted average COP for the POR. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and direct selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregarded the below-cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act). Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(a) of the Act.

We found that, for certain pipe and tube products, more than 20 percent of Borusan's home market sales were sold at below the COP. Further, we did not find that the prices for these sales provided for the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1). For those pipe and tube products for which there were no above-cost sales in the ordinary course of trade, we compared export prices to CV.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Borusan's cost of materials, fabrication, SG&A and U.S. packing costs as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A), we based SG&A and profit on the actual amounts incurred and realized by Borusan in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We calculated CV based on the methodology described in the calculation of COP above. For selling expenses, we used the weighted-average home market selling expenses.

Price to Price Comparisons

For those comparison products for which there were sales at prices above the COP, we based NV on home market prices. For Borusan, we calculated NV based on FOB mill/warehouse or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (see discussion below regarding these sales). We made deductions, where appropriate, from the starting price for inland freight, pre-sale warehouse expense, discounts, and rebates. We recalculated credit expenses to correct for missing payment dates.

Additionally, we added late payment charges. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

In addition, we adjusted for differences in the circumstances of sale, in accordance with section 773 (a)(6)(C)(iii) of the Act. These circumstances included differences in imputed credit expenses. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We calculated simple average variable and total costs of manufacturing by product after indexing the reported monthly costs using the wholesale price index for Turkey. We then indexed the average variable and total costs of manufacturing to restate them in the currency value of each respective month. The adjusted monthly variable costs of manufacturing for U.S. and home market products were then compared to arrive at the difference in merchandise adjustment. For a single U.S. product, where no costs were reported, we assigned the highest reported U.S. variable cost of manufacture as facts available. Where the difference in merchandise adjustment for any product comparison exceeded 20 percent, we based normal value on CV.

To determine whether Borusan's affiliated sales were made at arm's length, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct and indirect selling expenses, and packing (see the Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077, July 9, 1993)). We included those sales that passed the arm's length test in our analysis (see 19 CFR 353.45(a)).

Price to CV Comparisons

Where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. The benchmark rate is defined as the rolling average of the rates for the past 40 business days.

However, we believe that it is appropriate in this case to use actual daily exchange rates for currency conversion purposes, rather than the benchmark rate. As noted in Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996), the Department is continuing to examine the appropriateness of the currency conversion policy in situations where the foreign currency depreciates substantially against the dollar over the POI. In those situations, it may be appropriate to rely on daily exchange rates. When the rate of domestic price inflation is significant, as it is in this case, it is important that we use as a basis for NV home market prices that are as contemporaneous as possible with the date of the U.S. sale. This is to minimize the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales. For this reason, we have used the daily exchange rates for currency conversion purposes.

Further, section 773A(b) directs the Department to allow a 60 day adjustment period when a currency has undergone a sustained movement. Such an adjustment period is required only when the foreign currency is appreciating against the U.S. dollar. No adjustment period is warranted in this review, because the Turkish Lira generally remained constant or depreciated against the dollar during the POR.

Verification

On June 7, 1996, the petitioners requested that the Department conduct verification of all factual information submitted by the respondents upon which the Department relies in its final results. Although this request was untimely and therefore not in accordance with 19 CFR 351.307(v)(A), the petitioners stated that this request should not be rejected due to the fact that: (1) No verification has been conducted in a review of the order since the 1986–87 administrative review; (2) a sales below cost of production investigation had only recently been initiated; and (3) no response had been received on petitioners' request for a verification of the 1993–94 administrative review. The petitioners stated that the delay in the completion of the 1993–94 review had impeded their ability to timely assess the need for verification in this review.

Although the petitioners' request was untimely, we believe that in this case, good cause for verification exists pursuant to 19 CFR 353.36(a)(iii) since: (1) No verification has been conducted since the 1986–87 administrative review; (2) we expect that there will be significant post-preliminary results submissions of information; and (3) this review includes a company (Erbosan) that has never been subject to a verification. Therefore, pursuant to section 776(b) of the Act and 19 CFR 353.36, we plan to verify the sales and cost response of Borusan and the sales response of Erbosan (provided that Erbosan responds in full to the next supplemental questionnaire) in this administrative review.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period May 1, 1994, through April 30, 1995:

Manufacturer/exporter	Review period	Margin (percent)
Borusan	5/1/94–4/30/95	2.97
Erbosan	5/1/94–4/30/95	14.74
Mannesmann	5/1/94–4/30/95	[3] 23.12
Yucelboru	5/1/94–4/30/95	[4] 28.28

[3] No shipments subject to the review. Rate is from the last relevant segment of the proceeding in which the firm had shipments.
[4] Ibid.

Parties to the proceeding may request disclosure within 5 days of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentages stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 752(a)(2)(c) of the Act: (1) The cash deposit rates for Borusan and Erbosan will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis* within the meaning of section 733(b)(3) of the Act, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''All Others'' rate, as set forth below.

On March 25, 1993, the U.S. Court of International Trade (CIT), in *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993), and *Federal-Mogul Corporation* v. *United States*, 822 F.Supp. 782 (CIT 1993), decided that once an ''All Others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original ''All Others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain the ''All Others'' rate from the original investigation, the Department has determined that it is appropriate to adopt the ''New Shipper'' rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of litigation) as the ''All Others'' rate for the purposes of establishing cash deposits in all current and future administrative reviews. Because this proceeding is governed by an antidumping duty order, the ''All Others'' rate for the purposes of this review will be 14.74 percent, the ''All Others'' rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Date: June 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–17160 Filed 7–3–96; 8:45 am]

BILLING CODE 3510–DS-P

Duke University Medical Center; Notice of Decision on Applications for Duty-free Entry of Scientific Instruments

This is a decision 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). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

DECISION: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

REASONS: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following dockets.

Docket Number: 95–104. *Applicant:* Duke University Medical Center, Durham, NC 27110. *Instrument:* Stopped-Flow Spectrometer, Model SX.17MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. Date of Denial without Prejudice to Resubmission: March 4, 1996.

Docket Number: 95–105. *Applicant:* University of Washington, Department of Physiology & Biophysics, Box 357290, Seattle, WA 98195–7290. *Instrument:* Stopped-Flow Spectrometer, Model SX.17MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Date of Denial without Prejudice to Resubmission:* March 6, 1996.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–17161 Filed 7–3–96; 8:45 am]

BILLING CODE 3510–DS-P

National Oceanic and Atmospheric Administration

Dean John A. Knauss Marine Policy Fellowship; Open for Applications

SUMMARY: In 1979, the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, initiated a program to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The Fellowship program accepts applications once a year during the month of September. All applicants must submit an application to one of the state Sea Grant College Programs in their area.

FOR FURTHER INFORMATION CONTACT: Dr. Shirley J. Fiske, Director, National Sea Grant Federal Fellows Program, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, Maryland 20910, telephone (301) 713–2431 extension 148 or call your nearest Sea Grant program:

University of Alaska—(907) 474–7086
University of California—(619) 534–4440
University of Connecticut—(860) 445–3457
University of Delaware—(302) 831–2841
University of Florida—(904) 392–5870
University of Georgia—(706) 542–6009
University of Hawaii—(808) 956–7031
University of Illinois—(317) 494–3593
Louisiana State University—(504) 388–6710
University of Maine—(207) 581–1436
University of Maryland—(301) 405–6371
Massachusetts Institute of Technology—(617) 253–7131
University of Michigan—(313) 763–1437
University of Minnesota—(218) 726–8106
Mississippi-Alabama Sea Grant Consortium—(601) 875–9341
University of New Hampshire—(603) 862–3505
New Jersey Marine Science Consortium—(908) 872–1300
State University of New York—(516) 632–6905

University of North Carolina—(919) 515–2454
The Ohio State University—(614) 292–8949
Oregon State University—(503) 737–3396
University of Puerto Rico—(787) 832–3585
Purdue University—(317) 494–3593
University of Rhode Island—(401) 874–6800
South Carolina Sea Grant Consortium—(803) 727–2078
University of Southern California—(213) 740–1961
Texas A&M University—(409) 845–3854
Virginia Graduate Marine Science Consortium—(804) 924–5965
University of Washington—(206) 543–6600
University of Wisconsin—(608) 262–0905
Woods Hole Oceanographic Institute—(508) 457–2000 ext. 2665

SUPPLEMENTARY INFORMATION:

Dean John A. Knauss Marine Policy Fellowship; National Sea Grant College Federal Fellows Program

Purpose of the Fellowship Program

In 1979, the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, initiated a program to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The U.S. Congress recognized the value of this program and in 1987, P.L. 100–220 stipulated that the Sea Grant Federal Fellows Program was to be a formal part of the National Sea Grant College Program Act. The recipients are designated Dean John A. Knauss Marine Policy Fellows pursuant to 33 U.S.C. 1127(b).

Announcement

Fellows program announcements are sent annually to all participating Sea Grant institutions and campuses by the state Sea Grant Director upon receipt of notice from the National Sea Grant College Program Office (NSGCPO). A brochure describing the program is also available from the NSGCPO for distribution by both that office and the state Sea Grant programs.

Eligibility

Any student who, on September 30th of the year of application, is in a master's, doctoral or professional program in a marine related field from any accredited institution of higher education may apply to the NSGCPO through any state Sea Grant program.

Deadlines

Students must submit applications to the state Sea Grant Director, who will be the applicant's sponsor, by the date set by the Directors in their individual program announcement (usually early to mid-September). Applications are to be submitted to the NSGCPO by the sponsoring state Sea Grant Director, no later than close of business on September 30th of any given year.

The competitive selection process and subsequent notification will be completed by October 31st of any given year.

Stipend and Expenses

For 1997 a Fellow will receive an award of $30,000 which is distributed between salary (stipend) and living expenses in accordance with University guidelines. Other expenses covered are travel, moving costs, health insurance and institutional overhead.

Application

An application will include:

Personal and academic resume or curriculum vitae.
Personal education and career goal statement which emphasizes expectations from the experience in the way of career development. (not to exceed 2 pages)
No more than two letters of recommendation with at least one being from the student's major professor.
A letter of endorsement from the sponsoring state Sea Grant Director.
Copy of undergraduate and graduate student transcripts. Thesis papers are not desired.

It is our intent that all applicants be evaluated only on their ability, therefore letters of endorsements from members of Congress, friends, relatives or others will not be considered.

Placement preference in the Executive or Legislative Branches of the Government may be stated, and will be honored to the extent possible.

Selection Criteria

The selection criteria will include:

Strength of Academic Performance.
Communications Skills (both written and oral).
Diversity of Academic Background.
Work Experience.
Support of Major Professor.
Support of Sea Grant Director.
Ability to Work with People.

Selection

Applicants will be individually reviewed and ranked by a panel chaired by the Director of Federal Fellowships of the NSGCPO and include representation from (1) the Council of Sea Grant Directors, (2) the Office of the Assistant Administrator for Oceanic and Atmospheric Research, and (3) the current and possibly last past group of Fellows. The individuals representative of these groups will be chosen on a year by year basis according to availability, timing, and other exigencies. Selection of finalists by the panel will be done by the Panel Chair according to the criteria outlined above. After selection, the panel chair will group applicants into the two categories, legislative and executive, based upon the applicant's stated preference and/or judgment of the panel based upon material submitted. The number of fellows assigned to the Congress will be limited to 10.

Kurt Schrebile,

Executive Dir. OAR, Office of Oceanic and Atmospheric Research.

[FR Doc. 96–17154 Filed 7–03–96; 8:45 am]

BILLING CODE 3510–12–P

[I.D. 062696B]

Permits; Foreign Fishing

In accordance with a memorandum of understanding with the Secretary of State, the National Marine Fisheries Service publishes for public review and comment summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to operate in the Exclusive Economic Zone under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*). This notice concerns the receipt of an application from the Government of the Republic of Poland requesting authorization to conduct a joint venture in the Northwest Atlantic Ocean for Atlantic sea herring and Atlantic mackerel. The freezer trawler GRINWAL is identified as the vessel that will receive sea herring and mackerel from U.S. vessels. Send comments on this application to:

NOAA - National Marine Fisheries Service, Office of Fisheries Conservation and Management, 1315 East-West Highway, Silver Spring, MD 20910;

and/or to one or both of the Regional Fishery Management Councils listed below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906, 617/231–0422;

David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19901–6790, 302/674–2331.

For further information contact Robert A. Dickinson, Office of Fisheries Conservation and Management, (301) 713–2337.

Dated: June 27, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–17158 Filed 7–3–96; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, July 10, 1996.

LOCATION: Room 420, East West Towers, 4430 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 1998 Budget Request

The Commission will consider issues related to the Commission's budget for fiscal year 1998.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301) 504–0800.

Dated: July 1, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–17287 Filed 7–2–96; 2:09 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 3, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 28, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: NEW.

Title: William D. Ford Federal Direct Loan Program, Loan Discharge Application Documents.

Frequency: On Occasion.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 3,000.

Burden Hours: 1,500.

Abstract: These forms will serve as the means of collecting the information that the Department of Education requires in order to determine whether a direct loan borrower qualifies for a loan discharge based on school closure, false certification of student eligibility, or unauthorized signature.

Office of Elementary and Secondary Education

Type of Review: NEW.

Title: Title IV Innovative Program Strategies.

Frequency: Biennially.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 780.

Abstract: This form will be used by the Department as a means for collecting information on program effectiveness to report to Congress. This report requests information on the participation of students and the expenditure of funds.

[FR Doc. 96–17090 Filed 7–3–96; 8:45 am]

BILLING CODE 4000–01–P

Office of Special Education and Rehabilitative Services

Reauthorization of the Rehabilitation Act of 1973, as Amended

AGENCY: Department of Education.

ACTION: Notice of public meetings.

SUMMARY: The Assistant Secretary announces a series of public meetings to solicit comments from the public regarding needed improvements in the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*), to assist in the development of reauthorization legislation.

DATES: Meetings will be held in Oakland, California, on July 8, 1996, in Washington, D.C., on July 11, 1996, in Boston, Massachusetts, on July 23, 1996, in Atlanta, Georgia, on September 17, 1996, in Chicago, Illinois, on September 19, 1996, and in Bellevue, Washington, on October 29, 1996.

In addition, written comments will be accepted and must be received on or before October 29, 1996.

ADDRESSES: The meetings will be held at the following locations:

1. Oakland, California—Marriott City Center, Jewett Ballroom A & B, 1001 Broadway, Oakland, California.

2. Washington, D.C.—Wilbur J. Cohen Federal Building, 1st Floor Auditorium, 300 C Street, S.W., Washington, D.C.

3. Boston, Massachusetts—Thomas P. O'Neill, Jr. Federal Building, 1st Floor Auditorium, 10 Causeway Street, Boston, Massachusetts.

4. Atlanta, Georgia—Shepherd Center, Callaway Auditorium, Marcus Building, 2020 Peachtree Road, N.W., Atlanta, Georgia.

5. Chicago, Illinois—O'Hare Marriott Hotel, 8535 W. Higgens Road, Chicago, Illinois.

6. Bellevue, Washington—Red Lion Inn, 300 112th Street, S.E., Bellevue, Washington.

Individuals who cannot attend the meeting are invited to send in written comments. Written comments should be addressed to Fredric K. Schroeder, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3028, Mary E. Switzer Building, Washington, D.C. 20202–2531. Comments transmitted by facsimile should be sent to (202) 205–9772 or (202) 260–7527. Comments can be transmitted in an electronic format either through the electronic bulletin board system (BBS) of the Rehabilitation Services Administration (RSA) or through internet. The internet address is ''Rehab__Reauth@ed.gov''. The access number for the RSA BBS is (202) 205–5574 for low speed (2400 BPS or lower) modems and (202) 401–6174 for high speed (9600 BPS and higher) modems. Comments can also be transmitted to the RSA BBS through Fedworld via internet using the telnet command. Telnet to: ''Fedworld.gov''. All comments transmitted in an electronic format should be sent to the following RSA BBS mailbox: ''RSADPPES''. To facilitate the analysis of comments, electronic transmission of comments is preferred.

FOR FURTHER INFORMATION CONTACT: Persons desiring to participate in the meetings or seeking additional information should contact Beverlee Stafford, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3014, Mary E. Switzer Building, Washington, D.C. 20202–2550. Telephone (202) 205–8831. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5538.

SUPPLEMENTARY INFORMATION:

Need for Reauthorization

The Rehabilitation Act of 1973 (Act) was reauthorized in 1992. The current Act expires on September 30, 1997. The need for another reauthorization in 1997 provides an opportunity to review and revise the Act to strengthen Federal efforts to assist individuals with disabilities and to support the National Education Goal that, by the year 2000, every adult American will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Description of the Act

The Rehabilitation Act of 1973, as amended, contains eight titles. Section 2 of the Act specifies that the purposes of the Act are: (1) To empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society through comprehensive and coordinated state-of-the art programs of vocational rehabilitation, independent living centers and services, research, training, demonstration projects, and the guarantee of equal opportunity; and (2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of individuals with disabilities for meaningful and gainful employment and independent living.

Title I of the Act establishes The State Vocational Rehabilitation Services Program that supports the Federal-State partnership in providing vocational rehabilitation services to individuals with disabilities with the goal of gainful employment. The Act requires that, in the event services cannot be provided to all eligible individuals with disabilities who apply, States shall give priority to individuals with the most severe disabilities. Each State is required to define who is an ''individual with the most severe disabilities'' for services in that State. Each State vocational rehabilitation agency that is not a consumer-controlled independent commission primarily concerned with rehabilitation is also required to establish a State Rehabilitation Advisory Council to provide advice and guidance to the State agency to ensure that individuals with disabilities and other stakeholders have input in the agency's policies and practices. This title also includes the authorization for the State Client Assistance Program and the American Indian Vocational Rehabilitation Services Program.

Title II of the Act establishes the National Institute on Disability and Rehabilitation Research (NIDRR) and authorizes research and related activities. NIDRR administers a program of rehabilitation research, including research and training centers, rehabilitation engineering research centers, research and demonstration projects, field-initiated research projects, utilization and dissemination projects, innovative research grants, and career development grants.

Title III authorizes personnel training programs and special demonstrations. Training grants are authorized to assist in increasing the numbers of and skills of qualified personnel who provide services to individuals with disabilities. The training program supports pre-service training at degree granting institutions, experimental and innovative training, continuing education programs, in-service training for personnel of State vocational rehabilitation agencies, and training of interpreters for individuals who are deaf or deaf-blind.

The discretionary project authority under title III funds demonstration projects that focus on the service delivery needs of individuals with severe disabilities, including supported employment and transition from school-to-work services, projects for migratory workers with disabilities, and recreational programs for individuals with disabilities.

Title IV of the Act establishes the National Council on Disability. The National Council on Disability is an independent Federal agency whose duties include providing advice to Congress and the President on the development of programs under the Rehabilitation Act and reviewing and evaluating, on a continuing basis, all policies and programs for individuals with disabilities conducted or assisted by the Federal Government.

Title V contains various civil rights provisions and establishes the Access Board. The function of the Access Board is to develop accessibility guidelines and to ensure compliance with Federal statutes requiring accessibility for persons with disabilities. This title also authorizes the Protection and Advocacy of Individual Rights Program, which supports a system in each State to protect the human and legal rights of individuals with disabilities who need services that are beyond the scope of the State Client Assistance Program and who are not eligible for services from other protection and advocacy programs.

Title VI of the Act includes authorization for funding Projects With Industry and supported employment programs. The primary goal of the

discretionary Projects With Industry grant program is to expand job opportunities for individuals with disabilities in the competitive labor market. In order to develop a partnership between business, industry, labor, and the rehabilitation community, each project is required to have a Business Advisory Council to provide advice on available jobs and training requirements.

Title VI also includes a formula grant program to assist States in developing collaborative programs with public agencies and nonprofit organizations to provide training and other services leading to supported employment for individuals with the most severe disabilities.

Title VII of the Act was amended significantly in 1992. This title authorizes funding for comprehensive services for independent living, independent living centers, and independent living services for older persons who are blind or visually impaired. Each State must establish a State Independent Living Council that jointly prepares and submits the required State plan for independent living services.

A new title VIII was added to the Act in 1992. This title authorizes a variety of discretionary special demonstration and training programs.

Cooperation with Other Federal Agencies

The public meetings on the Act will be held in cooperation with the National Council on Disability and the Federal agencies that are responsible for the various civil rights provisions contained in title V of the Act. The Assistant Secretary encourages participants at the public meetings and respondents to the request for written comments to consider the provisions of titles IV and V of the Act in their deliberations, as well as those research, training, and service delivery programs contained in the Act that are administered by the Office of Special Education and Rehabilitative Services.

AVAILABILITY OF COPIES OF THE REHABILITATION ACT OF 1973, AS AMENDED: An electronic copy of the Act can be accessed through the RSA BBS by calling the following access number: (202) 205–9694. If you experience any difficulty in accessing the BBS, please contact either John Chapman at (202) 205–9290 or Teresa Darter at (202) 205–8444, co-system operators (sysops), for assistance. For those individuals unable to access the BBS, copies of the Act are available in regular print, large print, and computer diskette (WordPerfect 5.1 and ASCII formats) by calling (202) 205–8831. A limited number of copies in braille are also available.

MEETING INFORMATION: Meetings will be held in Oakland, California, Washington, D.C., Boston, Massachusetts, Atlanta, Georgia, Chicago, Illinois, and Bellevue, Washington. Individuals desiring to present comments at the meetings are encouraged to reserve a time on the agenda. Individuals will be allowed between five and seven minutes to present comments. The amount of time available will depend upon the number of individuals who request reservations. Commenters are encouraged to bring two copies of their proposed comments. Reservations will be accepted on a first-come, first-served basis. Given the level of response expected, individuals should make reservations as soon as possible. When making reservations, individuals must indicate the need for any special accommodations, including sign language interpreters. While reservations are not needed for those individuals who wish to attend the meetings but do not want to make formal comments, reservations are encouraged to facilitate the participant's access into the proceedings held in Federal buildings. The meetings are open to the public, and the meeting rooms and proceedings will be accessible for individuals with disabilities.

The meeting in Oakland, California, will be held on July 8, 1996, from 1:00 p.m. to 6:00 p.m. The location for the meeting is the Marriott City Center Hotel, Jewett Ballroom A & B, 1001 Broadway, Oakland, California. For reservations for the meeting in Oakland, California, please call Gilbert ''Doc'' Williams at (415) 437–7840.

The meeting in Washington, D.C., will be held on July 11, 1996, from 10:00 a.m. to 3:00 p.m. The location for the meeting is the Wilbur J. Cohen Federal Building, 1st Floor Auditorium, 300 C Street, S.W., Washington, D.C. Photo identification is required to enter the Federal building, and reservations are encouraged to facilitate access. For reservations for the meeting in Washington, D.C., please call Beverlee Stafford at (202) 205–8831.

The meeting in Boston, Massachusetts, will be held on July 23, 1996, from 10:00 a.m. to 3:00 p.m., at the Thomas P. O'Neill, Jr. Federal Building, 1st Floor Auditorium, 10 Causeway Street, Boston, Massachusetts. Participants will have to pass through a security check/metal detector for admittance into the Federal building. For reservations for the meeting in Boston, Massachusetts, please call Anthony Ruscio at (617) 223–4089.

The meeting in Atlanta, Georgia, will be held on September 17, 1996, from 10:00 a.m. to 3:00 p.m., at the Shepherd Center, Callaway Auditorium, Marcus Building, 2020 Peachtree Road, N.W., Atlanta, Georgia. For reservations for the meeting in Atlanta, Georgia, please call Diane Hart at (404) 331–2352.

The meeting in Chicago, Illinois, will be held on September 19, 1996, from 10:00 a.m. to 3:00 p.m., at the O'Hare Marriott Hotel, 8535 W. Higgens Road, Chicago, Illinois. For reservations for the meeting in Chicago, Illinois, please call Kathleen Niemi at (312) 886–8623.

The meeting in Bellevue, Washington, will be held on October 29, 1996, from 10:00 a.m. to 3:00 p.m., at the Red Lion Inn, 300 112th Street, S.E., Bellevue, Washington. For reservations for the meeting in Bellevue, Washington, please call Cecelia Cramer at (206) 220–7840.

(Authority: 29 U.S.C. 701)

Dated: June 28, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–17087 Filed 7–3–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center Financial Assistance Award

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of Noncompetitive Financial Assistance Action, Award of Cooperative Agreement.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.6(c)(2), the DOE, Morgantown Energy Technology Center (METC) gives notice of its plans to award a cooperative agreement to The South Carolina Energy Research & Development Center at the Clemson University, Clemson, South Carolina 29634–5180, in the amount of approximately $2,400,000, of which $400,000 will be funded by DOE in the first budget period. The total project period will be for an estimated three (3) years.

FOR FURTHER INFORMATION CONTACT: D. Denise Riggi, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880. Telephone: (304) 285–4241. Procurement Request No. 21–96MC33115.000.

SUPPLEMENTARY INFORMATION: The purpose of the agreement is to provide

financial assistance to the South Carolina Energy R&D Center for conducting the activities of the Waste Technology Center (WTC) which will facilitate the demonstrations of municipal solid waste disposal technologies at the U.S. Department of Energy Savannah River Site Subtitle D landfill near Aiken, South Carolina. The WTC will focus on technologies that produce value-added products cleanly, safely and economically, while reducing the volume of municipal solid wastes processed in landfills. The WTC will be co-located with the Savannah River Site Subtitle D landfill. By providing financial support, DOE expects to better satisfy the municipal solid wastes disposal needs of the DOE Savannah River Site, encourage development of technologies which will produce value-added products and reduce the volume of municipal solid wastes processed in landfills. The South Carolina Energy R&D Center is uniquely positioned to perform this activity due to its ongoing activities with municipal solid waste reduction, recycling, and energy production, and because of its established relationship with the entities participating in the establishment of the Savannah River Site Subtitle D landfill. The criterion in 10 CFR 600.6(c)(2), permits award of this noncompetitive action because the activities are being conducted by the applicant using its own resources and resources provided by third parties; and, DOE support will enhance the public benefits and DOE knows of no other entity which is conducting or planning to conduct such activities.

Issued: June 24, 1996.

James J. Grabulis,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 96–17118 Filed 7–3–96; 8:45 am]

BILLING CODE 6450–01–P

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: Secretary of Energy Advisory Board—Openness Advisory Panel.

DATES AND TIMES: Wednesday, July 24, 1996, 8:30 AM–4:30 PM.

PLACE: Capital Hilton Hotel, South American Room, 16th and K Streets, NW, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: David Cheney, Executive Director (Acting), 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7092.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee:

The purpose of the Openness Advisory Panel (Panel) is to provide advice to the Secretary of Energy Advisory Board (SEAB) regarding the current status and strategic direction for the Department's classification and declassification policies and programs, as well as other aspects of the Department's ongoing Openness Initiative. The Panel's work will help institutionalize the Department's Openness Initiative.

Tentative Agenda

8:30 AM–9:00 AM Opening Remarks
9:00 AM–9:30 AM The DOE Openness Initiative; The Classification System; Challenges and Issues
9:30 AM–10:00 AM Discussion
10:00 AM–10:15 AM Break
10:15 AM–10:30 AM Human Radiation Records Experience—Implications for Openness
10:30 AM–10:45 AM Discussion
10:45 AM–11:30 AM Invited Presentations
11:30 AM–12:00 Noon Discussion
12:00 Noon–12:30 PM Public Comment
12:30 PM–1:30 PM Lunch
1:30 PM–4:00 PM Discussion of a Work Plan for the Advisory Panel
4:00 PM Adjourn

A final agenda will be available at the meeting.

Public Participation

The Chairman of the Panel is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C. the Panel welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Panel will make every effort to hear the views of all interested parties. Written comments may be submitted to David Cheney, Executive Director (Acting), Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW, Washington, DC 20585.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on July 1, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–17117 Filed 7–3–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP93–198–005]

Alabama-Tennessee Natural Gas Company; Notice of Refund Report

June 28, 1996.

Take notice that Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) on June 5, 1996, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report summarizing a flow-through refund from Tennessee Gas Pipeline (Tennessee) dated May 13, 1996. The refund is being flowed through pursuant to Section 33.4(f) of the General Terms and Conditions of Alabama-Tennessee's FERC Gas Tariff, Second Revised Volume No. 1.

Alabama-Tennessee states that the refund relates to certain stranded upstream capacity Alabama-Tennessee had on Tennessee after implementation of FERC Order 636, the costs of which were collected from the customers shown on the Appendix B to the filing.

Alabama-Tennessee states that it is making this refund by way of a credit to the affected customers' May, 1996 invoices which will be submitted on or about June 10, 1996. Alabama-Tennessee is flowing through the entire amount received from Tennessee. A summary sheet setting forth the refund calculation is enclosed in Appendix A to the filing. Alabama-Tennessee requests that any necessary waiver be granted.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be file don or before July 8, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17073 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–998–001]

Cenerprise, Inc.; Notice of Filing

June 28, 1996.

Take notice that on June 19, 1996, Cenerprise, Inc. (Cenerprise), corporate successor to Cenergy, Inc. (Cenergy), filed an amendment to its application in Docket No. ER96–998–000 filed pursaunt to Section 205 of the Federal Power Act, Part 35 of the Commission's Regulations, and the Commission's Rules of Practice and Procedure, for an order approving certain changes to Cenerprise's Rate Schedule FERC No. 1 and changes to its Standards of Conduct.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17074 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1471–000]

Cleveland Electric Illuminating Company; Notice of Filing

June 28, 1996.

Take notice that on June 6, 1996, Cleveland Electric Illuminating Company tendered for filing an amendment to its June 1, 1996, filing in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17075 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–594–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

June 28, 1996.

Take notice that on June 25, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP96–94–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate three existing metering facilities located in San Juan County, New Mexico, as jurisdictional delivery points for delivery of natural gas under El Paso's blanket certificate issued in Docket Nos. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that it installed two metering facilities in connection with the construction and installation of various procession and treating facilities at the Blanco Plant and one metering facility in connection with the pigging facilities on El Paso's 16'' O.D. Blanco-Fruitland Line (Line No. 3200) to facilitate the delivery of pipeline quality gas to those facilities for use as fuel. El Paso further states that the Blanco Plant processing and treating facilities and Line No. 3200 have been abandoned by El Paso and are now owned by a different non-regulated entity; however, a need for pipeline quality gas as fuel at these facilities still remains. El Paso states that in order to facilitate the delivery of gas for fuel, El Paso now seeks authorization to utilize the three existing metering facilities as jurisdictional delivery points under a transportation arrangement and to charge its tariff rates for any deliveries of gas to such points.

El Paso states that pursuant to the spin-down of production-area facilities by El Paso to El Paso Field Services Company (Field Services) as described in El Paso's application at Docket Nos. CP94–183–000 and 001, Field Services acquired, among other things, the Blanco Plant processing and treating facilities and Line No. 3200. El Paso has been informed that Field Services will continue to need pipeline quality gas to be utilized as fuel at the transferred facilities.

El Paso states that the operation of the proposed delivery points at the Blanco Plant processing and treating facilities and the pigging operations on Line No. 3200 is not prohibited by El Paso's existing Volume No. 1–A Tariff. El Paso further states that it will provide interruptible transportation service to the proposed delivery points pursuant to an effective Transportation Service Agreement (TSA) between El Paso and El Paso Gas Marketing Company. In addition, El Paso states that it has sufficient capacity to accomplish the deliveries specified under the TSA without detriment or disadvantage to El Paso's other customers.

El Paso states that the volumes of natural gas to be transported through the proposed delivery points are:

(a) Blanco Plant Miscellaneous Operating Fuel No. 1—15.63 Mcf per day for an average day;

(b) Blanco Miscellaneous Operating Fuel No. 2—5.30 Mcf per day for an average day during those months when in use; and

(c) Dry Gas to Pig 16″ Wet Line—1,112 Mcf per day based on a peak day with approximately 2 flow hours total (only used when pigging of Line No. 3200 is necessary).

El Paso believes the delivery of gas through the existing metering facilities will have a negligible effect upon El Paso's peak day and annual deliveries based on its 1995 peak day transportation of 3,224,879 Mcf and a total annual transportation of 872,056,118 Mcf.

The request also states that El Paso's environmental analysis supports the conclusion that the operation of the existing metering facilities as jurisdictional delivery points will not be a major Federal action significantly affecting the human environment.

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 to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17076 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–587–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

June 28, 1996.

Take notice that on June 21, 1996, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP96–587–000 a request pursuant to Sections 157.205 and 175.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install a two-inch delivery tap and meter station in Jasper County, Texas under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to install a two-inch tap on its 16-inch line designated as TPL 64 to provide a new delivery point and meter station to serve Entex, Inc. (Entex), which in turn will serve Louisiana Pacific Company in Jasper County, Texas. All work will be within Koch Gateway's existing right of way. The estimated cost of construction is $21,861 and Entex will reimburse Koch Gateway for the actual cost of the construction.

Koch Gateway states that the installation of this delivery point is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers. The proposed delivery point will not have an effect on Koch Gateway's peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

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 to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17077 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–589–000]

Koch Gateway Pipeline Company; Notice of Application

June 28, 1996.

Take notice that on June 21, 1996, Koch Gateway Pipeline Company, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP96–589–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to acquire and operate by sale certain facilities in southeast Louisiana and offshore Louisiana, permission to abandon by sale certain offsystem/offshore facilities in offshore Louisiana, and a declaratory order disclaiming jurisdiction over certain facilities it will acquire from Southern, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Gateway to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17078 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1952]

Maverick County Water Control and Improvement District No. 1; Notice of Authorization for Continued Project Operation

June 28, 1996.

Maverick County Water Control and Improvement District No. 1 has not filed an application for a new or subsequent license for the Maverick County Project No. 1952 pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1952 is located on the Rio Grande River in Maverick and Kinney Counties, Texas.

The license for Project No. 1952 was issued for a period ending June 30, 1996. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA.

Notice is hereby given that an annual license for Project No. 1952 is issued to Maverick County Water Control and Improvement District No. 1 for a period effective July 1, 1996, through June 30, 1997, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take

place on or before June 30, 1997, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17079 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–53–000]

NE HUB Partners, L.P.; Notice of Site Visit for the Proposed NE Hub Tioga Storage Project

June 28, 1996.

On July 10 and 11, 1996, the Office of Pipeline Regulation staff will conduct a site visit with representatives of NE HUB Partners, L. P. of the locations related to the facilities proposed in the NE Hub Tioga Storage Project in Tioga County, Pennsylvania. All interested parties may attend. Those planning to attend must provide their own transportation.

Information about the proposed project is available from Mr. John Wisniewski, Project Manager, at (202) 208–1073.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17080 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–2183–000]

New York State Electric & Gas Corporation; Notice of Filing

June 26, 1996.

Take notice that on June 19, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35.12, as an initial rate schedule, an agreement with Virginia Electric and Power Company (VEPCO). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG request that the agreement become effective on June 20, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transaction under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and VEPCO.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 18 CFR 385.214). All such motions or protests should be filed on or before July 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17081 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–285–000]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 28, 1996.

Take notice that on June 25, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective July 25, 1996:

Second Revised Sheet Nos. 66–67.
Third Revised Sheet No. 124.
First Revised Sheet Nos. 125–128.

South Georgia states that it proposes to make the following revisions to the capacity release procedures of its Tariff to respond to shippers' requests: (1) to allow releasing shippers to post for competitive bid those offers currently not required by the Commission's regulations to be posted (i.e. prearranged deals for a month or less); (2) to provide for one business day to process prearranged, permanent releases of capacity; and (3) to change its posting deadlines from business days to calendar days for those offers that do not require manual intervention by South Georgia, at the releasing shipper's option. South Georgia proposes to make these changes effective on July 25, 1996.

South Georgia states that copies of this filing have been served on all shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street 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 18 CFR 385.214). All such motions or 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 the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17082 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–585–000]

Southern Natural Gas Company; Notice of Application

June 28, 1996.

Take notice that on June 20, 1996, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–585–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to abandon certain pipeline and appurtenant facilities in LaFourche, Jefferson, Plaquenmines, Terrebonne, St. Bernard and St. Charles Parishes, Louisiana, approximately 45 miles of jointly-owned pipeline located offshore Louisiana, as well as any interest in measurement and appurtenant facilities located thereon, and its Rate Schedule X–36 exchange service with Koch Gateway Pipeline Company, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in

determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17083 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–277–001]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 28, 1996.

Take notice that on June 25, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following corrected tariff sheet to become effective July 15, 1996:

First Substitute First Revised Sheet No. 278.

Southern states that the tariff sheet is being filed to correct an inadvertent error contained on First Revised Sheet No. 278 submitted by Southern as part of its filing made in the captioned docket on June 14, 1996.

Southern states that copies of this filing have been served on all shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17084 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–296–005]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 28, 1996.

Take notice that on June 25, 1996, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with the proposed effective date of March 14, 1996:

Third Substitute First Revised Sheet No. 253.

WNG states that it made a filing on June 17, 1996 in compliance with Commission order issued May 17, 1996 in Docket No. RP95–296–002. On Sheet No. 253 of that filing the phrase ''to WNG'' was inadvertently omitted. WNG states that the instant filing is being made to correct this omission.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the docket referenced above and on all jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., 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.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17085 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–2184–000, *et al.*]

New York State Electric & Gas Corporation, et al.; Electric Rate and Corporate Regulation Filings

June 26, 1996.

Take notice that the following filings have been made with the Commission:

1. New York State Electric & Gas Corporation

[Docket No. ER96–2184–000]

Take notice that on June 19, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35.12, as an initial rate schedule, an agreement with TransCanada Power Corp. (TransCanada). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to TransCanada and TransCanada will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 20, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and TransCanada.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Boise Cascade Corporation

[Docket No. ER96–2178–000]

Take notice that on June 18, 1996, Boise Cascade Corporation, organized under the laws of Delaware, submitted for filing pursuant to 18 CFR 35.12(b) initial rates for the sale of capacity and energy to Minnesota Power & Light Company (Minnesota Power). A copy of the filing has been served on Minnesota Power.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Cinergy Services, Inc.

[Docket No. ER96–2181–000]

Take notice that on June 19, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated March 1, 1996 between Cinergy, CG&E, PSI and National Gas & Electric L.P. (NG&E).

The Interchange Agreement provides for the following service between Cinergy and NG&E:

1. Exhibit A—Power Sales by NG&E
2. Exhibit B—Power Sales by Cinergy

Cinergy and NG&E have requested an effective date of June 24, 1996.

Copies of the filing were served on National Gas & Electric L.P., the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Long Island Lighting Company

[Docket No. ER96–2182–000]

Take notice that on June 19, 1996, Long Island Lighting Company (LILCO), tendered for filing service agreements entered into as of the following dates by LILCO and the following parties:

Date and Purchaser

5/10/96, TransCanada Power Corp.
5/10/96, NorAm Energy Services, Inc.
5/21/96, Northeast Utilities Service Company.

These service agreements supplement a Power Sales umbrella tariff accepted for filing on April 4, 1996 and made effective August 11, 1995 by the Commission in Docket No. ER95–1518–000.

In accordance with the policy set forth in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act,* 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part,* 65 FERC ¶ 61,081 (1993), LILCo requests the Commission to make the Agreements effective as of May 21, 1996, because service will be provided under an umbrella tariff and each service agreement is filed within 30 days after the commencement of service. In accordance with 18 CFR 35.11, LILCO has requested waiver of the sixty-day notice period in 18 CFR 35.2(e).

A copy of this filing was provided to the customers involved and to the New York State Public Service Commission.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Coral Power, L.L.C.

[Docket No. ER96–2185–000]

Take notice that on June 19, 1996, Coral Power, L.L.C. (Coral), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that Coral had completed all the steps for pool membership. Coral requests that the Commission amend the WSPP Agreement to include it as a member.

Coral requests an effective date of June 17, 1996, for the proposed amendment. Accordingly, Coral requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Illinois Power Company

[Docket No. ER96–2188–000]

Take notice that on June 20, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Minnesota Power Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 15, 1996.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER96–2189–000]

Take notice that on June 20, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 52526, tendered for filing firm transmission agreements under which Apogee Coal Company, d/b/a/ Arch of Illinois will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1996.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER96–2190–000]

Take notice that on June 20, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Industrial Energy Applications, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1996.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER96–2191–000]

Take notice that on June 20, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which PPG Industries, Inc. will take transmission service pursuant to its open access transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1996.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER96–2192–000]

Take notice that on June 20, 1996, Arizona Public Service Company (APS), tendered for filing revised estimated load Exhibits to APS-FERC Rate Schedule No. 225 between APS and Citizens Utilities Company (Citizens).

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on Citizens and the Arizona Corporation Commission.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER96–2193–000]

Take notice that on June 20, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing a Service

Agreement with Coral Power, L.L.C. (Coral) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to Coral.

NUSCO requests that the Service Agreement become effective sixty (60) days following the Commission's receipt of the filing.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER96–2194–000]

Take notice that on June 20, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and Duke/Louis Dreyfus L.L.C. (D/LD), dated June 14, 1996. This Service Agreement specifies that D/LD has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.,* Docket No. ER95–276–000 and allows GPU and D/LD to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of June 14, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: July 10, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. MDU Resources Group, Inc.

[Docket No. ES96–31–000]

Take notice that on June 20, 1996, MDU Resources Group, Inc. (MDU) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue up to 1,010,916 additional shares of Common Stock, par value $3.33 in connection with MDU's tax deferred compensation savings plan for non-bargaining unit employees. MDU further requests an exemption from the Commission's competitive bidding and negotiated placement requirements.

Comment date: July 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. MDU Resources Group, Inc.

[Docket No. ES96–32–000]

Take notice that on June 20, 1996, MDU Resources Group, Inc. (MDU) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue up to 743,661 additional shares of Common Stock, par value $3.33 in connection with MDU's tax deferred compensation savings plan for collective bargaining unit employees. MDU further requests an exemption from the Commission's competitive bidding and negotiated placement requirements.

Comment date: July 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. MDU Resources Group, Inc.

[Docket No. ES96–33–000]

Take notice that on June 20, 1996, MDU Resources Group, Inc. (MDU) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue up to 3,273,273 additional shares of Common Stock, par value $3.33 in connection with MDU's automatic dividend reinvestment and stock purchase plan. MDU further requests an exemption from the Commission's competitive bidding and negotiated placement requirements.

Comment date: July 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. MidAmerican Energy Company

[Docket No. ES96–34–000]

Take notice that on June 21, 1996, MidAmerican Energy Company (MidAmerican) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue and sell up to $500 million principal amount of bonds, notes, debentures, guarantees or other evidences of indebtedness of like kind to bonds, notes or debentures. MidAmerican further requests an exemption from the Commission's competitive bidding and negotiated placement requirements.

Comment date: July 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17070 Filed 7–3–96; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. ER96–2197–000, et al.]

Niagara Mohawk Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

June 27, 1996

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER96–2197–000]

Take notice that on June 20, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing, an amendment to its filing dated June 14, 1996, regarding the Marcy-South Facilities Agreement with the Power Authority of the State of New York (NYPA).

Copies of this filing were served upon NYPA and the Public Service Commission of New York.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER96–2195–000]

Take notice that on June 20, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between

GPU and Southern Energy Marketing, Inc. (SEM), dated June 17, 1996. This Service Agreement specifies that SEM has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co. Metropolitan Edison Co., and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and SEM to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of June 17, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Oklahoma Southwestern Electric Power Co.

[Docket No. ER96–2198–000]

Take notice that on June 20, 1996, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the Companies), tendered for filing a service agreement under which they will provide transmission service to Koch Power Services, Inc. under their point-to-point transmission service tariff.

The Companies state that a copy of the filing has been served on Koch Power Services, Inc.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Central Power and Light Company West Texas Utilities Company

[Docket No. ER96–2199–000]

Take notice that on June 20, 1996, Central Power and Light Company and West Texas Utilities Company, (jointly, the Companies), tendered for filing service agreements under which they will provide transmission service to Brazos Electric Power Cooperative, Inc. and to Koch Power Services, Inc. under their point-to-point transmission service tariff.

The Companies state that copies of the filing have been served on Brazos Power Marketing Cooperative, Inc., and on Koch Power Services, Inc.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER96–2200–000]

Take notice that on June 20, 1996, Commonwealth Edison Company (ComEd), tendered for filing new Schedule 8 and related changes to its PS–1 Tariff.

ComEd requests an effective date of June 21, 1996 and has therefore requested that the Commission waive the Commission's notice requirement. Copies of this filing have been served on the Illinois Commerce Commission and all customers served under ComEd's PS–1 Tariff.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER96–2201–000]

Take notice that on June 21, 1996, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Federal Energy Sales, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Federal Energy Sales, Inc. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission. *Northern Indiana Public Service Company,* 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of July 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER96–2202–000]

Take notice that on June 21, 1996, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a service agreement between SCS, as agent of the Southern Companies, and CNG Power Services Corporation for non-firm transmission service under the Point-to-Point Transmission Service Tariff of Southern Companies.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER96–2203–000]

Take notice that on June 21, 1996, New England Power Company filed a Service Agreement and Certificates of Concurrence with Aquila Power Corporation under NEP's FERC Electric Tariffs, Original Volume Nos. 5 and 6.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–2204–000]

Take notice that on June 21, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and South Carolina Public Service Authority (SCPSA). Duke states that the TSA sets out the transmission arrangements under which Duke will provide SCPSA non-firm transmission service under its Transmission Service Tariff.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER96–2205–000]

Take notice that on June 21, 1996, Arizona Public Service Company (APS), tendered for filing the following Agreements:

1. Amendment No. 3 to the Navajo Project Co-Tenancy Agreement
2. Amendment No. 4 to the Navajo Project Southern Transmission System Operating Agreement

As Operating Agent of the Navajo Project Southern Transmission System, APS has constructed the Yavapai 500 Kv Switchyard which will be interconnected with, and become part of, the Navajo Southern Transmission System. These Amendments establish interests of ownership in the Yavapai 500 Kv Switchyard as well as cost responsibilities relating to initial construction costs, capital improvements and O&M costs related to the Switchyard.

APS requests waiver of the Commission's Notice Requirements in 18 CFR 35.11 to allow for an effective date of June 20, 1996.

A copy of this filing has been served on the Arizona Corporation Commission, the Nevada Public Service Commission, Salt River Project Agricultural Improvement & Power District, Tucson Electric Power Company, the United States Bureau of Reclamation, and Nevada Power Company.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER96–2206–000]

Take notice that on June 21, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Xenergy, Inc. (Xenergy) for the sale of power at cost based rates to Xenergy for resale to retail customers participating in the New Hampshire Retail Access Pilot Program and other retail customers in the future. The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Xenergy and Xenergy will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 22, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Xenergy.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Carolina Power & Light Company

[Docket No. ER96–2207–000]

Take notice that on June 24, 1996, Carolina Power & Light Company (Carolina), tendered for filing separate Service Agreements executed between Carolina and the following Eligible Entities: Duke/Louis Dreyfus L.L.C., Stand Energy Corporation, Federal Energy Sales, Inc., DuPont Power Marketing, Inc., South Carolina Public Service Authority, Energy Transfer Group, L.L.C.; Aquila Power Corporation, Calpine Power Service Company, Central Illinois Public Service Company, AIG Trading Corporation, North Carolina Electric Membership Corporation, and Coral Power, L.L.C. Service to each Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Oklahoma

[Docket No. ER96–2208–000]

Take notice that on June 24, 1996, Public Service Company of Oklahoma (PSO), tendered for filing Amendment 3 to the Contract for Electric Service, dated April 20, 1995, between PSO and Northeast Oklahoma Electric Cooperative, Inc. (NEO). Amendment 3 provides for an additional point of delivery.

PSO seeks an effective date of June 25, 1996, and accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served on NEO and the Oklahoma Corporation Commission. Copies are also available for public inspection at PSO's offices in Tulsa, Oklahoma.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Electric Company

[Docket No. ER96–2209–000]

Take notice that on June 24, 1996, Commonwealth Electric Company (Commonwealth), tendered for filing a non-firm transmission service agreement between Commonwealth and New England Power Company (NEP). Commonwealth states that the service agreement sets out the transmission arrangements under which Commonwealth will provide non-firm transmission service to NEP under Commonwealth's FERC Electric Tariff, Original Volume No. 4, accepted for filing in Docket No. ER94–1518–000.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company

[Docket No. ER96–2210–000]

Take notice that on June 24, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. The filing consists of a TSA with West Texas Utilities Company (WTU) providing for firm power transmission service over the North HVDC, Interconnection. HL&P has requested a waiver to permit an effective date of June 12, 1996.

Copies of the filing were served on WTU and the Public Utility Commission of Texas.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Houston Lighting & Power Company

[Docket No. ER96–2211–000]

Take notice that on June 24, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. The filing consists of an economy energy and emergency power TSA with Coastal Electric Services Company (CESC) providing for the transmission of energy to be scheduled over the East HVDC Interconnection. HL&P has requested an effective date of June 21, 1996.

Copies of the filing were served on CESC and the Public Utility Commission of Texas.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Portland General Electric Company

[Docket No. ER96–2212–000]

Take notice that on June 24, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, an executed Service Agreement between PGE and Cinergy Services, Inc.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002). PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective June 1, 1996.

Copies of this filing were served upon Cinergy Services, Inc.

Comment date: July 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 96–17071 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11437–001–NC]

Hydro Matrix Partnership, Ltd.; Notice Ready for Environmental Analysis, Notice Requesting Interventions, Protests, and Comments, and Notice of Scoping Pursuant to the National Environmental Policy Act of 1969

June 28, 1996.

On June 21, 1996, the Federal Energy Regulatory Commission (Commission) issued a letter accepting Hydro Matrix Partnership, Ltd.'s application for the Jordan Hydroelectric Project located at the U.S. Army, Corps of Engineers Jordan Dam on the Haw River in Chatham County, North Carolina.

The Jordan Hydroelectric Project's principal project features would consist of 80 small turbine generator units installed in two modules placed in slots on the intake tower. Each generator would have a rated capacity of 100 kW for a total rated capacity of 8,000 kW. The project would have an average annual generation of 38 GWh. The project site is owned by the U.S. Army Corps of Engineers.

The purpose of this notice is to: (1) Invite interventions and protests; (2) advise all parties as to the proposed scope of the staff's environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; and (3) advise all parties of their opportunity for comment.

The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

Interventions, Protests, and Comments

All filings must: (1) Bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' OR ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' OR ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

All filings for any protest or motion to intervene must be received 60 days from the issuance date of this notice.

The Commission directs, pursuant to section 4.34(b) of the regulations (see order No. 533 issued May 8, 1991, 56 FR 23108 (May 20, 1991)), that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

Scoping Process

The Commission's scoping objectives are to:

- identify significant environmental issues;
- determine the depth of analysis appropriate to each issue;
- identify the resource issues not requiring detailed analysis; and,
- identify reasonable project alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine what issues should be covered in the environmental document pursuant to the National Environmental Policy Act of 1969. The document entitled ''Scoping document I'' (SDI) will be circulated shortly to enable appropriate federal, state, and local resource agencies, developers, Indian tribes, non-governmental organizations (NGOs) and other interested parties to effectively participate in and contribute to the scoping process. SDI provides a brief description of the proposed action, project alternative, and the geographic and temporal scope of a cumulative effects analysis, and a list of preliminary issues identified by staff.

The Commission will decide, based on the application, and agency and public comments to scoping, whether licensing the Jordan Hydroelectric Project constitutes a major federal action significantly impacting the quality of the human environment. The Commission staff will not hold scoping meetings unless the Commission decides to prepare an environmental impact statement, or the response to SDI warrants holding such meetings.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to comment on SDI and assist the staff in defining and clarifying the issues to be addressed.

All filings should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h). In addition, commentors may submit a copy of their comments on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format then write them to files on a diskette formatted for MS–DOS machines. All comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, and should show the following captions on the first page: Jordan Hydroelectric Project, FERC No. 11437–001.

Further, interested persons are reminded of the Commission's Rules of Practice and Procedures, requiring

parties or interceders (as defined in 18 CFR 385.2010) to file documents on each person whose name is on the official service list for this proceeding. See CFR 4.34(b).

The Commission staff will consider all written comments and may issue a Scoping Document II (SDII). SDII will include a revised list of issues, based on the scoping process.

For further information regarding the scoping process, please contact Ms. Julie Bernt, Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, N.E., Washington, DC 20426 at (202) 219–2814.

Lois D. Cashell,

Secretary.

[FR Doc. 96–17072 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP95–194–001, and CP96–027–000 and CP96–027–001, Respectively]

Northern Border Pipeline Company and Natural Gas Pipeline Company of America; Notice of Additional Facilities by Natural Gas Pipeline Company of America To Be Included in The Environmental Impact Statement for the Proposed Northern Border Project and Request for Comments on Environmental Issues

June 28, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Northern Border Project.[1] The original notice was issued February 16, 1996. The purpose of this supplemental notice is to inform the public of additional facilities which will be included in the EIS.

On June 18, 1996, Natural Gas Pipeline Company of America (Natural) amended its application to add 9.6 miles of loop in Louisa and Muscatine Counties, Iowa and to increase the amount of new compression at Compressor Station 110 in Henry County, Illinois from 7,250 horsepower (hp) to 9,000 hp. This addition is because Natural no longer proposes to add compression at Compressor Station 199 in Muscatine County, Iowa. Maps showing the location of the newly proposed loop are in appendix 1.

This EIS will be used by the Commission in its decisionmaking process to determine whether to approve the project.[2]

Land Requirements for Construction

Pipeline

The additional 9.6-mile-long loop would be built adjacent to Natural's existing pipeline, using as much of the existing right-of-way as possible. Natural would use a right-of-way ranging in width from 75 to 100 feet. Additional temporary work space would generally be used where the pipeline crosses roads, streams, and rivers. An estimated 87.3 acres would be disturbed during construction. After construction, the disturbed area would be restored, and a 25-foot-wide permanent right-of-way in addition to the existing right-of-way would be maintained. Existing land uses on the remainder of the disturbed area, as well as most land uses on the permanent right-of-way, such as agriculture and open areas, would be allowed to continue following construction.

Aboveground Facilities

All construction at Compressor Station 110 would take place within the existing fenced station yard.

The EIS Process/Environmental Issues

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The EIS we are preparing will give the Commission the information to do that. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. We encourage state and local government representatives to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues under each topic that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by the applicants. These issues are listed below. Keep in mind that this is a preliminary list. The list of issues may be added to, subtracted from, or changed based on your comments and our analysis.

- Geology and Soils
  - — Prime and farmland soils.
  - — Erosion control.
  - — Topsoil/subsoil mixing.
  - — Soil compaction.
  - — Drain tiles and ditches.
  - — Revegetation of non-agricultural areas.
- Water Resources
  - — 7 crossings of waterbodies, including the Ceder River.
  - — Effect on groundwater and surface water supplies.
- Biological Resources
  - — Effect on wildlife and fisheries habitat.
  - — Effect on federally listed endangered and threatened species.
  - — Effect on wetland habitat.
- Cultural Resources
  - — Effect on historic and prehistoric sites.
  - — Native American and tribal concerns.
- Land Use
  - — Effect on farming.
  - — Effect on residences and recreation areas.
  - — Effect on public lands
- Air Quality and Noise
  - — Effect on local and regional air quality and local noise environment as a result of operation of additional compression.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in a Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before

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[1] Northern Border Pipeline Company's and Natural Gas Pipeline Company of America's applications were filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426 or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

issuing a Final EIS. The Final EIS will include our response to each comment received.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426;
- Reference Docket No. CP95–194–001;
- Send a *copy* of your letter to: Ms. Laura Turner, EIS Project Manager, Federal Energy Regulatory Commission, 888 First Street, NE, Room 7M–02, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before July 29, 1996.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding or become an ''intervenor.'' Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding expires on June 28, 1996. After that date parties seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why the time limitation should be waived. Environmental issues have been viewed as good cause for late interventions. You do not need intervenor status to have your scoping comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested and/or potentially affected by the proposed project. It is also being sent to all potential right-of-way grantors to solicit focused comments regarding environmental considerations related to the proposed project. As details of the project become established, representatives of Northern Border and Natural will directly contact landowners, communities, and public agencies concerning any other matters, including acquisition of permits and rights-of-way.

If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EISs, please return the Information Request (appendix 3). PLEASE NOTE: IF WE HAVE NOT HEARD FROM YOU, EITHER BY COMMENT LETTER, RESPONSE TO ONE OF THE TWO NOI's, OR REGISTERING AT THE SCOPING MEETINGS, YOU WILL BE DROPPED FROM THE MAILING LIST. If you have previously provided us with your name and address you need not send in this information request.

Additional information about the proposed project is available from Ms. Laura Turner, EIS Project Manager, at (202) 208–0916.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–17134 Filed 7–3–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Proposed Power Rate—Robert D. Willis

AGENCY: Southwestern Power Administration (Southwestern), DOE.

ACTION: Notice for public review and comment.

SUMMARY: The Administrator, Southwestern, has prepared Current and Revised 1996 Power Repayment Studies for the Robert D. Willis (Willis) project which show the need for a decrease in annual revenues required to meet cost recovery criteria. The decrease in the revenues required will result from a change in the allocation of costs due to the remote operation of the Whitney Project from the Sam Rayburn (Rayburn) Project beginning in FY 1997. The existing power plant operators' costs will be allocated among three projects rather than just Willis and Rayburn. The Administrator has also developed a proposed rate schedule for the isolated Willis project to recover the required revenues. The proposed rate for the Willis project would decrease annual revenues approximately 9.3 percent from $294,312 to $266,928 beginning October 1, 1996.

DATES: A Public Information Forum has been scheduled for July 16, 1996, in Tulsa Oklahoma. A Public Comment Forum will be held July 30, 1996, in Tulsa, Oklahoma. Written comments are due on or before (insert 30 days from the date of Federal Register publication). Southwestern is conducting a 30 day public notice and comment period (10 CFR 903.14(d)). This public participation period is for a minor rate adjustment which does not require any comment period to exceed 30 days. In addition, this project has a single hydroelectric power customer and that customer directly impacted has been informed of the proposed rate decrease. It is anticipated that any comments from the customer will be developed well within the 30 day period.

ADDRESSES: Written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Grisaffe, Assistant Administrator, Office of Administration and Rates, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 595–6628.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, P. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

Southwestern markets power from 24 multiple-purpose reservoir projects with power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the States of Arkansas, Missouri, Oklahoma and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana. Of the total, 22 projects comprise an Integrated System and are interconnected through Southwestern's transmission system and exchange agreements with other utilities. The Sam Rayburn Dam project, located in eastern Texas, is not interconnected with Southwestern's Integrated System hydraulically, electrically, or financially. Instead, the power produced by the Sam Rayburn Dam project is marketed by Southwestern as an isolated project under a contract through which the customer purchases the entire power output of the project at the dam. The Willis project, located on the Neches River downstream from the Sam Rayburn Dam, consists of two 4,000 kilowatt hydroelectric generating units. It, like the Sam Rayburn Dam project, is

marketed as an isolated project under a contract through which the customer, Sam Rayburn Municipal Power Agency (SRMPA), receives the entire output of the project for a period of 50 years as a result of funding the construction of the hydroelectric facilities at the project. A separate power repayment study is prepared for each project which has a special rate based on its isolated project determination.

Following Department of Energy Order Number RA 6120.2, the Administrator, Southwestern, prepared a current power repayment study for the Robert D. Willis project using the existing annual rate of $294,312. The study indicated that maintaining the current rate will create a revenue surplus for the project. This is primarily a result of adding the remote operation of the Whitney Project, beginning in FY 1997, by the Corps of Engineers from the Sam Rayburn Project. The Revised Power Repayment Study for the isolated Willis project shows that a decrease of $27,384 (a 9.3 percent decrease) annually will satisfy repayment criteria. This decrease would change annual revenues produced by the Willis Project from $294,312 to $266,928 and satisfy the present financial criteria for repayment of the project.

Opportunity is presented for customers and interested parties to receive copies of the studies and proposed rate schedule for the Willis project. If you desire a copy of the Repayment Study Data Package for the Willis project, please do not hesitate to submit your request to: Mr. George C. Grisaffe, Assistant Administrator, Office of Administration and Rates, P.O. Box 1619, Tulsa, OK 74101, (918) 595–6628.

A Public Information Forum is scheduled to be held at 4:30 p.m., central time (c.t.) Tuesday, July 16, 1996, in Southwestern's offices, room 1600, Williams Center Tower 1, One West Third Street, Tulsa, Oklahoma. The Forum is to explain to customers and interested parties the proposed rates and supporting studies. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Questions concerning the rates, studies and information presented at the forum may be submitted from interested persons and will be answered, to the extent possible, at the forum. Questions not answered at the Forum will be answered in writing, except the questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices. Persons interested in attending the Public Information Forum should indicate in writing by 4:00 p.m., c.t., Friday, July 12, 1996, their intent to appear at such Forum. Accordingly, if no one so indicates their intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled to be held at 1:30 p.m., c.t., Tuesday, July 30, 1996, at the same location established for the Public Information Forum. At the Public Comment Forum interested persons may submit written comments or make oral presentations of their views and comments. This forum will also be conducted by a chairman who will be responsible for orderly procedure. Southwestern's representatives will be present, and they and the chairman may ask questions of speakers. The chairman may allow others to speak if time permits. Persons interested in attending or speaking at the Public Comment Forum should indicate in writing by 4:00 p.m., c.t., Friday, July 26, 1996, their intent to appear at such Forum. Accordingly, if no one so indicates their intent to attend, no such Forum will be held.

A transcript of each Forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from Southwestern upon request, for a fee. Written comments on the proposed rates for the project are due on or before 30 days from publication. Written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

Following review of the oral and written comments, the Administrator will submit the rate proposals and the Power Repayment Studies for the Willis project, in support of the proposed rates, to the Deputy Secretary of Energy for confirmation and approval on an interim basis and to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate increases before making a final decision.

Issued in Tulsa, Oklahoma, this 24th day of June, 1996.

Frances R. Gagan,

Acting Administrator.

[FR Doc. 96–17119 Filed 7–3–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5471–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed June 24, 1996 Through June 28, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960299, Final EIS, FRC, GA, SC, North Georgia Hydroelectric Project, (FERC. No. 2354–018) Issuance of Relicensing, Savannah River Basin, Tallulah, Tugalo and Chattooga Rivers, GA and SC, Due: August 05, 1996, Contact: Joe Davis (202) 219–2865.

EIS No. 960300, Draft Supplement, FHW, AL, Tuscaloosa East Bypass Corridor, Construction, I–59/I–20 east of Tuscaloosa to US 82 west of Northport, Funding, NPDES Permit, COE Section 10 and 404 Permits, Tuscaloosa County, AL, Due: August 26, 1996, Contact: Joe D. Wilkerson (334) 223–7370.

EIS No. 960301, Final EIS, FHW, NH, NH 9/US 202 Highway Improvements Project, between Henniker to the east and NH 31 to the west, Funding, COE Section 404 Permit and NPDES Permit, Hillsborough County, NH, Due: August 05, 1996, Contact: William F. O'Donnell's (603) 225–1608.

EIS No. 960302, Final EIS, FRC, WI, Wisconsin River Basin Hydroelectric Project, Application for Licensing for ten FERC Hydroelectric Project: Nos. 2119, 2239, 2476, 1999, 2212, 2590, 2256, 2255, 2291 and 2292, Vilas, Forest, Oneida, Lincoln, Marathon, Portage and Wood Counties, WI and Gogebic County, MI, Due: August 05, 1996, Contact: Sabina Joe (202) 219–1648.

EIS No. 960303, Final EIS, BLM, CO, White River Resource Area, Land and Resource Management Plan, Implementation, Craig District, Towns of Meeker, Rangely and Dinosaur, Rio Blanco, Garfield and Moffat Counties, CO, Due: August 05, 1996, Contact: Bill Hill (970) 878–3601.

EIS No. 960304, Draft EIS, BLM, NV, Twin Creeks Mine Consolidation and Expansion, which Encompasses the former Rabbit Creek Mine and the former Chimmey Creek Mine, Plan of Operation and Permit Application, Winnemucca District, Humboldt County, NV, Due: September 03, 1996, Contact: Gerald Moritz (703) 623–1500.

EIS No. 960305, Draft EIS, AFS, WA, Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Federal

Land and Non Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Kittitas and Lewis Counties, WA, Due: August 19, 1996, Contact: Doug Schrenk (206) 888–1421.

EIS No. 960306, Draft EIS, COE, CA, Kaweah River Basin Investigation Feasibility Study, Flood Protection of Terminus Dam, Increase Storage Space in Lake Kaweah for Irrigation of Water Supply, Construction, Modification and Operation, San Joaquin Valley, Tulare and King Counties, CA, Due: August 27, 1996, Contact: Jane Rinck (916) 557–6715.

EIS No. 960307, Draft EIS, AFS, OR, Augusta Timber Sale, Implementation, Willamette National Forest, Blue River Ranger District, Willamette Meridian, Blue River, Lane County, OR, Due: August 19, 1996, Contact: Lynn Burditt (503) 822–3317.

EIS No. 960308, Draft EIS, DOE, CT, SIC Prototype Reactor Plant Disposal, Windsor Site Located at the Knolls Atom Power Laboratory, CT, Due: August 19, 1996, Contact: Christopher G. Overton (860) 687–5610.

EIS No. 960309, Final EIS, EOE, WA, Northwest Regional Power Facility (NRPF), Construction and Operation if a 838 Megawatt (MW) Gas-fired Combustion Turbine Facility. Approval of Permits, Located near the Town of Creston, WA, Due: August 05, 1996, Contact: Nancy Wittpen (503) 230–3297.

EIS No. 960310, Final EIS, FHW, MO, US Route 71/Range Line Road Bypass east of the Joplin City Limits Construction, Funding and COE Section 404 Permit, Jasper County, MO, Due: August 05, 1996, Contact: Donald Neumann (573) 636–7104.

EIS No. 960311, Final EIS, FRC, WA, Rocky Reach Hydroelectric Project (FERC) No. 2145) Operating License Amendment Issuance to Increase Lake Entiat Reservoir, Chelan and Douglas Counties, WA, Due: August 05, 1996, Contact: James Hastreiter (503) 326–5858.

Dated: July 1, 1996.

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 96–17162 Filed 7–3–96; 8:45 am]

BILLING CODE 6550–50–M

FEDERAL COMMUNICATIONS COMMISSION

Fourth Meeting of the WRC–97 Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–97 Advisory Committee will be held on Monday, July 8, 1996, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 1997 World Radiocommunication Conference.

DATES: July 8, 1996; 2:00 p.m.-5:00 p.m.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Crystal Foster, FCC International Bureau, Satellite and Radiocommunication Division, at (202) 418–0749.

SUPPLEMENTARY INFORMATION:

1. The Federal Communications Commission (FCC) established the Advisory Committee for the 1997 World Radiocommunication Conference to provide advice, technical support and recommendations relating to the preparation of recommended United States proposals and positions for the 1997 World Radiocommunication Conference (WRC–97). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the fourth meeting of the WRC–97 Advisory Committee.

2. This meeting will continue reviewing the work of the Advisory Committee. It will provide an update on the FCC's preparatory process for WRC–97 and discuss issues for the agenda of WRC–99.

3. The WRC–97 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. Further information regarding the WRC–97 Advisory Committee is available on the World Wide Web at: http://www.fcc.gov/ib/wrc97/.

4. The proposed agenda for the fourth meeting is as follows:

Agenda

Fourth Meeting of the WRC–97 Advisory Committee, Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554, Monday, July 8, 1996; 2:00 p.m.-5:00 p.m.

Remarks
2. Agenda Approval
3. Administrative Matters
4. Update on NTIA's Radiocommunication Conference Subcommittee
5. Report of the Chairs of the Informal Working Groups
6. Consideration of Draft Proposals of the Informal Working Groups
7. Discussion of Issues for the Agenda of WRC–99
8. Meeting Schedules
9. Other Business

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–17113 Filed 7–3–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Notice of Opportunity to Submit Amicus Curiae Briefs in Representation Proceedings Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of the opportunity to file briefs as amici curiae in proceedings before the Federal Labor Relations Authority raising issues regarding: (1) the relationship between sections 7111(f)(1) and 7120 of the Federal Service Labor-Management Relations Statute (5 U.S.C. 7111(f)(1) and 5 U.S.C. 7120); and (2) the criteria to be used by the Authority in resolving representation cases under section 7111(f)(1) of the Statute arising from an agency reorganization where both successorship and accretion principles are claimed to apply.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to file briefs as amici curiae on significant issues arising in cases pending before the Authority. The Authority is considering the cases pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101–7135 (1994) (the Statute) and its regulations, set forth at 5 CFR part 2422 (1995), revised by 5 CFR part 2422 (1996). The issues concern how the Authority should: (1) determine whether a labor organization is subject to corrupt influences or influences opposed to democratic principles within the meaning of section 7111(f)(1) of the Statute; and (2) resolve representation petitions arising from a reorganization where both successorship and accretion principles are claimed to apply to the same employees.

DATES: Briefs submitted in response to this notice will be considered if filed by close of business on July 24, 1996.

Extensions of time will not be granted. The date of filing shall be determined by the date of mailing, as indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. If filing is by personal delivery, it shall be considered filed on the date it is received by the Authority.

ADDRESSES: Mail or deliver briefs to James H. Adams, Acting Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW, Suite 415, Washington, D.C. 20424–0001.

FORMAT: All briefs regarding the relationship between sections 7111(f)(1) and 7120 of the Statute shall be captioned ''Division of Military and Naval Affairs (New York National Guard), Latham, New York, Case No. BN–RO–40060, Amicus Brief.'' All briefs regarding the criteria to be used in resolving representation cases arising from a reorganization where both successorship and accretion principles are claimed to apply shall be captioned ''Department of Navy, Fleet and Industrial Supply Center, Case Nos. WA–CU–50061, WA–CU–50062 and SF–CU–50071, Amicus Brief.'' Briefs shall also contain separate, numbered headings for each issue discussed. An original and four (4) copies of each amicus brief must be submitted, with any enclosures, on 8½ x 11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority's regulations showing service of one copy of the brief on all counsel of record or other designated representatives. 5 C.F.R. 2429.27(a) and (c). Copies of the Authority's decisions granting applications for review in these cases and a list of the designated representatives for each case may be obtained in the Authority's Case Control Office at the address set forth below. Copies will be forwarded (by mail or by facsimile) to any person who so requests by contacting James H. Adams at the same address.

FOR FURTHER INFORMATION CONTACT: James H. Adams, Acting Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW., Suite 415, Washington, D.C. 20424–0001, Telephone: FTS or Commercial (202) 482–6540.

SUPPLEMENTARY INFORMATION: A summary of Division of Military and Naval Affairs (New York National Guard), Latham, New York, Case No. BN–RO–40060, and Department of Navy, Fleet and Industrial Supply Center, Case Nos. WA–CU–50061, WA–CU–50062 and SF–CU–50071, follows.

A. Division of Military and Naval Affairs (New York National Guard), Latham, New York, Case No. BN–RO–40060

1. Background

On September 15, 1995, the Authority granted review of the Regional Director's Decision and Order in the captioned case under the Authority's regulations in effect at the time of the application for review, 5 CFR 2422.17(c)(1) and (3) (1995), on the grounds that: (1) a substantial question of law or policy is raised because of the absence of Authority precedent; and (2) the conduct of the hearing held or any ruling made in connection with the proceeding has resulted in prejudicial error. The Authority has directed the parties to file briefs addressing certain questions, as set forth below.

The petition in this case, which was filed by the National Federation of Civilian Technicians (NFCT), seeks an election to decide the exclusive representative in a unit of employees of the New York National Guard. The Association of Civilian Technicians (ACT) currently is the exclusive representative for the unit and is the Intervenor in the case.

Following the filing of NFCT's petition, ACT filed a challenge under section 7111(f)(1) of the Statute. It asserts that NFCT is subject to ''corrupt influences or influences opposed to democratic principles'' and asks that the petition be dismissed.

The Statute provides that exclusive recognition shall not be accorded to a labor organization if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles. 5 U.S.C. § 7111(f)(1).

Section 7120(a) of the Statute provides that an agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Section 7120(d) directs the Assistant Secretary of Labor for Labor-Management Relations to prescribe regulations necessary to carry out the purposes of section 7120, and further provides that complaints of violations of this section shall be filed with the Assistant Secretary.

2. The Regional Director's Decision

The Regional Director advised the parties that ACT's challenge raised issues concerning NFCT's compliance with internal union standards of conduct imposed by section 7120 of the Statute and concluded that because standards of conduct issues are committed to the exclusive jurisdiction of the Assistant Secretary of Labor by section 7120 of the Statute, they were not appropriate for investigation or adjudication in a representation proceeding before the Authority. Because there had been no decision by the Assistant Secretary that NFCT was subject to corrupt influences or influences opposed to democratic principles, the regional director directed that an election be conducted among the employees in the petitioned-for unit.

3. The Application for Review

ACT filed an application for review and for a stay of the Regional Director's decision and order. It contends that section 7111(f)(1) of the Statute requires the Authority to determine whether a labor organization involved in a representation proceeding is subject to corrupt influences or influences opposed to democratic principles. NFCT filed a reply to ACT's application for review, and attached a letter from a regional director of the U.S. Department of Labor. The letter states that the Office of Labor-Management Standards of the Department of Labor had considered ACT's argument that NFCT was subject to corrupt influences and did not find that the officers of NFCT had violated standards of conduct set forth in 5 U.S.C. 7120.

4. Questions on Which Briefs are Solicited

The Authority has directed the parties in this case to file briefs addressing the following questions:

1. In making the required determination under section 7111(f) of the Statute, should the Authority rely on the investigation conducted by the Assistant Secretary pursuant to section 7120, or should the Authority conduct its own investigation?

2. If the Authority relies on investigations conducted by the Assistant Secretary:

a. What procedures should be used (e.g., should any pending Authority proceedings be placed in abeyance pending the Assistant Secretary's final action; should the Authority's regional director examine the Assistant Secretary's findings in a hearing)?

b. How should the Authority proceed if no complaint has been filed with the Assistant Secretary under section 7120(d)?

c. Should the Authority defer to the Assistant Secretary's findings and conclusions? What standard of review should be applied in reviewing such findings and conclusions?

3. If the Authority conducts its own investigation:

a. What procedures should be used (e.g., should the determination be made in an adversarial or nonadversarial proceeding)?

b. What criteria should be applied to determine whether a labor organization is subject to corrupt influences or influences opposed to democratic principles?

4. Do the answers to these questions depend on whether, at the time the section 7111(f)(1) issue is raised:

a. a petition has been filed seeking to represent a unit that has no current exclusive representative;

b. a petition has been filed seeking to decertify an exclusive representative; or

c. there is an exclusive representative and no representation petitions are pending?

As these matters are likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amicus briefs addressing these issues.

B. Department of Navy, Fleet and Industrial Supply Center, Case Nos. WA–CU–50061, WA–CU–50062 and SF–CU–50071

On June 24, 1996, the Authority granted, in part, applications for review of the Regional Director's Decision and Order in *United States Department of the Navy, Fleet and Industrial Supply Center, Norfolk, Virginia,* Case Nos. WA–CU–50061 and WA–CU–50062 (51 FLRA No. 114) (FISC Norfolk) and the Regional Director's Decision and Order in *Naval Supply Center, Puget Sound,* Case No. SF–CU–50071 (51 FLRA No. 115) (FISC Puget Sound).

1. Case Nos. WA–CU–50061, 50062—FISC Norfolk

As a result of a reorganization, on March 1, 1993, the Department of the Navy created the Fleet and Industrial Supply Centers in Norfolk, Virginia (FISC Norfolk) and Puget Sound, Bremerton, Washington (FISC Puget Sound). As originally constituted, FISC Norfolk consisted of a headquarters operation at Norfolk, Virginia, the Cheatham Annex at Williamsburg, Virginia, and two detachments at Newport, Rhode Island and Colts Neck, New Jersey (the Leonardo Detachment). The approximately 520 General Schedule (GS) and 330 Wage Grade (WG) employees at Norfolk, Virginia have been represented in separate bargaining units by the American Federation of Government Employees, Local 53, AFL–CIO (AFGE Local 53) and the International Association of Machinists and Aerospace Workers, Local Lodge 97, AFL–CIO (IAM Local 97), respectively. The GS and WG employees at Cheatham Annex have been represented by AFGE Local 53 and IAM Local 97, respectively, in separate units at Williamsburg. Employees of the Newport and Leonardo Detachments have been unrepresented.

In October and November 1994, FISC Norfolk established five detachments under its Acquisitions Group and four detachments under its Customer Operations Division, respectively. The FISC Norfolk Detachment at Yorktown, Virginia (Yorktown Detachment) consists of approximately 26 GS and WG employees who were transferred from the Naval Weapons Station, Yorktown, Virginia, where they were represented by the National Association of Government Employees, Local R4–1, SEIU, AFL–CIO (NAGE Local R4–1). The FISC Norfolk Detachment at Charleston, Goose Creek, South Carolina (Charleston Detachment) consists of approximately 23 GS and WG employees who were transferred from the Naval Weapons Station, Charleston, Goose Creek, where they were represented by the American Federation of Government Employees, Local 2298, AFL–CIO (AFGE Local 2298).

The petitions in Case Nos. WA–CU–50061 and WA–CU–50062 were filed by FISC Norfolk and sought to clarify the GS and WG units represented by AFGE Local 53 and IAM Local 97, respectively, by establishing that all of the transferred employees, including those from the Yorktown and the Charleston Detachments, had accreted to these units. Three other petitions were filed wherein, as relevant here, NAGE Local R4–1 and AFGE Local 2298 sought to retain representation of the unit employees transferred to FISC Norfolk from the Yorktown and Charleston Detachments, respectively.

2. Case No. SF–CU–50071—FISC Puget Sound

A bargaining unit of approximately 265 GS and WG employees at FISC Puget Sound has been historically represented by the Bremerton Metal Trades Council (BMTC). In October 1993 and October 1994, FISC Puget Sound established two detachments. The FISC Puget Sound Detachment at Everett, Washington (Everett Detachment) consists of 6 employees who were transferred from the Naval Station Everett where they were represented by the American Federation of Government Employees (AFGE). The FISC Puget Sound Detachment at Concord, California (Concord Detachment) consists of 21 employees who were transferred from the Naval Weapons Station, Concord, where they were represented by the American Federation of Government Employees, Local 1931, AFL–CIO (AFGE Local 1931).

The petition in Case No. SF–CU–50071 was filed by FISC Puget Sound and sought to clarify the GS/WG bargaining unit represented by BMTC by establishing that all of the transferred employees in the Everett and the Concord Detachments had accreted to the BMTC unit.

3. The Regional Directors' Decisions

In *FISC Norfolk,* the RD found that all the transferred employees, including those located at the Yorktown and Charleston Detachments, had accreted to the AFGE Local 53 and IAM Local 97 bargaining units and granted the petitions for unit clarification. In *FISC Puget Sound,* the RD found that the Everett Detachment employees had accreted into the BMTC. The RD concluded that the Concord Detachment employees had not accreted into the BMTC unit because FISC Puget Sound was a successor employer.

4. The Applications for Review

In *FISC Norfolk,* NAGE Local R4–1 and AFGE Local 2298 filed applications for review challenging the RD's use of accretion principles in resolving the issues presented by their petitions. In particular, AFGE Local 2298 maintains that the RD failed to apply current Authority precedent for determining successorship, as set forth in *Naval Facilities Engineering Service Center, Port Hueneme, California,* 50 FLRA 363 (1995) (*Port Hueneme*). In *FISC Puget Sound,* the Activity filed the application for review challenging the RD's decision regarding the Concord Detachment as relying ''too heavily'' upon the *Port Hueneme* successorship criteria. The Activity maintains that a ''literal application'' of *Port Hueneme* will lead to an increased number of bargaining units and ''government inefficienc[y].''

5. Question on Which Briefs are Solicited

The Authority granted the applications for review in *FISC, Norfolk* and *FISC, Puget Sound* under 5 CFR § 2422.17(c)(1) on the ground that there is an absence of, or the Regional Directors' decisions constitute a departure from, Authority precedent on resolving representation cases involving agency reorganizations where both successorship and accretion principles are claimed to apply. The Authority has directed the parties in the two cases to file briefs addressing the following question:

In a representation case arising from a reorganization where both successorship and accretion principles are claimed to apply to the same employees, how should the Authority resolve the representation issues raised by the petitions?

As these matters are likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amicus briefs addressing these issues.

Dated: July 1, 1996.

For the FLRA.

James H. Adams,

Acting Director, Case Control Office.

[FR Doc. 96–17163 Filed 7–3–96; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communication with the Commission regarding a pending agreement.

Agreement No.: 232–011384–001.

Title: Mitsui O.S.K. Lines, Ltd./ Hoegh-Ugland Auto Liners, A/S Space Charter Agreement.

Parties: Mitsui O.S.K. Lines, Ltd., Hoegh-Ugland Auto Liners A/S.

Synopsis: The proposed amendment adds non-binding rate authority to the Agreement. The parties have requested a shortened review period.

Agreement No.: 202–010689–061.

Title: Transpacific Westbound Rate Agreement.

Parties: American President Lines, Ltd., Hapag-Lloyd Aktiengesellschaft, Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Nedlloyd Lijnen B.V., Neptune Orient Lines, Ltd., Nippon Yusen Kaisha Ltd., Orient Overseas Container Line, Inc., Sea-Land Service, Inc.

Synopsis: The proposed amendment provides for a shortened notice period of three calendar days for independent action on ''out-of-gauge'' cargo. The parties have requested a shortened review period.

Agreement No.: 232–011526–001.

Title: Mitsui O.S.K. Lines, Ltd./ Hoegh-Ugland Auto Liners, A/S Space Charter Agreement.

Parties: Mitsui O.S.K. Lines, Ltd., Hoegh-Ugland Auto Liners A/S.

Synopsis: The proposed amendment adds non-binding rate authority to the Agreement. The parties have requested a shortened review period.

Agreement No.: 217–011546.

Title: Wilhelmsen/NYK Space Charter Agreement.

Parties: Nippon Yusen Kaisha (''NYK''), Wilhelmsen Lines A/S (''Wilhelmsen'').

Synopsis: The proposed Agreement authorizes Wilhelmsen to charter space to NYK in the trade between ports and points in Japan and U.S. Atlantic and Gulf Coasts ports and points.

By Order of the Federal Maritime Commission.

Dated: June 26, 1996.

[FR Doc. 96–17056 Filed 7–3 –96; 8:45 am]

BILLING CODE 6730–01–M

Notes of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement of the Washington, D.C. office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in section 560.602 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of the document to the person filing the agreement at the address shown below.

Agreement No.: 224–200969–001.

Title: Port of Houston/Mediterranean Shipping Co., S.A., Terminal Agreement.

Parties: Port of Houston Authority (Port), Mediterranean Shipping Co., S.A. (''MSC'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed amendment permits MSC to relocate its South American service cargo operations to the Port's Fentress Bracewell Barbours Cut Terminal.

By Order of the Federal Maritime Commission.

Dated: June 28, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–17057 Filed 7–3–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Air Cargo Expediters Inc., 167–17 146th Road, Jamaica, NY 11434. Officers: Harry J. Phieffer, President; John R. Phieffer, Vice President.

Southern International Cargo, Inc., 10131 S.W. 33rd Street, Miami, FL 33165. Officer: Ana Gamarra, President.

Genesis Forwarding Group USA, Inc., 808 Hindry Avenue, Unit E, Inglewood, CA 90301. Officer: Mo-Ling Mary Goon, Assistant Secretary.

Transcargo International, 5155 Rosecrans Ave., Suite 110, Hawthorne, CA 90250. Mario F. Chavarria, Sole Proprietor.

NG Enterprises, Inc. d/b/a Randy International Ltd., 590 Belleville Turnpike, Building 26, Kearny, NJ 07032. Officers: Norman Greif, President; Alice F. Sciara, Vice President.

Dated: June 28, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–17102 Filed 7–3–96; 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. Once the notices have been accepted for processing, they will also 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 July 26, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Marble Falls National Bank 401(K) Employee Stock Ownership Plan; to acquire a total of 13.47 percent of the voting shares of Marble Falls National Bancshares, Inc., and thereby directly acquire Marble Falls National Bank, all of Marble Falls, Texas.

Board of Governors of the Federal Reserve System, June 28, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–17094 Filed 7–3–96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The company listed in this notice has 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 application listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also 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, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Interstate BancSystem of Montana, Inc., Billings Montana, JS Investments, Limited Partnership, Billings, Montana; and Nbar5, Limited Partnership, Billings, Montana; to acquire 100 percent of the voting shares of First Interstate Bank of Montana, N.A., Kalispell, Montana, and First Interstate Bank of Wyoming, N.A., Casper, Wyoming.

Board of Governors of the Federal Reserve System, June 28, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–17092 Filed 7–3–96; 8:45 am]

BILLING CODE 6210-01-F

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. Once the application has been accepted for processing, it will also 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, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 29, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Monarch Bancorp, Laguna Niguel, California; to acquire 100 percent of the voting shares of Western Bank, Los Angeles, California.

2. Eggemeyer Corp., Castle Creek Capital Partners Fund—I, L.P., Castle Creek Capital, L.L.C., all of Chicago, Illinois; to become bank holding companies by acquiring more than 5 percent, and Mutual Series Fund, Inc., Short Hills, New Jersey, to become a

bank holding company by acquiring an additional 4.42 percent, for a total of 14.12 percent, of the voting shares of Monarch Bancorp, Laguna Niguel, California, and thereby directly acquire Monarch Bank, Laguna Niguel, California, and Western Bank, Los Angeles, California.

In addition, Eggemeyer Corp, Chicago, Illinois; has applied to retain its 52 percent investment in Belle Plaine Financial, L.L.C., Chicago, Illinois, and thereby engage in providing investment and financial advice, pursuant to § 225.25(b)(4)(vi)(A)(1).

Board of Governors of the Federal Reserve System, June 28, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–17095 Filed 7–3–96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Gulf West Banks, Inc., St. Petersburg, Florida; to acquire Liberty Leasing Corporation, Tampa, Florida, and thereby engage in leasing activities, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Sharon Bancshares, Inc., Sharon, Tennessee, to engage *de novo* in offering a full range of portfolio investment advice and securities brokerage services to customers of its subsidiary banks, pursuant to §§ 225.25(b)(4) and (15) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota, Norwest Financial Services, Inc., Des Moines, Iowa, and Norwest Financial, Inc., Des Moines, Iowa; to indirectly acquire Sunburst Financial Services, Inc., Jackson, Mississippi, dba Rapid Finance, Inc., through it subsidiaries, Norwest Financial Louisiana, Inc., Des Moines, Iowa, and Norwest Financial Mississippi, Inc., Des Moines, Iowa, and thereby indirectly engage in consumer finance activities and in the sale of credit life, credit accident and health, and property and credit-related casualty insurance pursuant to §§ 225.25(b)(1) and (8)(vii) of the Board's Regulation Y.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Community Bancshares Employee Stock Ownership Plan, Neosho, Missouri, and Community Bancshares, Inc., Neosho, Missouri; to engage *de novo* through its subsidiary Community Mortgage Company, Neosho, Missouri, in mortgage lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

E. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Security Shares, Inc., Abilene, Texas; to acquire through its subsidiary First Independent Computers, Inc., a 50 percent interest in Vision Plus Card Services, L.L.C., Abilene, Texas, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

F. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Imperial Bancorp, Los Angeles, California; to engage *de novo* through its subsidiary Pacific Bancard Association, Inglewood, California (PBA), in the servicing of extensions of credit for credit cards, pursuant to § 225.25(b)(1)(ii) of the Board's Regulation Y. PBA represents a 50 percent partner in American Heritage/Pacific Bancard Association, Chatsworth, California (American). American is a California general partnership engaged in the business of acquiring and servicing portfolios of merchant agreements for the processing of bank card transactions from financial institutions to be serviced by Imperial Bancorp's bank subsidiary, Imperial Bank, as a bank card merchant bank, in the ordinary course of Imperial Bank's business.

2. Wells Fargo & Company, San Francisco, California; to expand the geographic scope of its subsidiary, Wells Fargo Ventures, Inc., San Francisco, California, which engages in data processing and data transmission services through the ownership, installation, operation, and maintenance of automatic teller machines in the states of Texas and Oregon, pursuant to § 225.25(b)(7) of the Board's Regulation Y. Wells Fargo Ventures, Inc. proposes to operate nationwide.

Board of Governors of the Federal Reserve System, June 28, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–17093 Filed 7–3–96; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT), July 15, 1996.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 17, 1996, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Discussion of additional or different system developer selection criteria, if any.
4. Review of KPMG Peat Marwick audit reports:
(a) ''Pension and Welfare Benefits Administration Review of ADP Hardware Operations Management of the Thrift Savings Plan at the United States Department of Agriculture, National Finance Center''.
(b) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture and Forfeiture Restoration Operations and Interfund Transfer Process at the United States Department of Agriculture, National Finance Center''.
(c) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Loan Operations at the United States Department of Agriculture, National Finance Center''.
(d) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan System Enhancements and Software Change Controls at the United States Department of Agriculture, National Finance Center''.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640.

Dated: July 1, 1996.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 96–17256 Filed 7–2–96; 8:45 am]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 651]

1996 Demonstration Sites for State Pregnancy and Pediatric Nutrition Surveillance Systems

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds for a cooperative agreement for Demonstration Sites for Pediatric Nutrition Surveillance Systems (PedNSS) and State Pregnancy Nutrition Surveillance Systems (PNSS) to improve data quality and to add additional questions to these systems.

The CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Nutrition, Maternal and Infant Health, and Surveillance and Data Systems. (For ordering a copy of ''Healthy People 2000'', see the section ''Where To Obtain Additional Information.'')

Authority

This program is authorized under sections 301(a)and 317(k)(2)of the Public Health Service Act [42 U.S.C. 241(a) and 247b(k)(2)], as amended.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are the official public health agencies of States or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

Eligible applicants must:

1. Provide evidence that the State is currently participating in, and submitting data for, items indicated below in the PedNSS and/or PNSS:
a. If applying to work with the PedNSS system, a minimum of 4 of the 5 data items listed in Appendix A should have no more than 40% missing data. (A copy of Appendix A will be included in the application kit.)
b. If applying to work with the PNSS system, a minimum of 14 of the 18 data items listed in Appendix B should have no more than 40% missing data. (A copy of Appendix B will be included in the application kit.)
2. Provide written documentation that each demonstration site includes:
a. A minimum of 1,000 children enrolled in Women, Infants, and Children (WIC) are seen in each of at least 10 potential demonstration sites per year (PedNSS system only).
b. A minimum of 300 women enrolled in WIC are seen in each of at least 10 potential demonstration sites per year (PNSS system only).

Availability Of Funds

Approximately $350,000 is available in FY 1996 to fund approximately 4 awards, no more than two of which will be made to applicants who participate in PedNSS only. It is expected that the average award will range from $80,000 to $100,000. It is expected that the awards will begin on or about September 30, 1996, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

These awards are to establish demonstration test clinic sites to improve the quality of the PedNSS and/or PNSS surveillance; collect high quality data; process, analyze, and disseminate data; add new data items; and enhance the ability of these systems to monitor nutrition-related problems of women and children.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A, and CDC shall be responsible for conducting activities under B.

A. Recipient Activities

1. Establish demonstration sites to: (a) improve the quality of data collected by the PedNSS and/or PNSS; (b) expand the PedNSS and/or PNSS to include additional data items that are routinely collected in public health clinics; and (c) develop standardized questions to add to the PedNSS and/or PNSS on two of the following topics: food security, dietary information, and physical activity.
2. Choose potential demonstration sites (clinics, county, or agency) based on clinic size, current data quality, geographic representation, and ethnic diversity.
3. Document equipment used, current practices of measuring health parameters, and data collection procedures using standard qualitative research methods such as focus groups, key informant interviews, etc.
4. Develop and carry out a plan to assure standardized equipment and measurement techniques, training procedures, and data collection forms in accordance with guidelines to be provided by CDC.
5. Include in the surveillance system, information on type of formula fed to infants, whether the infant's mother participates in WIC (PedNSS only), and risk factors contributing to WIC eligibility. Add new standardized

questions to the data collection form on two of the following three topics: food security, dietary information, and physical activity. The recipient should be willing to consider including other data items as the need arises.

6. Develop and implement a plan to monitor data collection activities.

7. Develop a plan to assess data quality on an ongoing basis and revise practices and techniques as needed.

8. Evaluate the project in terms of: (a) improvement of data quality, (b) feasibility of collecting new data items, and (c) usefulness of new data items.

9. Prepare and disseminate procedures used and findings through presentation and publication in appropriate forums.

B. CDC Activities

1. Provide technical support to evaluate current practices of data collection and develop a plan to improve data quality.

2. Collaborate in the design of standardized data items, definitions, procedures, and methods to collect the desired surveillance information.

3. Provide technical support for monitoring data collection and data quality, data processing and analysis, and the distribution of tasks between State and clinic offices.

Evaluation Criteria (100 Points)

Applications will be reviewed and evaluated according to the following criteria:

A. Statement of Need (5 Points)

The need for State-specific, high-quality data on data items currently collected and new data items.

B. Goals and Objectives (5 Points)

The appropriateness of goals, objectives, and activities stated in the overall plan, and whether objectives are specific, measurable, time-phased, and feasible.

C. Operational Plan (45 Points)

The extent and adequacy of the plan to use qualitative methods, assure use of standardized equipment and operational procedures, monitor data collection activities, assess data quality, revise practices and techniques, and add new standardized questions to the data collection.

D. Capability (35 Points)

1. The extent and appropriateness of the existing surveillance system for PedNSS and/or PNSS.

2. The extent to which project staff appear to have the skills to provide training on data collection, data quality assessment and data processing.

3. Evidence that adding new data items and software to analyze data quality to the existing computerized surveillance systems will be feasible.

E. Project Evaluation (10 Points)

The appropriateness of the evaluation to assess improvements to data quality and feasibility of collecting new data items.

F. Budget (Not Weighted)

The extent to which the budget clearly relates to proposed objectives and activities.

G. Human Subjects: (Not Scored)

Whether or not exempt from the DHHS regulations, procedures are to be adequate for the protection of human subjects. Recommendations on the adequacy of protections include: (1) protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and the ORG has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305, no later than 30 days after the receipt date of the application.

The appropriation for this financial assistance program was received late in the fiscal year and would not allow for an application date which would accommodate the 60-day State recommendation process period. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Sharron P. Orum, Grants Management Office, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305. This should be done no later than 30 days after the receipt date of the application. The granting agency does not guarantee to ''accommodate or explain'' for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93–283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is

involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Should human subjects review be required, the proposed workplan should incorporate timelines for such development and review activities.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305, on or before August 2, 1996.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Application: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, application package, and business management technical assistance may be obtained from Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305, telephone (404) 842–6508, fax (404) 842–6513, or Internet or CDC WONDER electronic mail at <ayc1@opspgo1.em.cdc.gov>.

Technical assistance may be obtained from Diane Clark, Public Health Nutritionist, Division of Nutrition, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K–25, 4770 Buford Highway, NE., Atlanta, Georgia 30341–3724, telephone (770) 488–4913, fax (770) 488–4728, or Internet or CDC WONDER electronic mail at <ldc2@ccddn1.em.cdc.gov>.

Please refer to Announcement 651 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report; Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report; Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 28, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–17098 Filed 7–03–96; 8:45 am]

BILLING CODE 4163–18–P

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers of Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 60 FR 52199, October 5, 1995) is amended to (1) establish the National Center for HIV, STD, and TB Prevention (NCHSTP) within the Centers for Disease Control and Prevention (CDC) to strengthen and enhance the ability to prevent and control the spread of HIV/AIDS in the United States and throughout the world, and (2) abolish the National Center for Prevention Services.

Section C–B, *Organization and Function,* is hereby amended as follows:

After the functional statement for the *Immunization Services Division (CJ4), National Immunization Program (CJ),* insert the following:

National Center for HIV, STD, and TB Prevention (CK). The mission of this organization is to provide leadership in preventing and controlling human immunodeficiency virus infection, other sexually transmitted diseases, and tuberculosis by collaborating with community, state, national, and international partners and applying well integrated, multi-disciplinary programs of research, surveillance, technical assistance, and evaluation. In carrying out this mission, the National Center for HIV, STD, and TB Prevention (NCHSTP): (1) coordinates the development of CDC short- and long-range plans for preventing the spread of HIV infection in the United States; (2) allocates and tracks CDC resources for HIV prevention programs; (3) conducts national public information and awareness activities; (4) coordinates HIV prevention activities with other Federal agencies and with international organizations, including the World Health Organization in conjunction with the Associate Director for International Health; (5) plans, directs, and coordinates national programs of assistance involving preventive health services to state and local health agencies; (6) assists state and local health agencies in integrating and coordinating preventive services delivered by private and public organizations in the community and in assuring delivery of preventive services to all persons regardless of socioeconomic status; (7) assists states and localities in specifying major health problems in the community and in formulating technical theories on which intervention strategies can be based; (8) serves as the primary focus for assisting states and localities through grants and other mechanisms, in establishing and maintaining prevention and control programs directed toward health problems related to acquired immunodeficiency syndrome, sexually transmitted diseases, and tuberculosis; (9) maintains operational knowledge of the nature, scope, and occurrence of preventable health problems; (10) conducts operational research to improve the assistance programs; (11) assesses program operations and public health practices and provides technical assistance to states in the operation of preventive health service programs; (12) maintains liaison with other U.S. governmental agencies, state and local health agencies, national organizations, and educational institutions; (13) provides technical assistance to other nations; (14) in carrying out the above functions, collaborates, as appropriate, with other Centers, Institute, and Offices (CIOs) of the CDC.

Office of the Director (CKI). (1) Provides leadership and guidance on the development of goals and objectives, policies, program planning and development, program management and operations of the activities of the NCHSTP; (2) manages, directs, coordinates, and evaluates the Center's activities; (3) facilities closer linkages between HIV, STD, and TB surveillance activities and prevention programs at all levels; (4) facilitates collaboration, integration, and multi-disciplinary

approaches to enhance the effectiveness of HIV, STD, and TB prevention programs; (5) facilitates integration of science and prevention programs throughout the NCHSTP; (6) enhances the coordination and integration of HIV, STD, and TB prevention services for individuals and populations at increased risk for more than one of these infections; (7) coordinates the integration of CDC funding of state and local health departments for HIV, STD, and TB prevention; (8) facilities the assignment of field staff in accordance with CDC and NCHSTP priorities and objectives; (9) reassesses the role of NCHSTP field staff assignees to state and local health jurisdictions and restructures career development plans accordingly; (10) provides and coordinates administrative and program support services; (11) provides technical information services to facilitate dissemination of relevant public health information; (12) facilitates collaboration with national health activities with CDC components, other agencies and organizations, and foreign governments on international health activities; (13) provides oversight for the programmatic coordination of HIV, STD, and TB activities between NCHSTP and other CIOs and, as the lead CIO for these programs, develops recommendations to the CDC Director in concert with other CIOs, for distribution of HIV, STD, and TB fund CDC-wide; (14) advises the Director, CDC, on other policy matters concerning NCHSTP activities.

Resource Management Office (CK12). (1) Plans, coordinates, and provides administrative and management advice and guidance for NCHSTP; (2) provides and coordinates Center-wide administrative, management, and support services in the areas of fiscal management, personnel, travel, procurement, facility management, and other administrative services; (3) coordinates NCHSTP requirements relating to small purchase procurements, VISA procurements, material management, and intra-agency agreement/reimbursable agreements; (4) provides lead fiscal management for contracts and supportive fiscal management for grants and cooperative agreements; (5) serves as a liaison for external inquiries of current fiscal year funding expenditures; (6) coordinates facility management issues, problems and changes, physical security issues, and policies regarding telecommunications, office furniture and equipment; (7) provides oversight and management of NCHSTP conference rooms, support and setup of Envision services and assistance with audio-visual equipment; (8) provides meeting planning assistance and services, serves as Project Officer and liaison for any meeting planning contractors, negotiates with vendors for providing conference location, rental of equipment; (9) maintains liaison with CIOs, Staff Offices, Staff Service Offices, and NCHSTP staff.

Communications Office (CK13). (1) Provides technical assistance to Divisions on issues management, public affairs, and health communications strategies; (2) collaborates with external organizations and the news, public service, and entertainment and other media to ensure that effective findings and their implications for public health reach the public; (3) collaborates closely with Divisions to produce materials designed for use by the news media, including press releases, letters to the editor, public service announcements, television programming, video news releases, and other electronic and printed materials; (4) secures appropriate clearance of these materials within NCHSTP and CDC; (5) coordinates the development and maintenance of Center-wide information systems through an Internet Home Page; (6) develops strategies and operational systems for the proactive dissemination of effective findings and their implications for prevention partners and the public; (7) apart from the clearing houses, hotlines, or other contractual mechanisms, responds to public inquiries and distributes information materials; (8) provides editorial, graphics, and publishing services for NCHSTP staff; (9) operates a Center-wide Information Center; (10) maintains liaison with CDC public affairs and communications staff offices.

Prevention Informatics Office (CK14). (1) Designs, develops, and maintains a Center-wide network to facilitate the dissemination and availability of information; (2) designs, develops, and supports Center-wide consolidated application file servers, remote access servers, and administrative database servers; (3) collaborates with Divisions to coordinate, plan, and advocate for training to ensure that all staff have and fully utilize their IRM environment; (4) provides a focus for joint planning within NCHSTP both long-term and short-term; (5) conducts cost-benefit, cost effectiveness, and economic analyses, evaluation, and other special studies related to the impact of advanced information processing technology on NCHSTP programs; (6) provides a centralized research and development function and, in consultation with Division IRM staff, undertakes research and development projects; (7) develops unified Center-wide administrative systems and advocates and supports the commitment of resources to application development; (8) establishes the Center's Internet file servers and supports organizational components to disseminate or access information on the Internet; (9) maintains liaison with the Office of Program Support and CIO IRM offices.

Planning and Evaluation Office (CK15). (1) Reviews, prepares, and coordinates congressional testimony and briefing documents, and analyzes the implications of legislation and legislative proposals; (2) maintains liaison with the CDC Office of Program Planning and Evaluation and the Financial Management Office; (3) plans and coordinates the annual program planning process; (4) establishes procedures and proposes approaches for the development of future year annual budget initiatives; (5) maintains liaison with CIOs in determining and interpreting operating policy and in ensuring their respective management input for specific program activity plans; (6) interprets general policy directives and proposed legislation relation to NCHSTP program goals and objectives; (7) coordinates the development and review of congressional reports; (8) serves as the coordination point for Inspector General and General Accounting Office audits and reviews; (9) coordinates and manages external groups such as advisory committees; (10) serves as central point for Office of Management and Budget clearances, controlled correspondence, Freedom of Information Act requests, and Privacy Act inquiries; (11) advises on activities that might affect other CIOs.

Prevention Support Office (CK16). (1) Serves as an initial point of contact between partners and NCHSTP programs; (2) provides guidance and coordination to Divisions on cross-divisional negotiated agreements; (3) facilitates NCHSTP shifts to the administration of non-categorical, cross-cutting grants/cooperative agreements; (4) facilitates state and local cross-divisional issues identification and solutions; (5) advocates for consistent and judicious interpretation and application of established Center-level policy related to cross-divisional issues and field staff management; (6) strengthens communications among Divisions, field staff, and partners; (7) facilitates Center-wide public health advisor/associate recruitment for field assignments; (8) provides focal point for cross-divisional issues related to field staff deployment; (9) facilitates the

development of a Center-wide field staff career development plan; (10) assures consistency in Center-wide procedures for field staff selection, assignment, and transfer processes; (11) facilitates and provides consultation on field staff human resource management issues; (12) advocates the use of information technology to strengthen the communications among the divisions, field staff, and partners; (13) advocates for the disease-specific needs of Divisions and grantees; (14) develops, reviews, and implements policies, methods, and procedures for NCHSTP extramural assistance programs; (15) provides financial tracking for Center-wide extramural grants and cooperative agreements; (16) provides consultation and technical assistance to NCHSTP program officials in the planning, implementation, and administration of assistance programs; (17) participates in evaluation of project resources and the resolution of audit exceptions; (18) assures the appropriate projection of needs and executes shifts in project funds between geographic areas to accommodate personnel in lieu of cash; (19) develops and implements objective review processes, including use of special emphasis panels, for competitive application cycles; (20) assures Center-wide consistency in providing review of continuation assistance applications; (21) interprets general policy directives, proposed legislation, and appropriations language for implications on extramural programs; and (22) provides liaison with OPS and OD staff offices.

Division of HIV/AIDS Prevention (CK2). (1) In cooperation with other CDC components, administers operational programs for the prevention of human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS); (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist state and local health departments, as well as national, state, and local nongovernmental organizations, in the planning, development, implementation, and overall improvement of HIV prevention programs; (3) conducts epidemiologic, surveillance, behavioral, etiologic, communications, and operational research into factors affecting the prevention of HIV/AIDS; (4) develops recommendations and guidelines on the prevention of HIV/AIDS and associated illnesses; (5) monitors sentinel surveillance of HIV infection and infectious diseases and other complications of HIV/AIDS, as well as surveillance of risk behaviors associated with HIV transmission; (6) conducts national and international HIV transmission; (6) conducts national and international HIV/AIDS surveillance, epidemiologic investigations, and studies to determine risk factors and transmission patterns of HIV/AIDS; (7) evaluates prevention and control activities in collaboration with other CDC components; (8) provides assistance and consultation on issues related to epidemiology, surveillance, programmatic support, research, evaluation methodologies, and fiscal and grants management to state and local health departments, nongovernmental organizations, national organizations, and other research institutions; (9) promotes linkages between health department HIV/AIDS programs and other governmental and nongovernmental partners who are vital to effective HIV/AIDS prevention efforts; (10) provides consultation to other PHS Agencies, medical institutions, private physicians, and international organizations or agencies; (11) provides information to the scientific community and the general public through publications and presentations; (12) works closely with The National Center for Infectious Diseases (NCID) on HIV/AIDS surveillance and epidemiologic investigations that require laboratory collaboration, and on activities related to the investigation and prevention of HIV-related opportunistic infections; (13) implements national HIV/AIDS prevention communications programs and develops strategic communications activities and services at the national level to inform and educate the American public about HIV/AIDS, especially individuals whose behavior places them at risk for HIV infection; (14) provides technical support to CDC assignees to state and local health departments who are working on HIV/AIDS surveillance and prevention activities.

Office of the Director (CK21). (1) Plans, directs, and evaluates the activities of the Division; (2) develops goals and objectives and provides national leadership and guidance in HIV/AIDS prevention policy formulation and program planning and development; (3) provides leadership for developing research in epidemiologic, communications, and behavioral aspects of HIV/AIDS prevention, and in coordinating activities between the Division and others involved in HIV/AIDS investigations, research, and prevention, including other CIOs and national-level prevention partners who influence HIV/AIDS prevention programs; (4) provides oversight for human subjects review of protocols and coordinates human subjects review training; (5) maintains lead responsibility for HIV/AIDS strategic communications and coordinates communications on major issues related to prevention, surveillance, or policy; (6) coordinates the response to the national media on HIV/AIDS issues within the Division and between the Division and the Office of Public Affairs; (7) ensures multidisciplinary collaboration in HIV/AIDS prevention activities; (8) provides leadership and guidance for program management and operations, as well as the development of data management systems and training and educational programs; (9) coordinates the development of guidelines and standards to ensure ongoing effective HIV prevention programs and their evaluations; (10) oversees the creation of materials designed for use by the media, including press releases, letters to the editor, and other print and electronic materials and programs and ensures appropriate clearance of these materials; (11) ensures that Deputy Directors and subject area specialists are prepared for interaction with the media as needed; (12) oversees the preparation of speeches and Congressional testimony on HIV/AIDS for the Division Director, the NCHSTP Director, the CDC Director, and other public health officials; (13) coordinates international HIV/AIDS activities of the Division and ensures coordination within CDC, as appropriate; (14) provides program management and administrative and technical support services for intramural, extramural, domestic, and international HIV/AIDS activities; (15) collaborates, as appropriate, with nongovernmental organizations to achieve the mission of the division; (16) in carrying out these activities, collaborates, as appropriate, with other divisions and offices of NCHSTP, and with other CIOs throughout CDC.

International Activity (CK211). (1) Designs and executes epidemiologic and interventional studies of HIV infection and its associated illnesses in nations; (2) develops and conducts epidemiologic studies of risk factors for AIDS and HIV transmission; (3) assists in the design, implementation, and evaluation of AIDS prevention and control activities; (4) manages international field sites and staff assigned to those sites; (5) in collaboration with NCID, conducts international surveillance and studies of HIV genotypic variants and their epidemiologic and diagnostic

implications; (6) provides technical assistance to other nations to develop AIDS case surveillance systems; (7) assists foreign governments in carrying out seroprevalence studies and surveys; (8) collaborates with other Branches in assisting developing countries in the design, implementation, and evaluation of strategies to protect their blood supplies; (9) coordinates with other CIOs in CDC that have similar international responsibilities; (10) provides consultation to WHO, USAID, and other organizations whose mission is to prevent and control HIV infection and related outcomes; (11) collaborates with national and international organizations to strengthen public health infrastructures at the country level, leading to technical and managerial sustainability of national HIV prevention and control programs; (12) assists national and international organizations in identifying, developing, and promoting HIV interventions and technologies that are feasible, effective, and culturally appropriate for use in developing countries.

Technical Information Activity (CK212). (1) Provides scientific, statistical, visual, and technical information on HIV/AIDS, in cooperation with other CDC organizations, to health care professionals, public health officials, prevention partners, and the general public; (2) develops policy and procedures that utilize technology and resources for information dissemination and management; (3) provides information services, including electronic publications, bibliographies, and current awareness information; (4) develops and maintains HIV/AIDS information and training materials for dissemination via the Internet and other electronic means; (5) maintains a specialized collection of HIV/AIDS resources, the HIV/AIDS Resource Center, that includes reprints, *Morbidity and Mortality Weekly Report (MMWR)* articles, and journals; (6) prepares HIV-related publications, including articles and guidelines published in the *MMWR* and other medical and scientific journals; (7) reviews HIV/AIDS materials from outside organizations and other agencies for technical and scientific accuracy; (8) provides lead scientific/technical support for the CDC National AIDS Hotline and the CDC National AIDS Clearinghouse; (9) prepares, edits, and monitors clearance of manuscripts for publication in scientific and technical journals and publications; (10) tracks and coordinates controlled and general correspondence; (11) prepares responses and coordinates the provision of materials requested by Congress; (12) prepares reports, speeches, and Congressional testimony on HIV/AIDS for the Division Director, the NCHSTP Director, the CDC Director, and other public health officials; (13) coordinates preparation of documents for annual program review with the Directors of NCHSTP and CDC; (14) prepares HIV/AIDS briefing reports for Director, CDC; (15) serves as the Division liaison with the Management Analysis and Services Office (MASO) to ensure appropriate management and disposition of Federal records; (16) coordinates responses and maintains records for Freedom of Information Act requests; (17) designs, develops, and produces visual information for widespread dissemination using computer graphics, desktop publishing, and video production services to support scientific presentations, publications, and training for HIV/AIDS.

Behavioral Intervention Research Branch (CK22). (1) Applies current theory, practice, and empirical findings in designing and conducting research on state-of-the-art interventions to prevent HIV infection; (2) summarizes and synthesizes the interventions to prevent HIV infection; (3) collaborates with HIV prevention partners within and outside CDC in identifying research priorities, designing intervention research, and translating and diffusing research findings to HIV prevention programs; (4) contributes to the intervention research literature by publishing regularly in peer-reviewed journals and CDC-sponsored publications.

Community Assistance, Planning, and National Partnerships Branch (CK23). (1) In collaboration with state and local public health and nongovernmental national, regional, and local partners (including the national business, labor, media, religious, and voluntary sectors) and other branches, CIOs, and Federal agencies, develops and implements programs, policies, and activities that enable and mobilize affiliates and communities to become involved with and support local and statewide strategic community planning that improves HIV prevention programs and activities; (2) develops, implements, and manages strategies and resources for HIV Prevention Community Planning, Minority and other Community-based Organizations Initiative, National/Regional Minority Organizations Initiative, National Partnerships Program, Business Responds to AIDS/Labor Responds to AIDS, CDC religious initiatives, and other nongovernmental organization, initiatives, including cooperative agreements with the American Red Cross, United States Conference of Mayors, the Association of State and Territorial Health Officials, the National Alliance of State and Territorial AIDS Directors, and the National Conference of State Legislators, that build a comprehensive public health-private sector partnership to prevent HIV infection/AIDS; (3) in collaboration with other Division components, provides technical consultation and assistance to state and local health departments and nongovernmental and other prevention partners in operational aspects of HIV prevention; (4) monitors activities of HIV prevention projects to ensure operational objectives are being met; (5) establishes guidelines and policies for implementation and continuation of state and local HIV prevention programs; (6) provides technical review of grant applications and prevention plans; (7) conducts continuing analysis of support utilization and career development of field personnel and analysis of other resource allocations and utilization in relation to HIV prevention; (8) provides supervision for HIV field staff; (9) assists in the development of new operational programs and program solicitations for HIV prevention; (10) coordinates program development and implementation with state/local/regional community planning processes; (11) facilitates linkages with STD and other HIV prevention programs at all levels to ensure coordination of harm reduction and intervention strategies for populations with common prevention needs; (12) develops and monitors systems and coordinates and provides consultation and technical assistance for health departments, community planning groups, and nongovernmental HIV prevention programs; (13) works with national partners to foster HIV prevention capabilities and activities in affected communities; (14) funds and monitors the progress of minority and other community-based organizations undertaking HIV prevention programs and activities.

Epidemiology Branch (CK24). (1) Designs and conducts epidemiologic and behavioral studies in the United States to determine risk factors, co-factors, and modes of transmission for HIV infection; (2) conducts studies of the natural history of HIV infection, including manifestations of HIV disease in adults, adolescents, and children; (3) designs and conducts research on the psychosocial and cultural determinates of disease progression and quality of life of infected persons; (4) conducts both epidemiologic and behavioral studies to evaluate appropriate biomedical

interventions for preventing HIV infection (primary prevention) and for preventing manifestations of AIDS (secondary prevention); (5) conducts applied research, including effectiveness trials, to assist in evaluation of strategies, major activities, and policies; (6) conducts epidemic aid investigations of HIV infection and associated infectious diseases, as well as other illnesses related to HIV/AIDS; (7) develops policy related to both primary prevention of HIV infection and secondary prevention of its severe manifestations based on scientific investigations and clinical trials; (8) provides epidemiologic consultation to state and local health departments, other PHS Agencies, universities, and other groups and individuals investigating HIV/AIDS; (9) responds to inquiries from physicians and other health providers for information on the medical and epidemiologic aspects of HIV/AIDS; (10) collaborates internationally with HIV/AIDS researchers and the International Activity to conduct epidemiologic studies; (11) works closely with NCID to determine virologic and immunologic factors related to transmission and natural history of HIV infection.

HIV/AIDS Surveillance Branch (CK25). (1) Conducts surveillance of HIV infection and AIDS in coordination with state and local health departments to provide population-based data for public health policy development and evaluation; (2) maintains, analyzes, and disseminates information from the national confidential registry of HIV/AIDS cases; (3) monitors HIV-related morbidity and mortality and the use of PHS recommendations for prevention and treatment of HIV infection and AIDS; (4) promotes uses of surveillance data for prevention and evaluation; (5) conducts surveillance of special populations of epidemiologic importance, e.g., HIV–2, occupationally-related HIV transmission, and persons reported with unrecognized modes of transmission; (6) conducts population-based surveillance of HIV-related risk behaviors in coordination with state and local health departments; (7) assesses socioeconomic, educational, and other factors of use to target and evaluate prevention and care programs, (8) evaluates surveillance systems for HIV infection and AIDS and modifies surveillance methodologies as needed to meet changing needs of HIV/AIDS programs; (9) manages extramural funding of surveillance activities and provides consultations and technical assistance on surveillance activities and methodologies to state and local health departments, national, and international organizations and agencies.

HIV Seroepidemiology Branch (CK26). (1) Plans, develops, and coordinates national studies of prevalence and incidence of HIV and related infections in selected geographic areas; (2) provides data and serves as the focus for information about the extent of HIV prevalence and incidence in the United States; (3) collaborates and provides technical assistance to public and private organizations regarding HIV seroprevalence and seroincidence; (4) works closely with other CDC organizations in applying prevalence and incidence data to target and evaluate HIV prevention programs; (5) works with the Surveillance Branch and the Statistics and Data Management Branch to evaluate HIV/AIDS trends in incidence and prevalence projections; (6) collects and analyzes HIV prevalence and incidence data from publicly funded HIV counseling and testing sites; (7) conducts domestic surveillance for HIV genotypic variations; (8) collaborates with NCID laboratories to develop a repository of stored sera and cells for studies of HIV and related infections; (9) serves as a focus for national and international activities related to transfusion-related HIV transmission; and (10) assists NCID with the evaluation of new HIV-related tests.

Prevention Communications Branch (CK27). (1) Develops national communications strategies for HIV/AIDS prevention; (2) works closely with behavioral scientists to create communications messages that effectively promote adoption or maintenance of safe behaviors; (3) promotes and facilitates the application of social marketing principles to HIV prevention at the state and local levels; (4) collaborates with external organizations and the news, public service, and entertainment, and other media to ensure that these effective messages reach the public; (5) in collaboration with the Community Assistance, Planning, and National Partnerships Branch, maintains a network of prevention collaborative partners to ensure consistent HIV prevention messages at national, state, and local levels; (6) works closely with the Training and Technical Support Systems Branch to provide technical assistance on communications and prevention marketing, and to coordinate release of new scientific and surveillance data; (7) in collaboration with the Training and Technical Support Systems Branch, creates and disseminates materials that incorporate prevention marketing principles for use at national, state, and local levels; (8) plans and implements the Prevention Marketing Initiative; (9) manages the CDC National AIDS Clearinghouse; (10) works closely with the Behavioral Intervention Research Branch to disseminate research through the Clearinghouse; (11) works closely with the Training and Technical Support Systems Branch to disseminate technical assistance materials through the Clearinghouse; (12) works closely with all Division branches to disseminate surveillance reports and other scientific publications through the Clearinghouse; (13) works closely with other relevant offices or groups to produce materials designed for use by the news media, including press releases, letters to the editor, public service announcements, television programming, video news releases, and other electronic and print materials, and, in cooperation with the Associate Director for Management and Operations, secures appropriate clearance of these materials both within and outside of the Division; (14) develops and produces brochures and other written materials for the public; (15) manages the CDC National AIDS Hotline.

Program Evaluation Branch (CK28). (1) Evaluates the effectiveness, costs, and impact of HIV prevention interventions, strategies, policies, and programs as practiced or implemented by public health agencies and organizations at the national/regional and state/local levels; (2) collaborates in the application of evaluation findings and techniques to the ongoing assessment and improvement of HIV prevention programs; (3) conducts evaluation research activities that include studies to evaluate the effectiveness and impact of prevention strategies and programs, major prevention activities, and policies; economic evaluations of HIV prevention, including assessments of alternative prevention strategies to encourage the best use of prevention resources; and development of both process and outcome measures that HIV prevention programs can use to assess their ongoing performance; (4) seeks to advance the methodology of HIV prevention evaluation through evaluation research activities; (5) applies evaluation methods to improving HIV prevention programs, including serving as a resource to other branches/activities, grantees, and prevention partners regarding evaluation of both domestic and international HIV prevention programs; collaborating with other branches as they develop, test, and disseminate

models for quality assurance of programs and services; and collaborating with other branches/activities in the development of methods to support the systematic assessment (including self-assessment) and continuous improvement of HIV prevention programs.

Statistics and Data Management Branch (CK29). (1) Manages, directs, and coordinates the statistics and data management activities and services for the Division; (2) provides leadership in the development of statistical and data management planning, policy, implementation, and evaluation; (3) provides Division LAN/user support services; (4) provides data management and statistical support for HIV/AIDS surveillance, HIV serosurveys, and epidemiologic studies; (5) creates mathematical models to project the incidence of AIDS and HIV infection; (6) develops, monitors, and evaluates projects to construct mathematical models of the spread of AIDS and HIV infection; (7) provides statistical models of epidemiologic parameters to describe the efficiency of HIV transmission and the incubation time for AIDS; (8) responds to inquiries from medical professionals, health departments, the media, and the public about AIDS epidemic statistical issues, including projections of the number of AIDS cases and estimates of persons infected with HIV; (9) coordinates Division work performed under CDC-wide Information Resource Management Office contracts for programming services, local area network support, and computer hardware support.

Training and Technical Support Systems Branch (CK2A). (1) Assesses training and technical assistance needs and develops strategies to address the training of grantee organizations, other external partners involved in HIV/AIDS prevention programs and activities, and Division headquarters staff; (2) works with other branches to synthesize, translate, and disseminate research findings applicable to HIV prevention program operations through training, conferences, and other systems; (3) conducts intramural/extramural training and training needs assessments; (4) manages conference grants and conference support services; (5) develops, maintains, and facilitates technical support systems (such as large-scale, on-site or distance-based, multi-access, science-based, rapid-response training mechanisms) to assist HIV prevention providers in applying sound technologies; (6) assesses technical assistance and training needs of HIV prevention service providers, coordinates with other Branches, and maintains communications between research and program staff at CDC.

Division of Sexually Transmitted Disease Prevention (CK3). (1) In cooperation with other CDC components, administers operational programs for the prevention of sexually transmitted diseases (STD); (2) provides consultation, training, statistical, educational, epidemiological and other technical services to assist state and local health departments in the planning, development, implementation, evaluation and overall improvement of STD prevention programs; (3) supports a nationwide framework for effective surveillance of STDs other than HIV; (4) conducts behavioral, clinical, epidemiological, preventive health services, and operational research into factors affecting the prevention and control of STD; (5) provides leadership and coordinates, in collaboration with other NCHSTP components, research and prevention activities that focus on STD and HIV interaction; (6) promotes linkages between health department STD programs and other governmental and non-governmental partners who are vital to effective STD prevention efforts; (7) provides technical supervision for Division state and local assignees.

Office of the Director (CK31). (1) Plans, directs and evaluates the activities of the Division; (2) provides national leadership and guidance in STD prevention and control policy formulation; program planning, development and evaluation; development of training, educational, health communications and data management systems; and program management systems; (3) provides administrative, fiscal, technical, and communications support for Division programs and units; (4) assures multidisciplinary collaboration in STD prevention and control activities; (5) in cooperation with other CDC components, provides leadership for developing research in behavioral, clinical, epidemiologic, and health services aspects of STD prevention and control, and for coordinating activities between the Division and others involved in STD research; (6) coordinates the development of guidelines and standards to assure ongoing evaluation of STD prevention and control programs; (7) coordinates international STD activity of the Division; (8) collaborates, as appropriate, with other divisions and offices in NCHSTP, and with other CIOs throughout CDC; (9) collaborates as appropriate with non-governmental organizations to achieve the mission of the Division; (10) establishes linkages with other CIOs and national level prevention partners that impact on STD prevention and control programs.

Behavioral Interventions and Research Branch (CK32). (1) Plans and conducts research on individual and group behavior patterns, their individual and societal determinants, and consequences as they affect STD occurrence and transmission, and disseminates the results of this research; (2) in collaboration with other relevant CDC units, plans and conducts studies to develop, evaluate, and apply new community and clinic-based behavioral intervention methods to STD prevention and control; (3) in collaboration with other components of the Division, NCHSTP, and CDC, plans, coordinates, implements and monitors demonstration projects designed to provide information which will guide national program direction in behavioral intervention for STD prevention and control; (4) in collaboration with other components of the Division, NCHSTP, and CDC, develops an effective behavioral surveillance system to assist national STD prevention efforts; implements and evaluates new approaches to behavioral surveillance related to STD prevention and control; and analyzes behavioral surveillance data in conjunction with STD morbidity surveillance data to guide national STD prevention policy and program direction; (5) in collaboration with internal and external colleagues, translates behavioral research findings into programmatic interventions; (6) provides state and local health departments and other prevention partners with technical assistance in the development, implementation, and evaluation of behavioral intervention strategies to reduce STD morbidity; (7) participates in STD prevention and control reviews and guideline development.

Epidemiology and Surveillance Branch (CK33). (1) Provides national and international leadership in the design and analysis of epidemiologic studies and surveillance data for STD to guide STD and HIV prevention programs; (2) plans epidemiology and surveillance direction-setting, in coordination with Branch staff and leadership in Division and outside CDC; (3) plans and develops new research opportunities and relationships; (4) plans and conducts scientific oversight for focus, impact, and quality of scientific work.

Epidemiologic Studies Section (CK332). (1) Collaborates with a wide network of leading researchers in academia, other government agencies, and international organizations in

developing a research agenda for critical epidemiologic and biomedical research issues related to STD prevention and to STD/HIV interactions; (2) plans, implements, and publishes findings from planned intramural and collaborative intramural-extramural studies; (3) studies and evaluates various schedules of STD therapy to assure continued efficacy of current and proposed regimens and conducts drug toxicity studies, where appropriate, to determine long-term effects of recommended therapies; (4) studies and evaluates diagnostic tests for STD detection; (5) collaborates with divisions, other centers, and academic or research institutions in conducting laboratory-based research on STDs; (6) provides technical assistance to state and local agencies in conducting epidemiological or clinical studies of STDs; (7) participates in the development of guidelines to translate research findings into program practice; (8) regularly updates STD Treatment Guidelines to incorporate recommendations based on new scientific information; (9) supports and contributes actively to the Division's Initiative-based teams (e.g., HIV/STD Interactions, Infertility Prevention, Adverse Outcomes of Pregnancy); (10) collaborates with other branches in the Division and with the Division of HIV/AIDS Prevention in joint HIV/STD program reviews; (11) provides management and operations expertise to on-going National STD prevention initiatives, such as Infertility and Syphilis in the South; (12) in collaboration with other Division components, develops and evaluates mathematical models of STD transmission dynamics and intervention effectiveness.

Surveillance and Special Studies Section (CK333). (1) Provides leadership in the design and analysis of surveillance data for STD, and in the use of surveillance data to guide STD and HIV prevention programs; (2) in collaboration with other Division components, analyzes surveillance data and develops innovative surveillance strategies for use at the local level in estimating STD prevalence, incidence, sequelae, and health impact; (3) takes lead responsibility for coordinating EPI–AIDS; (4) conducts surveillance studies to develop more precise methods to identify persons infected with STD/HIV; (5) provides technical assistance to state and local agencies in conducting surveillance of STD; (6) participates in collaborations with other Division staff in STD/HIV epidemiologic and surveillance investigations and outbreak control investigations; (7) participates in the development of guidelines and training to assist in translating surveillance research findings into operational-programmatic practice; (8) participates in STD/HIV prevention program reviews; (9) supports and contributes actively to initiative-based teams (e.g., HIV/STD Interactions, Infertility Prevention, Adverse Outcomes of Pregnancy); (10) provides management and surveillance operations expertise to on-going National STD prevention initiatives, such as Infertility and Syphilis in the South; (11) publishes findings from planned intramural and collaborative intramural-extramural surveillance studies.

Program Development and Support Branch (CK34). (1) In collaboration with other Division components, provides technical consultation and assistance to state and local health departments, non-governmental, and other prevention partners in operational aspects of STD prevention and control; (2) monitors activities of STD prevention projects to assure operational objectives are being met; (3) establishes guidelines and policies for implementation and continuation of state and local STD prevention and control programs; (4) establishes guidelines and standards for STD negotiated agreements and assures implementation; (5) provides technical review and funding recommendations related to grant applications; (6) conducts continuing analysis of field personnel and other resource allocations and utilization in relation to STD prevention and control; conducts site review to identify and resolve STD prevention problems in project areas; (7) provides technical support and supervision, including analysis of performance and development, for STD field staff; (8) assists in the development of new operational programs and program solicitations for STD prevention and control; (9) facilitates coordination within state/local project areas regarding STD activities with other program partners; (10) coordinates program development and implementation with state/local/regional community planning processes; (11) facilitates linkages with HIV prevention programs at all levels to assure coordination of harm reduction and intervention strategies for STD and HIV.

Program Evaluation and Preventive Health Services Research Branch (CK35). (1) Develops and evaluates methodologies for conducting program evaluation and preventive health services research related to STD prevention and control; (2) plans, coordinates and disseminates the results of evaluation studies for a wide variety of behavioral, clinical, and operational program issues including access (and barriers) to care, quality of care, health care delivery systems and the impact of these on STD-related clinical/behavioral outcomes; (3) serves as a bridge in translating program relevant research into STD program operations; including cost-effectiveness and cost-benefit analyses; (4) develops preventive health services models for a variety of STD-related issues including counseling/testing, partner notification, and integration of services; (5) in collaboration with other components of the Division, NCHSTP, and CDC, explores and evaluates the role of managed care and other private sector entities in STD prevention and control efforts; (6) in collaboration with other components of the Division, conducts studies to develop new or to refine old methods of STD prevention; (7) in conjunction with other branches, establishes guidelines and standards for operational program development and evaluation; (8) provides technical assistance to state and local health departments and other prevention partners in building program evaluation and preventive health services research capacity.

Statistics and Data Management Branch (CK36). (1) Provides leadership in the development of statistical and data management planning, policy, implementation, and evaluation; (2) collaborates with Division researchers in the design, implementation and analysis of studies; (3) coordinates the collection, compilation, analysis and dissemination of national STD surveillance data, including STD-related behavioral and health services data and STD morbidity data, and other large databases related to STD prevention and control efforts; (4) supports local/state health departments in the timely reporting, data processing and analysis of STD data, including electronic transmission of STD surveillance (morbidity) data; (5) develops, implements, and supports data systems for information management in local, state, and national STD prevention programs; (6) provides data management and statistical support for STD surveillance and epidemiologic studies; (7) assists state/local STD prevention programs in identifying STD outbreaks, and participates in such outbreak investigations by providing data analysis; (8) in collaboration with other components of the Division, NCHSTP, and CDC, develops and participates in studies/surveys of the prevalence of:

sexual and drug using behaviors which increase the risk of STD infection, factors associated with risk behaviors, and health care seeking, utilization and provider behaviors; (9) provides advice and consultation regarding data management and statistical issues to other Division components; (10) in collaboration with other Division components develops and evaluates mathematical models of STD transmission dynamics and intervention effectiveness.

Training and Health Communication Branch (CK37). (1) Provides leadership in development, implementation, and evaluation of training programs for providers of interventions to prevent and control STDs; (2) maintains and evaluates the performance of the national network of STD/HIV Prevention Training Centers, STD Public Health and Epidemiology Fellowships, and other professional training programs; (3) establishes communication networks with national organizations involved with STD-related training of medical and paramedical personnel; (4) identifies training needs, designs programmatic training and career development initiatives, and plans, implements, and evaluates training programs for STD program staff; (5) provides technical assistance to state and local STD prevention programs in developing, implementing, marketing, and evaluating their STD prevention training and community education activities; (6) performs technical reviews of intervention initiatives and proposals and advises other Division units on the need for and the form of training and health communications components; (7) either directly or in cooperation with other CDC components, provides STD information and education to private and public organizations at the national level and provides technical assistance to other Federal agencies, non-governmental organizations, and national organizations to improve and coordinate STD-related community educational activities; (8) assists other CDC components in planning, conducting, coordinating, and evaluating national programs for STD communication education; (9) assists in the development and dissemination of educational materials for national STD prevention programs; (10) participates in the development of guidelines and program-specific instructional materials to be used in STD intervention, supervision, and management; (11) promotes the appropriate use of new technologies in distance learning and rapid communication with prevention partners; and (12) manages the CDC National STD Hotline and provides technical assistance to the CDC National AIDS Hotline.

Division of Tuberculosis Elimination (CK4). (1) In cooperation with other CDC components, administers and promotes a national program for the prevention, control, and elimination of tuberculosis (TB) which includes the formulation of national policies and guidelines; (2) supports a nationwide framework for surveillance of tuberculosis and evaluation of national TB prevention and control program performance; (3) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist state and local health departments, international health care providers, and other partners, in the planning, implementation, evaluation, and overall improvement of TB control programs; (4) detects and investigates outbreaks of TB; (5) conducts operational and behavioral research; (6) provides support for the Federal Tuberculosis Task Force; (7) supports and collaborates with the National Tuberculosis Controllers Association to promote effective national communications and coordinated feedback on urgent policy and program performance issues; (8) provides technical supervision and training to Federal assignees working in state and local tuberculosis control programs; (9) participates in the development of policies and guidelines for human immunodeficiency virus (HIV) prevention and control activities within TB populations at high risk; (10) provides policy leadership for, and guides implementation and evaluation of tuberculosis prevention and control activities in HIV prevention and control programs; (11) works to prevent the importation of TB from other countries; (12) oversees the development and operation of Tuberculosis Model Centers.

Office of the Director (CK41). (1) Plans, provides leadership and guidance in program planning and management, policy formulation, and development of training, surveillance, and research programs; (2) directs and evaluates the operations of the Division; (3) establishes contact with, and promotes tuberculosis activities of, other national organizations which have an important role to play in achieving tuberculosis elimination; (4) provides administrative support services for the Division; (5) collaborates and coordinates Division activities with other components of NCHSTP and CDC; (6) provides administrative and technical support to the statutorily mandated Advisory Committee for the Elimination of Tuberculosis (ACET); provides administrative and technical support for the National Coalition for the Elimination of Tuberculosis (NCET).

International Activity (CK412). (1) Coordinates Division and NCHSTP international TV activities; (2) coordinates the assessment of immigration and its impact on TB patterns in the United States and the evaluation of overseas TB screening procedures for immigrants and refugees; (3) conducts and coordinates operational research and demonstrations to improve both the overseas screening for tuberculosis of immigrants and refugees and the domestic follow-up of those entering with suspected TB, in collaboration with Division of Quarantine, NCID; (4) promotes the improved recognition and management of tuberculosis among the foreign-born through special studies on the U.S./Mexico border and at other overseas sites; (5) collaborates with the nation of Botswana, the World Health Organization (WHO), the World Bank, the International Union Against Tuberculosis and Lung Diseases (IUATLD), and the United States Agency for International Development (USAID), and others, to conduct investigations into the diagnosis, management and prevention of tuberculosis in persons with and without HIV infection.

Communications and Education Branch (CK42). (1) Provides coordination and oversight for Division responses and relations with the media and public and serves as the first point of contact for telephonic and written requests for information from the media and public; (2) presents communication and education issues to the Advisory Committee for the Elimination of Tuberculosis and to Division management staff; (3) develops, produces, disseminates, and evaluates educational pamphlets and other materials providing tuberculosis information to the scientific community as well as the general population; (4) provides writer/editor support to the Division and coordinates and tracks materials for purposes of editing, clearance and approval for publications and presentations; (5) periodically conducts training and education needs assessments and identifies resources available for health department TB control officers and senior managers, TB nurse consultants, TB training/education directors and for senior staff carrying out TB activities in other programs or facilities serving persons at high risk for TB; (6) develops, conducts, and coordinates formal training courses on tuberculosis for State and big city TB

program managers and nurse consultants; (7) based on needs assessments, develops and conducts or coordinates train-the-trainer courses for staff who train and/or supervise frontline TB program staff; (8) assists in planning and coordinating agendas necessary to conduct tuberculosis conferences and workshops sponsored by the Division; (9) provides coordination and oversight for duty officer functions; (10) provides technical assistance to health departments and other health care providers in assessing and meeting their training needs and in assessing the impact of their training and education activities; (11) provides graphic support to the Division and senior field staff; (12) organizes and maintains a library of scientific and non-scientific information related to TB; (13) provides consultation and assistance in coordinating training and education activities carried out by other CDC programs, Model TB Centers, and NCET members; (14) develops and provides support for, or coordinates a TB Voice and FAX Information System; (15) assists in developing or coordinating a clearing house of TB training and education resources; (16) maintains inventory of training opportunities and coordinates with employees and supervisors training necessary for staff to carry out their duties.

Computer and Statistics Branch (CK43). (1) Provides computer programming, systems analysis, information management, and statistical services to the Division; (2) consults and assists in the development and implementation of appropriate data collection and management methods; (3) collaborates in the analysis of data and in the preparation of materials for publication; (4) maintains expertise in information science and technology to effect the best use of the division's resources; (5) provides technical assistance in the selection and use of equipment, systems, and services to process information; (6) manages security for the Division's information systems; (7) maintains computer hardware; (8) provides training and consultation to headquarters and field staff in the use of computer hardware software; (9) develops, distributes, provides training for and supports the TB Information Management System (TIMS) to facilitate the collection and analyses of data, both patient and program, to improve the effectiveness of prevention and control activities.

Field Services Branch(CK44). (1) provides medical and programmatic consultation to assist state and local health departments in developing, implementing, and evaluating their activities toward achieving tuberculosis prevention, control, and elimination; (2) promotes adoption of CDC tuberculosis-related policies by national organizations, health departments and health care providers; (3) acts as advocate for health departments when conveying resource needs; (4) participates in development of national policies and guidelines for tuberculosis elimination; (5) evaluates tuberculosis program performance and provides technical assistance to states and localities for improving program operations; (6) develops funding guidelines, coordinates reviews, makes funding recommendations, and monitors performance of programmatic portion of Tuberculosis Cooperative Agreements with state and local health departments; (7) provides supervision to medical staff assigned to state and local health departments; (8) analyses data to assess progress toward achieving national TB objectives and prepares program management and evaluation reports for publication; (9) supports program consultants in providing technical assistance and recommendations to health departments; (10) encourages and facilitates the transfer of new technology and guidelines into clinical and public health practice.

Field Operations Section I (CK442). (1) Serves as liaison or focal point to assist TB controllers in linking with proper resource persons and obtaining technical assistance, both within and outside the Division; (2) conducts a continuing analysis of the effectiveness of field personnel and utilization of other resources in relation to the tuberculosis problems; (3) provides consultation and assists state and local health departments in the methodology and application of tuberculosis control techniques recommended by CDC; (4) acts as advocate for state and local health departments during needs assessments and requests for resources; (5) provides technical supervision and support for the CDC field staff; (6) identifies specific management, operational, and staff performance problems associated with not achieving TB control objectives or with not implementing essential TB components, and recommends solutions; (7) provides input into the development of branch and division policy, priorities and operational procedures; (8) coordinates technical reviews of cooperative agreement applications and makes appropriate funding recommendations; and (9) serves as an agent of technology transfer to ensure that good program methodology in one program is known and made available to other state and local programs.

Field Operations Section II (CK443). (1) Serves as liaison or focal point to assist TB controllers in linking with proper resource persons and obtaining technical assistance, both within and outside the Division; (2) conducts a continuing analysis of the effectiveness of field personnel and utilization of other resources in relation to the tuberculosis problems; (3) provides consultation and assists state and local health departments in the methodology and application of tuberculosis control techniques recommended by CDC; (4) acts as advocate for state and local health departments during needs assessments and requests for resources; (5) provides technical supervision and support for the CDC field staff; (6) identifies specific management, operational, and staff performance problems associated with not achieving TB control objectives or with not implementing essential TB components, and recommends solutions; (7) provides input into the development of branch and division policy, priorities and operational procedures; (8) coordinates technical reviews of cooperative agreement applications and makes appropriate funding recommendations; (9) serves as an agent of technology transfer to ensure that good program methodology in one program is known and made available to other state and local programs.

Research and Evaluation Branch (CK45). (1) Identifies and evaluates new public health strategies for the prevention, diagnosis, and treatment of tuberculosis and infections with M. tuberculosis, in collaboration with others; (2) identifies and investigates behavioral and operational factors affecting health-care seeking and treatment outcomes; (3) identifies and investigates new drugs, drug delivery systems, and immunologic agents for the treatment and prevention of tuberculosis; (4) evaluates the economic and public health impact of existing and alternative prevention, diagnostic, and treatment strategies; (5) based on findings from research studies, recommends prevention, diagnostic, and treatment methods for national tuberculosis elimination strategies; (6) provides consultation to national and international organizations on prevention, diagnosis, and treatment strategies and research needs.

Prevention Effectiveness Section (CK452). (1) Conducts studies of aspects of health care systems that impact on health-care seeking and treatment outcome for tuberculosis patients, such

as studies of directly observed therapy in various settings and in-patient compared to out-patient management of tuberculosis; (2) develops methodologies for evaluation of tuberculosis treatment and prevention program activities and develops strategies and tools for program self-evaluation; (3) conducts studies of health-care provider tuberculosis control practices and assesses the extent to which recommended practices are implemented; (4) conducts studies to assess the cost-effectiveness and public health impact of recommended practices; (5) conducts studies to evaluate and compare strategies to improve the operation of tuberculosis treatment and prevention programs; (6) develops strategies and tools for TB programs to assess the cost-effectiveness of various TB prevention and control interventions; (7) conducts research on individual and social factors affecting health-care seeking and treatment outcomes related to tuberculosis; (8) in collaboration with the Communications and Education Branch, conducts formative research on approaches to patient and provider education and public communications; (9) provides consultation to national and international organizations on behavioral and operational research needs and study designs; (10) coordinates the writing of studies for publication of manuscripts in scientific journals, *MMWR*, etc; (10) presents findings at national and scientific meetings.

Therapeutic and Diagnostics Section (CK453). (1) Conducts studies of new drug regimens used in the prevention and treatment of tuberculosis, including dosage, duration, and toxicity; (2) conducts studies of new drugs, drug delivery systems, immunologic agents and other treatments for tuberculosis and latent infection with Mycobacterium tuberculosis; (3) in collaboration with others, conducts studies of new diagnostic tests in clinical and field trials of more specific and rapid tests to diagnose tuberculosis and latent infection with M. tuberculosis; (4) conducts studies to evaluate the safety and efficacy of recommended regimens for the treatment and prevention of tuberculosis; (5) provides consultation and assistance to national and international organizations on the design and conduct of clinical trials and research needs; (6) coordinates the writing of studies for publication of manuscripts in scientific journals, *MMWR*, etc; (7) presents findings at national clinical and scientific meetings; (8) provides support and oversight for the distribution of investigational drugs for the treatment and prevention of tuberculosis by NCID.

Surveillance and Epidemiology Branch (CK46). (1) Directs national surveillance of tuberculosis morbidity and mortality; (2) based on the analysis of surveillance data, recommends strategies for national tuberculosis elimination activities; (3) conducts studies of special epidemiologic significance; (4) responds to public and private inquiries about outbreaks; (5) assesses the prevalence and trends of mycobacterial infections in the United States; (6) develops more precise epidemiologic methods to identify persons with mycobacterial infections; (7) assesses the risk, in collaboration with NCID and the National Institute for Occupational Safety and Health, of mycobacterial infections and diseases among different segments of the population, such as health care workers, correctional facility employees and inmates, and homeless persons; (8) provides consultation to other federal agencies, state and local health departments, and national organizations.

Epidemiology Section (CK462). (1) Conducts and coordinates investigations of major outbreaks of tuberculosis, including multidrug-resistant tuberculosis; (2) analyzes investigation findings and relates the results and recommendations of the investigations to the involved outside agencies and State health departments; (3) conducts studies to assess the characteristics of persons with M. tuberculosis and HIV co-infection in order to develop and implement intervention strategies, in collaboration with others; (4) conducts case control, cohort, and other studies of the epidemiology of TB disease and infection; (5) conducts studies of restriction fragment length polymorphism (RFLP) techniques in the epidemiology of tuberculosis, in collaboration with others; (6) assess the prevalence of, and risk factors for, infection with M. tuberculosis in the United States through surveys and special studies; (7) conducts studies of the epidemiology of drug resistance in the United States, in collaboration with others; (8) prepares manuscripts for publication in scientific journals, and the MMWR; (9) presents findings at scientific meetings; (10) responds to public and private inquiries about the epidemiology of tuberculosis.

Surveillance Section (CK463). (1) Conducts national surveillance for tuberculosis morbidity through the expanded surveillance system; (2) implements and provides technical support for the computer software used by the state and local health departments to transmit data from the reporting areas to CDC; (3) analyzes data from the surveillance system to determine risk factors for the increases and/or decreases in tuberculosis morbidity and disseminates results through scientific journals, periodic reports and public presentations; (4) monitors the impact of immigration to the trends and projections of TB morbidity in the United States; (8) responds to public and private inquiries about surveillance findings.

Delete in its entirety the title and functional statement for the *National Center for Prevention Services (CM).*

Dated: June 20, 1996.

David Satcher,

Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–16855 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 94F–0393]

Asahi Denka Kogyo K. K.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 4B4434), filed by Asahi Denka Kogyo K. K., proposing that the food additive regulations be amended to provide the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester as an antioxidant and/or stabilizer at a level not to exceed 0.25 percent by weight in olefin copolymers in contact with certain food categories, and at levels not to exceed 0.10 percent by weight in either olefin copolymers or polypropylene in contact with certain other food categories.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of November 23, 1994 (59 FR 60363), FDA announced that a food additive petition (FAP 4B4434) had been filed by Asahi Denka Kogyo K. K., 2, Sirahata 5-Chome, Urawa City, Saitama 366, Japan. The petition proposed to amend the food additive regulations in § 178.2010

Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester for use (i) at levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520 (21 CFR 177.1520) in contact with foods of types I, II, III, IV–B, VI–B, and VIII, as described in Table 1, and under conditions of use B through H described in Table 2 of § 176.170(c) (21 CFR 176.170(c)) of this chapter, and with foods of types IV–A, V, VI–A, VI–C, VII–A, and IX, under conditions of use C through G, as described in § 176.170(c) of this chapter, Tables 1 and 2 respectively; and (ii) at levels not to exceed 0.10 percent by weight of either olefin polymers or polypropylene complying with § 177.1520 which may be used only in contact with foods of types IV–A, V, VI–C, VII–A, and IX, under conditions of use H, as described in § 176.170(c) of this chapter, Tables 1 and 2 respectively. Asahi Denka Kogyo K. K. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: June 12, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–17104 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0214]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C. I. Pigment Red 202) as a colorant in polymers used in contact with food.

DATES: Written comments on petitioner's environmental assessment by August 5, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4512) has been filed by Ciba-Geigy Corp., 335 Water St., Newport, DE 19804. The petition proposes to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 2,9-dichloro-5,12-dihydroquinone[2,3-b]acridine-7,14-dione (C. I. Pigment Red 202) as a colorant in polymers used in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before (*insert date 30 days after date of publication in the* Federal Register), submit to the Dockets Management Branch (address above) written comments. 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. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: June 20, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–17105 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92C–0179]

Microbio Resources, Inc.; Withdrawal of a Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a color additive petition (CAP 1C0237) proposing that the color additive regulations be amended to provide for the safe use of comminuted *Haematococcus pluvialis* algae meal as a color additive in aquaculture feeds.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3066.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 18, 1992 (57 FR 27256), FDA announced that a color additive petition (CAP 1C0237) had been filed by Microbio Resources, Inc., 6150 Lusk Blvd., suite B–105, San Diego, CA 92121. The petition proposed that 21 CFR part 73 of the color additive regulations be amended to provide for the safe use of comminuted *Haematococcus pluvialis* algae meal as a color additive in aquaculture feeds. Microbio Resources, Inc., 18278 Hadden Hall Ct., San Diego, CA 92128, has now withdrawn the petition without prejudice to a future filing (21 CFR 71.6(c)(2)).

Dated: June 20, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–17059 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the

hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Medical Imaging Drugs Advisory Committee

Date, time, and place. July 23, 1996, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 8:45 a.m., open public hearing, 8:45 a.m. to 9:45 a.m., unless public participation does not last that long; open committee discussion, 9:45 a.m. to 5 p.m.; Leander B. Madoo, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Medical Imaging Drugs Advisory Committee, code 12540. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 15, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will continue discussion and drafting a ''Points to Consider (PTC) Document for Developing Medical Imaging Agents''. The agents encompassed will include radiologic contrast media and nuclear medicine pharmaceuticals.

Food Advisory Committee

Date, time, and place. July 25 and 26, 1996, 8:15 a.m., Crystal Gateway Marriott, Rooms F, G, and H, 1700 Jefferson Davis Hwy., Arlington, VA.

Type of meeting and contact person. Open committee discussion, July 25, 1996, 8:15 a.m. to 4 p.m.; open public hearing, 4 p.m. to 5 p.m., unless public participation does not last that long; open committee discussion, July 26, 1996, 8:15 a.m. to 1 p.m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 4 p.m.; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727, or Catherine M. DeRoever, Advisory Committee Staff (HFS–22), 202–205–4251, FAX 202–205–4970, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Food Advisory Committee, code 10564. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by close of business July 19, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. If necessary, comments may be limited to 5 minutes.

Open committee discussion. The committee will undertake a discussion of the final report from the Keystone National Policy Dialogue on Food, Nutrition, and Health. The focus of this report is on both NLEA-authorized health claims and other nutrition messages in the broad context of communicating diet and health information to consumers. The committee may also consider current issues pertaining to dietary supplements and the Dietary Supplement Health and Education Act.

Under 21 CFR 14.20 and 14.35, interested persons may submit written information or views on the matter(s) before the committee. Voluminous data are to be accompanied by a summary. Submissions must be made to the Executive Secretary and not directly to any committee members. Substantive submissions received at least 3 weeks prior to a meeting may be included in members' briefing materials; submissions received later will be distributed at the committee meeting. All submissions that include copyrighted materials must be accompanied by documented permission for duplication and distribution at no copyright expense to FDA.

At least 50 copies of each submission must be provided; sufficient additional copies may be requested by the agency for distribution to the public at a meeting. Fewer copies of voluminous submissions will be required; only summaries of such submissions will be provided to committee members, with complete copies of submissions being made available for circulation among committee members and for viewing by the public at a meeting.

More detailed information regarding the meeting agenda that may become available prior to the meeting will be provided to the public via the 800 number given above.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10)

concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 28, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–17170 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request*: Extension of a currently approved collection; *Title of Information Collection*: Information Collection Requirements contained in 42 CFR 447.253; *Form No.*: HCFA-R–117; *Use*: In order to receive HCFA approval of a Medicaid State plan amendment which changes the methods and standards used to establish payment rates for inpatient hospital or long-term care services, a Medicaid State Agency must provide a statement which assures the HHS Secretary that the resulting rates will conform to all the requirements specified in section 1902(a)(13)(A) of the Social Security Act and implementing regulations at 42 CFR 447.253; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents*: 54; *Total Annual Responses*: 54; *Total Annual Hours*: 54.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 27, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–17126 Filed 7–03–96; 8:45 am]

BILLING CODE 4120–03–P

[R-138]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection*: Medicare Geographical Classification Review Board (MGCRB) Procedures and Criteria; *Form No.*: HCFA-R-138; *Use*: This regulation sets up an application process for prospective payment system hospitals who choose to appeal their geographic status to the Medicare Geographic Classification Review Board (MGCRB). This regulation also establishes procedural guidelines for the MGCRB. *Frequency*: Annually; *Affected Public*: Business or other for profit, and Not for profit institutions; *Number of Respondents*: 1,000; *Total Annual Responses*: 1,000; *Total Annual Hours Requested*: 1,000.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to

the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 27, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–17127 Filed 7–03–96; 8:45 am]

BILLING CODE 4120–03–P

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300.

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745.

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866.

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787.

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783, (formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016.

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810.

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020.

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917.

CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–549–8263/800–833–3984, (formerly: CompuChem Laboratories, Inc. A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., a member of the Roche Group).

CORNING Clinical Laboratories, 4771 Regent Blvd., Irving, TX 75063, 800–526–0947, (formerly: Damon Clinical Laboratories, Damon/MetPath).

CORNING Clinical Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–284–7515, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories).

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath).

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories).

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293, (formerly: Metropolitan Reference Laboratories, Inc.).

CORNING Clinical Laboratory, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories).

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science).

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT)).

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (formerly: Cox Medical Centers).

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171.

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416.

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468.

Drs. Weber, Palmer, Macy, Chartered, 338 N. Front St., Salina, KS 67401, 913–823–9246.

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267.

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300, (formerly: Harrison & Associates Forensic Laboratories).

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051.

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100, (formerly: National Health Laboratories Incorporated).

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000, (formerly: Regional Toxicology Services).

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286, (formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986, (formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961.

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835.

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515.

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213.

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227.

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466.

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587.

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199.

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512).

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250.

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361.

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134.

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400.

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177.

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory).

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627.

Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272.

Premier Analytical Laboratories, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784 (formerly: Drug Labs of Texas).

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640.

Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378.

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788.

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800, 800–999–LABS.

Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472.

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520.

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory).

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories).

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories).

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories).

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories).

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176.

Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507.

St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.).

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MetWest-BPL Toxicology Laboratory).

The following laboratory withdrew from the National Laboratory Certification Program on July 4, 1996:

SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100.

Pat Bransford,

Director of Personnel For Richard Kopanda, Executive Officer Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–17183 Filed 7–3–96; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3778–N–92]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR Part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR Part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purposes for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army: Mr. Derrick Mitchell, CECPW-FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6083; Navy: Mr. John Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052; Air Force: Ms. Barbara Jenkins, Air Force Real Estate Agency (Area—MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building, 5683, Washington, DC 20332–8020; (202) 767–4184; Interior: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; (These are not toll-free numbers).

Dated: June 28, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/05/96

Suitable/Available Properties

Buildings (by State)

Alabama

Bldgs. 2802, 2805, 3811
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219620662
Status: Unutilized
Comment: #2802=13,082 sq. ft., #2805=13,082 sq. ft., #3811=3000 sq. ft., most recent use—admin., needs repair, off-site use only.

Arizona

Bldgs. 13548, 72918
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219620663
Status: Unutilized
Comment: #13548=2048 sq. ft., most recent use—maint. shop, #72918=2822 sq. ft., most recent use—storage, possible asbestos/lead base paint, off-site use only.

California

Bldg. T–26
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219620684
Status: Underutilized
Comment: 15,551 sq. ft., most recent use—guest house, needs repair, off-site use only.

Colorado

Bldg. 08000
Lamar Comm. Facility
La Mar Co: Prowers CO 81052–
Landholding Agency: Air Force
Property Number: 189620034
Status: Excess
Comment: 2332 sq. ft. bldg. on approx. 3.67 acres, hook-ups disconnected, needs repair.

Georgia

Bldg. 34300
Fort Gordon

Ft. Gordon, Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219620664
Status: Unutilized
Comment: 2525 sq. ft., most recent use—auto svc store, possible asbestos, off-site use only.

Hawaii

Bldg. S–571
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number; 219620654
Status: Unutilized
Comment: 10,053 sq. ft., most recent use—classroom, off-site use only.

Bldg. S–120
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number; 219620655
Status: Unutilized
Comment: 2750 sq. ft., most recent use—admin., off-site use only.

Bldg. S–570
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219620656
Status: Unutilized
Comment: 60 sq. ft., most recent use—ticket booth, off-site use only.

Bldg. T–723
Fort Shafter
Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219620657
Status: Unutilized
Comment: 1751 sq. ft., most recent use—store house, off-site use only.

Bldg. T–1629
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219620658
Status: Unutilized
Comment: 3287 sq. ft., most recent use—storage, possible termite infestation, off-site use only.

Bldg. T–489
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219620659
Status: Unutilized
Comment: 6120 sq. ft., most recent use—storage, needs repair, off-site use only.

Bldg. T–310
Fort Shafter
Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219620660
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only.

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only.

Kansas

Bldg. P–313, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219620668
Status: Unutilized
Comment: 6222 sq. ft., most recent use—admin. bldg., needs repair, possible asbestos.

Kentucky

Bldg. 2632
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620669
Status: Unutilized
Comment: 5310 sq. ft., most recent use—admin., possible asbestos, off-site use only.

Bldg. 2436
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620670
Status: Unutilized
Comment: 1200 sq. ft., most recent use—admin., possible asbestos, off-site use only.

Bldg. 2264
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620671
Status: Unutilized
Comment: 2500 sq. ft., most recent use—admin., possible asbestos, off-site use only.

Bldg. 2344
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620672
Status: Unutilized
Comment: 5310 sq. ft., most recent use—admin., needs repair, possible asbestos, off-site use only.

Bldg. 02157
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620673
Status: Unutilized
Comment: 2500 sq. ft., most recent use—admin., off-site use only.

Bldg. 6111
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620674
Status: Unutilized
Comment: 2700 sq. ft., most recent use—admin., off-site use only.

Bldg. 02411
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219620675
Status: Unutilized
Comment: 5310 sq. ft., most recent use—admin., off-site use only.

Louisiana

Bldg. 7316, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620676
Status: Underutilized
Comment: 507 sq. ft., most recent use—BOQ Transient.

Bldg. 7315, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620677
Status: Underutilized
Comment: 507 sq. ft., most recent use—BOQ Transient.

Bldg. 7314, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620678
Status: Underutilized
Comment: 507 sq. ft., most recent use—BOQ Transient.

Bldg. 7313, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620679
Status: Underutilized
Comment: 507 sq. ft., most recent use—BOQ Transient.

Bldg. 7312, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620680
Status: Underutilized
Comment: 507 sq. ft., most recent use—BOQ Transient.

Bldg. 7311, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620681
Status: Underutilized
Comment: 643 sq. ft., most recent use—BOQ Transient.

Bldg. 7310, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620682
Status: Underutilized
Comment: 643 sq. ft., most recent use—BOQ Transient.

Bldg. 7309, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number: 219620683
Status: Underutilized
Comment: 643 sq. ft., most recent use—BOQ Transient, needs repair.

Maryland

Shoemaker Property
NPS Tract 405–45
Boonsboro Co: Washington MD 21713–
Landholding Agency: Interior
Property Number: 619620003
Status: Unutilized
Comment: 816 sq. ft., needs rehab, most recent use—residential, off-site use only.

North Carolina

Bldg. 0–9064
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219620686
Status: Unutilized
Comment: 480 sq. ft., most recent use—storage bldg., possible asbestos, needs repair, off-site use only.

Bldg. 0–9107
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–

Landholding Agency: Army
Property Number: 219620687
Status: Unutilized
Comment: 80 sq. ft., most recent use—storage shed, possible asbestos, off-site use only.

Bunk House
Great Smoky Mountains National Park
Fontana Dam Co: Swain NC 28733–
Landholding Agency: Interior
Property Number: 619620004
Status: Unutilized
Comment: 450 sq. ft., most recent use—residential, off-site use only.

Bldg. 119, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620024
Status: Unutilized
Comment: 1721 sq. ft., 1-story, most recent use—residence, off-site use only.

Bldg. 120, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620025
Status: Unutilized
Comment: 1823 sq. ft., 1-story, most recent use—residence, off-site use only.

Bldg. 121, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542
Landholding Agency: Navy
Property Number: 779620026
Status: Unutilized
Comment: 1456 sq. ft., 1-story, most recent use—residence, off-site use only.

Bldg. 127, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620027
Status: Unutilized
Comment: 14276 sq. ft., 1-story, most recent use—garage, off-site use only.

Bldg. 128, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620028
Status: Unutilized
Comment: 2008 sq. ft., 2-story, most recent use—residence, may have State historical significance, off-site use only.

Bldg. 146, Camp Lejeune
Greater Sandy Rune Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620029
Status: Unutilized
Comment: 1900 sq. ft., concrete block, most recent use—gas station, off-site use only.

Oklahoma

Bldg. T–4721
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620688
Status: Unutilized
Comment: 114 sq. ft., most recent use—storehouse, possible asbestos/lead paint, off-site use only.

Bldg. T–4430
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620689
Status: Unutilized
Comment: 2974 sq. ft., most recent use—warehouse, possible asbestos/lead paint, off-site use only.

Bldg. T–4428
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620690
Status: Unutilized
Comment: 2974 sq. ft., most recent use—storage/dining, possible asbestos/lead paint, off-site use only.

Bldg. T–4400
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620691
Status: Unutilized
Comment: 2974 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–4115
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620692
Status: Unutilized
Comment: 96 sq. ft., most recent use—shelter, possible asbestos/lead paint, off-site use only.

Bldg. T–3326
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620693
Status: Unutilized
Comment: 8832 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–3290
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620694
Status: Unutilized
Comment: 96 sq. ft., most recent use—shelter, possible asbestos/lead paint, off-site use only.

Bldg. T–2955
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620695
Status: Unutilized
Comment: 3660 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–2917
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620696
Status: Unutilized
Comment: 3746 sq. ft., most recent use—exchange svc outlet, possible asbestos/lead paint, off-site use only.

Bldg. T–2450
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620697
Status: Unutilized
Comment: 1173 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–2438
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620698
Status: Unutilized
Comment: 9002 sq. ft., most recent use—storage/office, possible asbestos/lead paint, off-site use only.

Bldg. T–2425
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620699
Status: Unutilized
Comment: 9052 sq. ft., most recent use—storehouse, possible asbestos/lead paint, off-site use only.

Bldg. T–2242
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620700
Status: Unutilized
Comment: 348 sq. ft., most recent use—shower, possible asbestos/lead paint, off-site use only.

Bldg. P–2093
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620701
Status: Unutilized
Comment: 106 sq. ft., most recent use—transformer bldg., possible asbestos/lead paint, off-site use only.

Bldg. P–2092
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620702
Status: Unutilized
Comment: 131 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. P–2091
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620703
Status: Unutilized
Comment: 106 sq. ft., most recent use—transformer possible asbestos/lead paint, off-site use only.

Bldg. T–1951
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620704
Status: Unutilized
Comment: 402 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–1943
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620705
Status: Unutilized

Comment: 1439 sq. ft., most recent use—office/shop, possible asbestos/lead paint, off-site use only.

Bldg. P–1710
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620706
Status: Unutilized
Comment: 7668 sq. ft., most recent use—warehouse, possible asbestos/lead paint, off-site use only.

Bldg. P–1700
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620707
Status: Unutilized
Comment: 7574 sq. ft., most recent use—maint. shop/office, possible asbestos/lead paint, off-site use only.

Bldg. T–1610
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620708
Status: Unutilized
Comment: 96 sq. ft., most recent use—shelter, possible asbestos/lead paint, off-site use only.

Bldg. T–1002
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620709
Status: Unutilized
Comment: 264 sq. ft., most recent use—shelter, possible asbestos/lead paint, off-site use only.

Bldg. P–594
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620710
Status: Unutilized
Comment: 106 sq. ft., most recent use—transformer bldg., possible asbestos/lead paint, off-site use only.

Bldg. P–586
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620711
Status: Unutilized
Comment: 106 sq. ft., most recent use—transformer bldg., possible asbestos/lead paint, off-site use only.

Bldg. T–299
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620712
Status: Unutilized
Comment: 2974 sq. ft., most recent use—classroom, possible asbestos/lead paint, off-site use only.

Bldg. T–271
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620713
Status: Unutilized
Comment: 283 sq. ft., most recent use—storage, possible asbestos/lead paint, off-site use only.

Bldg. T–298
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620714
Status: Unutilized
Comment: 2432 sq. ft., most recent use—classroom, possible asbestos/lead paint, off-site use only.

South Carolina

Bldg. 4510
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219620715
Status: Unutilized
Comment: 10424 sq. ft., needs repair, most recent use—craft shop, off-site use only.

Bldg. 6528
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219620716
Status: Unutilized
Comment: 3960 sq. ft., needs repair, most recent use—office, off-site use only.

Bldg. 6529
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219620717
Status: Unutilized
Comment: 3960 sq. ft., needs repair, most recent use—office, off-site use only.

Bldg. 6530
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219620718
Status: Unutilized
Comment: 3960 sq. ft., needs repair, most recent use—office, off-site use only.

Texas

Bldg. 57015
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219620722
Status: Unutilized
Comment: 7680 sq. ft., needs repair, most recent use—storage, off-site use only.

Bldg. 57016
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219620723
Status: Unutilized
Comment: 7680 sq. ft., needs repair, most recent use—storage, off-site use only.

Bldg. 53
Fort Hood
Fort Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219620724
Status: Unutilized
Comment: 3746 sq. ft., most recent use—chapel, off-site use only.

Bldg. 2808
Fort Hood
Fort Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219620725
Status: Unutilized
Comment: 3746 sq. ft., most recent use—chapel, off-site use only.

Bldg. T–2653
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219620726
Status: Unutilized
Comment: 12,152 sq. ft., presence of asbestos/lead paint, most recent use—research lab, off-site use only.

Bldg. T–1545
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219620727
Status: Unutilized
Comment: 10,240 sq. ft., presence of asbestos/lead paint, most recent use—recreation, off-site use only.

Bldg. S–655
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219620728
Status: Unutilized
Comment: 3296 sq. ft., presence of asbestos/lead paint, most recent use—storage, possible National Historic Pres. Act requirements.

Bldg. 2202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219620741
Status: Unutilized
Comment: 3525 sq. ft., needs rehab, most recent use—chapel.

9 Bldgs., Family Quarters
Hayes Housing Complex, Fort Bliss
El Paso Co: El Paso TX 79916–
Location: 2125A/B, 2135A/B, 2159A/B, 2175A/B, 2197A/B, 2201A/B, 2213A/B, 2221A/B, 2243A/B
Landholding Agency: Army
Property Number: 219620742
Status: Unutilized
Comment: 903 sq. ft. each, needs rehab, most recent use—family quarters, presence of asbestos/lead paint, off-site use only.

14 Bldgs., Family Quarters
Hayes Housing Complex, Fort Bliss
El Paso Co: El Paso TX 79916–
Location: 2120A/B, 2121A/B, 2131A/B, 2157A/B, 2166A/B, 2177A/B, 2185A/B, 2200A/B, 2210A/B, 2211A/B, 2229A/B, 2235A/B, 2240A/B, 2247A/B
Landholding Agency: Army
Property Number: 219620743
Status: Unutilized
Comment: 899 sq. ft. each, needs rehab, most recent use—family quarters, presence of asbestos/lead paint, off-site use only.

35 Bldgs., Family Quarters
Hayes Housing Complex, Fort Bliss
El Paso Co: El Paso TX 79916–
Location: 2107, 2110, 2112, 2114, 2122, 2123, 2130, 2133, 2136, 2138, 2146, 2149, 2154, 2155, 2165, 2169, 2170, 2178, 2180, 2181, 2187, 2189, 2190, 2196, 2198, 2204, 2207, 2208, 2215, 2222, 2225, 2233, 2236, 2248, 2251—A/B
Landholding Agency: Army
Property Number: 219620744
Status: Unutilized

Comment: 776 sq. ft. each, needs rehab, most recent use—family quarters, presence of asbestos/lead paint, off-site use only.

Virginia

Bldg. 602, Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 219620729
Status: Unutilized
Comment: 2368 sq. ft., 1-story brick, most recent use—storage, presence of asbestos, off-site use only.

Bldg. 74
Fort Monroe
Fort Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620730
Status: Unutilized
Comment: 284 sq. ft., needs repair, most recent use—storage, off-site use only.

Bldg. 75
Fort Monroe
Fort Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620731
Status: Unutilized
Comment: 171 sq. ft., needs repair, most recent use—storage, off-site use only.

Bldg. T–99
Fort Monroe
Fort Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620732
Status: Unutilized
Comment: 7410 sq. ft. most recent use—storage, off-site use only.

Bldg. T–193
Fort Monroe
Fort Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620733
Status: Unutilized
Comment: 2415 sq. ft., most recent use—training, off-site use only.

Bldg. T–194
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620734
Status: Unutilized
Comment: 1950 sq. ft., most recent use—office, off-site use only.

Bldg. T–195
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620735
Status: Unutilized
Comment: 1830 sq. ft., most recent use—office, off-site use only.

Bldg. T–196
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620736
Status: Unutilized
Comment: 1500 sq. ft., most recent use—office/storage, off-site use only.

Bldg. T–248
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620737
Status: Unutilized
Comment: 1894 sq. ft., most recent use—office, off-site use only.

Bldg. T–249
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620738
Status: Unutilized
Comment: 1909 sq. ft., most recent use—office, off-site use only.

Bldg. T–259
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219620739
Status: Unutilized
Comment: 1983 sq. ft., most recent use—office, off-site use only.

Washington

Bldg. 6126
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620640
Status: Unutilized
Comment: 1600 sq. ft., most recent use—admin. bldg., off-site use only.

Bldg. 9594
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620642
Status: Unutilized
Comment: 7378 sq. ft., most recent use—store house, off-site use only.

Bldg. E0205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620645
Status: Unutilized
Comment: 1161 sq. ft., most recent use—bachelor's quarters.

Bldg. 6127
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620646
Status: Unutilized
Comment: 4095 sq. ft., most recent use—church, off-site use only.

Bldg. A–0217
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620647
Status: Unutilized
Comment: 4087 sq. ft., most recent use—admin. bldg., off-site use only.

Bldg. C–0330, E0438, C1350
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620648
Status: Unutilized
Comment: 3714 sq. ft., most recent use—Church, off-site use only.

Bldg. 1304
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620649
Status: Unutilized
Comment: 612 sq. ft., most recent use—vehicle shop, off-site use only.

Bldg. E0320
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620650
Status: Unutilized
Comment: 714 sq. ft., most recent use—bachelor's quarters, off-site use only.

Bldg. C0113
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620651
Status: Unutilized
Comment: 11040 sq. ft., most recent use—vehicle shop, off-site use only.

Bldg. 4060
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620652
Status: Unutilized
Comment: 18,240 sq. ft., most recent use—vehicle shop, off-site use only.

Wisconsin

U.S. Army Reserve Center
2310 Center Street
Racine Co: Racine WI 53403–3330
Landholding Agency: Army
Property Number: 219620740
Status: Unutilized
Comment: 3 bldgs (14,137 sq. ft.) on 3 acres, needs repair, most recent use—office/storage/training.

Land (by State)

Alaska

Land—Fairbanks North Star
Ft. Wainwright AK 99703–
Landholding Agency: Army
Property Number: 219620661
Status: Unutilized
Comment: 13 acres.

North Carolina

24.83 acres—Tract of Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219620685
Status: Underutilized
Comment: 24.83 acres, municipal park, most recent use—New Hanover County explosive buffer zone.

Oregon

1–C Drain Right-of-Way
Klamath Project
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: Interior
Property Number: 219620002
Status: Unutilized
Comment: 0.51 acres, narrow strip of land.

Suitable/Unavailable Properties

Buildings (by State)

Hawaii

Bldg. P–S0021
Signal Cable Trunking System
Waialua HI 96791–
Landholding Agency: Army
Property Number: 219620653
Status: Unutilized

Comment: 121 sq. ft., most recent use—cable hut, needs repair, off-site use only.

Indiana

Bldg. 1021
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219620667
Status: Unutilized
Comment: 18,028 sq. ft., most recent use—laundry.

Texas

Bldg. P–1
Bay City Memorial Reserve Center
Bay City Co: Matagorda TX 77414–3813
Landholding Agency: Army
Property Number: 219620719
Status: Unutilized
Comment: 4408 sq. ft., possible asbestos/lead paint, possible lease restrictions, most recent use—reserve center.

Bldg. P–3
Bay City Memorial Reserve Center
Bay City Co: Matagorda TX 77414–3813
Landholding Agency: Army
Property Number: 219620720
Status: Unutilized
Comment: 1798 sq. ft., possible asbestos/lead paint, possible lease restrictions, most recent use—vehicle maint. shop.

Bldg. P–5
Bay City Memorial Reserve Center
Bay City Co: Matagorda TX 77414–3813
Landholding Agency: Army
Property Number: 219620721
Status: Unutilized
Comment: 56 sq. ft., possible asbestos/lead paint, possible lease restrictions, most recent use—shed.

Washington

Bldg. 9644
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620639
Status: Unutilized
Comment: 1255 sq. ft., most recent use—admin. bldg., off-site use only.

Bldg. 9571
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620641
Status: Unutilized
Comment: 9000 sq. ft., most recent use—store house, off-site use only.

Bldg. 9638
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620643
Status: Unutilized
Comment: 6176 sq. ft., most recent use—store house, off-site use only.

Bldg. 9645
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219620644
Status: Unutilized
Comment: 12,808 sq. ft., most recent use—store house, off-site use only.

Land (by State)

Illinois

Bridge Ramp & Property
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219620665
Status: Unutilized
Commit: Bridge Ramp 24 ft. wide, 600 ft. long.

Unsuitable Properties

Building (by State)

Alabama

Bldg. 205, Fort Rucker
Ft. Rucker, Co: Dale AL 3662–5000
Landholding Agency: Army
Property Number: 219620802
Status: Unutilized
Reason: Extensive deterioration.

California

Rode
13650 Ocean View Terrace
Klamath Co: Del Norte CA 95548–
Landholding Agency: Interior
Property Number: 619620005
Status: Unutilized
Reason: Extensive deterioration.

Carter, Paul Cabin
Klamath Beach Road
Klamath Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619620006
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 00358
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779620046
Status: Unutilized
Reason: Secured Area.

Bldg. 00357
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779620047
Status: Unutilized
Reason: Secured Area.

Georgia

Bldg. 246, Fort McPherson
Ft. McPherson Co: Fulton CA 30330–5000
Landholding Agency: Army
Property Number: 219620803
Status: Underutilized
Reason: Secured Area.

Bldg. 1730
Fort Benning
Ft. Benning Co: Muscogee CA 31905–
Landholding Agency: Army
Property Number: 219620804
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1745
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620805
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2392
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620806
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2415
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620807
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 2454
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620808
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 2487
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620809
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 4410
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620810
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 4417
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620811
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 2477
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620812
Status; Unutilized
Reason: Extensive deterioration.

Bldg. 4483
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620813
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4489
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219620814
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 308, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620815
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 318, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620816
Status: Unutilized
Reason: Secured Area.

Bldg. 413, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620817
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 415, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620818
Status: Unutilized
Reason: Secured Area.

Bldg. 417, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620819
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 418, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620820
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 419, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620821
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 420, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620822
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 422, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620823
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 922, Fort Gillem
Ft. Gillem Co: Clayton GA 30050–5000
Landholding Agency: Army
Property Number: 219620824
Status: Unutilized
Reason: Secured Area.

Hawaii

Pacific Missile Range Facility
Barking Sands
Kekaha Co: Kauai HI 96752–0128
Landholding Agency: Navy
Property Number: 779620049
Status: Unutilized
Reason: Extensive deterioration.

Indiana

Coast Guard Housing
5 Houses
Dana Co: Vermillion IN 47847–
Landholding Agency: GSA
Property Number: 549620011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; GSA Number: 1–U–IN–505D.

Kansas

Bldg. S–1970, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219620825
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–9000, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219620826
Status: Unutilized
Reason: Extensive deterioration.

Louisiana

Buildings T–0421, T–0422
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Location: T–0423, X–5109, X5110, X5111, X5112, and X–5113
Landholding Agency: Army
Property Number: 219620745
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building. A–148
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620746
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building T–417
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620747
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building M–636
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620748
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building M–650
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620749
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings D–1265, D–1266
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620750
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building C–1359
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620751
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building B–1462
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620752
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building B–1478
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620753
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building S–1651
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620754
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building E–1741
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620755
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building N–1819
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620756
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building N–1820
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620757
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building N–1823
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620758
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building N–1824
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620759
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2301
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620760
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2302
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–

Landholding Agency: Army
Property Number: 219620761
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2303
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620762
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2304
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620763
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2305
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620764
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2306
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620765
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2307
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620766
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2308
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620767
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2309
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620768
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2310
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620769
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2311
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620770
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2312
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620771
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2313
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620772
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2314
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620773
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2315
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620774
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2316
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620775
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2317
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620776
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2318
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620777
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2319
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620778
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2320
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620779
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building L–2321
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620780
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2322, L–2323,
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Location: L–2324, L–2325, L–2326, L–2327, L–2328
Landholding Agency: Army
Property Number: 219620781
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2329, L–2330,
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Location: L–2331, L–2332, L–2333, L–2334, L–2335
Landholding Agency: Army
Property Number: 219620782
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2336, L–2337,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2337, L–2339, L–2340, L–2341, L–2342
Landholding Agency: Army
Property Number: 219620783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2343, L–2359,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2360, L–2361, L–2362, L–2363, L–2364
Landholding Agency: Army
Property Number: 219620784
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2422, L–2423,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2424, L–2425, L–2426, L–2427, L–2428
Landholding Agency: Army
Property Number: 219620785
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2429, L–2430,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2431, L–2432, L–2433, L–2434, L–2435
Landholding Agency: Army
Property Number: 219620786
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2436, L–2437,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2438, L–2439, L–2440, L–2441, L–2442
Landholding Agency: Army
Property Number: 219620787

Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2443, L–2465,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2466, L–2467, L–2468, L–2469, L–2470
Landholding Agency: Army
Property Number: 219620788
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2471, L–2472,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2474, L–2475, L–2476, L–2477, L–2478
Landholding Agency: Army
Property Number: 219620789
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2415, L–2416,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2417, L–2418, L–2419, L–2420, L–2421
Landholding Agency: Army
Property Number: 219620790
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2408, L–2409,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2410, L–2411, L–2412, L–2413, L–2414
Landholding Agency: Army
Property Number: 219620791
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings L–2401, L–2402,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Location: L2403, L–2404, L–2405, L–2406, L–2407
Landholding Agency: Army
Property Number: 219620792
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings P–2500,
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620793
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Buildings P–2501
Louisiana Army Ammunition Plant,
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620794
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building Y–2608
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620795
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building Y–2617
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620796
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building Y–2632
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620797
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building Y–2633
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620798
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building Y–2640
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620799
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building X–5088
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620800
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Building X–5108
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219620801
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Texas

Bldg. 1ST–1
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620827
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 7–S
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620828
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldgs. 36T–2, 36T–3
Longhorn Army Ammunition Plant
Karnack Co: Harrsion TX 75671–
Landholding Agency: Army
Property Number: 219620829
Status: Unutilized
Reason: Within 2000ft. of flammable or explosive material; Secured Area.

Bldg. 41–W
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620830
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 61–T
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620831
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 207
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620832
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 411–A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620833
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 718–A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620834
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 719
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620835
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 744–A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620836
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Bldg. 801–F
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75671–
Landholding Agency: Army
Property Number: 219620837
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Vermont

Happy Hill Cabin
NPS Tract 202–08
Norwich Co: Windsor VT 05055–
Landholding Agency: Interior
Property Number: 619620007
Status: Unutilized
Reason: Extensive deterioration.

Virginia

Bldg. T–1309
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620838
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1317
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620839
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1320
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620840
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1410
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620841
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1419
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620842
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1420
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620843
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1421
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620844
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1422
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620845
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1427
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620846
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1428
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620847
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1507
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620848
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1508
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620849
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1509
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620850
Status:
Reason: Extensive deterioration.

Bldg. T–1510
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620851
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1511
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620852
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1512
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620853
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1513
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620854
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1517
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620855
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1518
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620856
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1519
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620857
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1520
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620858
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1521
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620859
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1522
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620860
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1523
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620861
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1524
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620862
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1617
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620863
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–4001
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620864
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–4002
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army

Property Number: 219620865
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–4003
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620866
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–4310
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620867
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5105
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620868
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5200
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620869
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5209
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620870
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5211
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620871
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5213
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620872
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–5216
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620873
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–8022
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620874
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–8023
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620875
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–8024
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620876
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–11722
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219620877
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 15A
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620048
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area.

Land (by State)

Kentucky

9 Tracts
Daniel Boone National Forest Co: Owsley Ky 37902–
Landholding Agency: GSA
Property Number: 549620012
Status: Excess
Reason: Floodway.
GSA Number: 4–G–KY–607.

Oregon

Cherry Creek Property Disposal
1.56 acres of land
Madras Co: Jefferson OR 97741–
Landholding Agency: Interior
Property Number: 619620008
Status: Unutilized
Reason: Within airport runway clear zone.

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BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Sac and Fox Nation Beer and Liquor Act

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that by Resolution SF–95–51, the Sac and Fox Nation Beer and Liquor Act was duly adopted by the Sac and Fox Nation on February 23, 1995. The Act provides for the possession, sale, introduction for sale, purchase, or other dealing in alcoholic beverages within Sac and Fox Indian country, as defined by 18 U.S.C. § 1151.

DATES: This Act is effective as of July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, N.W., MS–4603–MIB, Washington, D.C. 20240; telephone (202) 208–4401.

SUPPLEMENTARY INFORMATION: The Sac and Fox Nation Beer and Liquor Act is to read as follows:

Sac and Fox Nation Beer and Liquor Act

Section 1001. Title and Purpose

This chapter shall be known as the Sac and Fox Nation Beer and Liquor Act. These laws are enacted to regulate the sale and distribution of liquor and beer products on All Properties under the jurisdiction of the Sac and Fox Nation, and to generate revenue to fund needed tribal programs and services.

Section 1002. Definitions

Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

a. ''Nation/Tribe/Tribal'' shall mean the Sac and Fox Nation of Oklahoma.

b. ''Business Committee'' shall mean the Sac and Fox Nation Business Committee as constituted by Article III of the Constitution of the Sac and Fox Nation.

c. ''Commission'' shall mean the Sac and Fox Tax Commission.

d. ''Indian Country'' shall mean Indian Country as defined by 18 U.S.C. Section 1151 subject to the jurisdiction of the Sac and Fox Nation, including without limitation:

i. Tribal Trust Land. Any lands and waters held in trust by the Federal Government within the jurisdiction of the Sac and Fox Nation;

ii. Tribal Properties in Trust Status Process. Lands and waters in process to achieve trust status under the Federal Government within the jurisdiction of the Sac and Fox Nation;

iii. Other Properties. All other lands and waters however acquired and not currently in process to achieve trust status under the Federal Government within the jurisdiction of the Sac and Fox Nation.

e. ''Sale'' shall mean the transfer, exchange or barter, by any means whatsoever, for a consideration by any person, association, partnership, or corporation, of liquor and beer products.

f. ''Alcohol'' means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol, or spirits of wine, beer in excess of 3.2% alcohol, from whatever source or by whatever source or by whatever process produced including all dilutions and mixtures of this substance.

g. ''Beer'' means any non-alcoholic beverage containing 3.2% or less alcohol and obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops, barley, or other grain, malt or similar products. ''Beer'' includes among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors.

h. ''Liquor'' or ''Alcoholic Beverage'' includes the four varieties of liquor commonly referred to as alcohol, spirits, wine, and beer in excess 3.2%, and all fermented, spirituous, vinous or malt liquor or any other intoxicating liquid, solid, semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and intended for oral consumption.

i. ''Outlet'', ''Liquor Outlet'', or ''Licensed Premises'' means the location within the Sac and Fox Indian Country at which a person licensed to sell alcoholic beverages under this Act carries on such business, and includes all related and associated facilities under the control of the Licensee. Moreover, where a Licensee's business is carried on as part of the operation of an entertainment or recreation facility, the ''licensed premises'' shall be deemed to include the entire entertainment or recreation facility and associated areas.

j. ''Operator'' shall mean any person twenty-one (21) years of age or older, properly licensed by the Nation to operate a liquor and/or beer outlet.

k. ''License'' shall mean the privilege granted pursuant to this Act to any person to sell or distribute liquor or beer within the Sac and Fox Jurisdiction.

Section 1003. Prohibition

The sale, introduction for sale, purchase, or other dealing in alcoholic beverages, except as is specifically authorized by this title, is prohibited within the Sac and Fox Indian Country.

Section 1004. Liquor and Beer Control Commission

The Sac and Fox Nation Tax Commission shall be empowered to :

a. Administer this law by exercising general control, management, and supervision of all liquor and beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of this law.

b. Adopt and enforce rules and regulations in furtherance of the purpose of this law and in the performance of its administrative functions.

Section 1005. Application for Liquor and Beer Outlet License

a. Application. Any person twenty-one (21) years of age or older, may apply to the Commission for a liquor and/or beer outlet license.

b. Licensing Requirements. The person applying for such permit must make a showing once a year, and must satisfy the Commission; including the following, but not limited to:

i. that he is person of good moral character;

ii. that he has never been convicted of violating any of the laws regarding the regulation of any spirituous, vinous, fermented or malt liquors, or of the gambling laws of the Nation, the State of Oklahoma, or any other Tribe or State of the United States, within three (3) years immediately preceding the date of his petition;

iii. that he has not violated the laws commonly called ''prohibition laws'';

iv. that she or he has not had any permit or license to sell intoxicating liquors revoked by any governmental authority, within the past twelve (12) months;

c. Processing of Application. The Sac and Fox Nation Tax Commission Chairperson or Authorized Representative shall receive and process applications and be the official representative of the Nation and Commission in matters relating to receipt of applications and related matters. If the Commission or its authorized representative is satisfied that the applicant is suitable and a respectable person, the Commission or its authorized representative may issue a license for the sale of liquor and/or beer products.

d. Application Fee. Each Beer License application shall be accompanied by a non-refundable application fee to be set by regulation of the Commission, with the concurrence of the Business Committee.

e. Discretionary Licensing. Nothing herein shall be deemed to create a duty or requirement to issue a license. Issuance of licenses is discretionary upon the Commission's determination of the best interests of the Sac and Fox Nation, and the license grants a privilege, but not a property right, to sell liquor and/or beer within the jurisdiction of the Sac and Fox Nation at the licensed outlet(s).

Section 1006. Liquor and Beer Licenses

Upon approval of an application, the Commission shall issue the applicant a liquor and/or beer license, for one year from the date of issuance, which shall entitle the operator to establish and maintain only the type of outlet being permitted. This license shall not be transferable. The Licensee must properly and publicly display the license in the place of business. It shall be renewable at the discretion of the Commission, by submission of the Licensee of subsequent application form and payment of application fee as provided in Section 1005.

Section 1007. Sales by Liquor Wholesalers and Transport of Liquors Upon Sac and Fox Indian Country

a. Right of Commission to Scrutinize Suppliers. The Operation of any licensed outlet shall keep the Commission informed, in writing, of the identity of suppliers and/or wholesalers who supply or are expected to supply liquor or beer stocks to the outlet(s). The Commission may, at its discretion, limit or prohibit the purchase of said stock from a supplier or wholesaler for the following reasons: non-payment of tribal taxes; bad business practices, or sale of unhealthy supplies. A ten (10) day notice to stop supplier purchases will be given by the Commission. However, a Stop Purchase order may take effect immediately if there is a health emergency.

b. Freedom of Information from Suppliers. Operators shall, in their purchase of stock and in their business relations with suppliers, cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales and business arrangements between the suppliers and Operators. The Commission may, at its discretion, require the receipts from the suppliers of all invoices, bills of lading, billings or other documentary receipts of sales to the Operators.

c. Businesses shall comply with applicable Tribal Laws, for domestication or entry of Foreign Corporations.

Section 1008. Sales by Retail Operators

a. Commission Procedures. The Commission shall adopt procedures which shall supplement these laws and facilitate their enforcement. These procedures shall include prohibitions on sales to minors, where liquor may be

consumed, persons not allowed to purchase alcoholic beverages, hours, and days when outlets may be open for business, and other appropriate matters and controls.

b. Sales to Minors. No person shall give, sell, or otherwise supply liquor or beer to any person under twenty-one (21) years of age, either for his or her own use or for the use of his or her parents or for use of any other person.

c. Consumption of Beer or Liquor Upon Licensed Premises shall be prohibited in Sac and Fox Indian Country until the Sac and Fox Business Committee otherwise allows by regulation.

d. Conduct on Licensed Premises.

i. No Operator shall be disorderly, boisterous, or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous, or intoxicated person to be thereon; nor shall he or she use or allow the use of profane or vulgar language thereon.

ii. No Operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd or obscene acts of conduct shall be those acts or conduct identified as such by the laws of the Nation.

e. Employment of Minors. No person under the age of twenty-one (21) years shall be employed in any service in connection with the sale or handling of liquor and/or beer, either on a paid or voluntary basis.

f. Operator's Premises Open to Inspection. The premises of all Operators, including vehicles used in connection with beer or liquor sales, shall be open at all times to inspection by the Commission or its designated representative.

g. Operator's Record. The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor by Operators shall be kept on file on the retail premises of the Operator purchasing the same, for at least three (3) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection. All canceled checks, bank statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection.

h. Records Confidential. All records of the Commission showing the purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission or its authorized representative.

i. Conformity with State Law. Operators shall comply with State of Oklahoma Liquor and Beer Control Standards to the extent required by 18 U.S.C. 1161. However, the Nation shall have the fullest jurisdiction allowed under Federal law over liquor and beer, and related products or activities, within the boundaries of all Sac and Fox Indian Country.

Section 1009. Tribal Excise Tax Imposed Upon Distribution of Liquor

a. Nation Excise Taxes. The Nation shall have authority to assess and collect tax on sales of liquor and beer products to the consumer or purchaser. The tax shall be collected and paid to the Sac and Fox Tax Commission upon all Liquor and Beer products sold within the jurisdiction of the Nation. The Nation may establish differing tax rates for any given class of merchandise, which shall be paid prior to the time of retail sale and delivery thereof.

b. Added to Retail Price. An excise tax, to be set by the Business Committee of the Sac and Fox Nation, on the wholesale price shall be added to the retail selling price of liquor and beer products sold to the consumer or purchaser. All taxes paid pursuant to this Act shall be conclusively presumed to be direct taxes on the retail consumer precollected for the purposes of convenience and facility only.

c. Within 72 hours after receipt of any beer or alcoholic beverages by any wholesaler or retailer subject to this Act a tribal tax stamp shall be securely affixed thereto denoting the tribal tax thereon. Retailers or sellers of beer or alcoholic beverages within the Nation's jurisdiction may buy and sell or have in their possession only beer or alcoholic beverages which have the tribal tax stamp affixed to each package.

Section 1010. Liability for Bills

The Nation and/or the Commission shall have no legal responsibility for any unpaid bills owed by a liquor or beer outlet to a wholesale supplier or any other person or entity.

Section 1011. Other Business by Operator

An Operator may conduct another business simultaneously with managing a liquor or beer outlet: PROVIDED, if such other business is in any manner affiliated or related to the beer or liquor outlet it must be approved by majority vote of the Commission prior to initiation. Said other business may be conducted on the same premises as a liquor or beer outlet, but the Operator shall be required to maintain books of account that clearly differentiate the liquor or beer portion of the business.

Section 1012. Tribal Liability and Credit

a. Unless explicitly authorized by Tribal statute, Operators are forbidden to represent or give the impression to any person or entity that he or she is an official representative of either the Nation or the Commission authorized to pledge tribal credit or financial responsibility for any of the expenses of his or her business operation. The Operator shall hold the Nation harmless from all claims and liability of whatever nature. The Commission shall revoke Operator's outlet license(s) if said outlet(s) is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bill before they become delinquent.

b. Insurance. The Operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism, and other insurance risks. The Commission may establish as a condition of any license, the required insurance limits and any additional coverage deemed advisable, proof of which shall be filed with the Commission.

Section 1013. Audit and Inspection

a. All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative at any reasonable time.

b. Bond for Excise Tax. The excise tax together with reports on forms to be approved by the Commission shall be remitted to the Commission office on a monthly basis, unless otherwise specified in writing by the Commission. The Operator shall furnish a satisfactory bond to the Commission in an amount to be specified by the Commission, guaranteeing his or her payment of excise taxes.

Section 1014. Revocation of Operator's License

Failure of an Operator to abide by the requirements of this Act and any additional regulations or requirements imposed by the Commission will constitute grounds for revocation of the Operator's license as well as enforcement of the penalties provided in Section 1015 of this Act.

a. Upon determining that any person licensed by the Sac and Fox to sell beer or alcoholic beverages is for any reason no longer qualified to hold such license or reasonably appears to have violated any terms of the license or tribal regulation, including failure to pay taxes when due and owing, or has been found by any forum of competent jurisdiction, including the Commission, to have violated the terms of a tribal or state license or of any provision of this title, the Chairman shall immediately serve written notice upon the Licensee directing that he show cause within ten (10) days why his or her Sac and Fox license should not be revoked or restricted. The notice shall state the grounds relied upon for the proposed revocation or restriction.

b. If the Licensee fails to respond to the notice within ten (10) days of service, the Chairman may issue an order revoking the license or placing such restrictions of the license as the Chairman deems appropriate, effective immediately. The Licensee may, within the 10 day period, file with the Office of the Chairman a written response and request for hearing before the Commission.

c. At the hearing, the Licensee may present evidence and argument directed at the issue of whether or not the asserted grounds for the proposed revocation or restriction are in fact true, and whether such grounds justify the revocation or modifications of the license. The Nation may present other evidence as it deems appropriate.

d. The Commission after considering all of the evidence and arguments shall issue a written decision either upholding the license, revoking the license or imposing some lessor penalty (such as a temporary suspension or a fine), and such decision shall be final and conclusive.

e. The Commission's final decision, upon posting a bond with the Court sufficient to cover the Commission's final hearing assessment or ruling, may be appealed by Licensee to the Sac and Fox Court. Any findings of fact of the Commission are conclusive upon the Court unless clearly contrary to law. The purposes of Court review are not to substitute the Court's finding of facts or opinion for the Commission's but to guarantee due process of law. If the Court should rule for the appealing party, the court may order a new hearing giving such guidance for the conduct of such as it deems necessary for a fair hearing. No damages or monies may be awarded against the Commission, its members, nor the Nation and its agents and employees in such an action.

Section 1015. Violations—Penalties

Any person who violates these laws or elicits, encourages, directs or causes to be violated these laws shall be guilty of an offense and subject to a fine. Failure to have a current, valid or proper license shall not constitute a defense to an alleged violation of the licensing laws or regulations. The Sac and Fox Nation Court System will have jurisdiction over the proceedings.

a. Any person convicted of committing any violation of this Act shall be subject to punishment of up to one year imprisonment and/or a fine not to exceed Five Thousand Dollars ($5,000.00).

b. Additionally, any person upon committing any violation of any provision of this Act may be subject to a civil action for trespass, and upon having been determined by the Court to have committed the violation, shall be found to have trespassed upon the lands of the Sac and Fox Nation, and shall be assessed such damages as the Court deems appropriate in the circumstances.

c. Any person suspected of having violated any provision of this Act shall, in addition to any other penalty imposed hereunder, be required to surrender any beer or alcoholic beverages in such person's possession to the officer making the arrest or complaint. The surrendered beverages, if previously unopened, shall only be returned upon a finding by the Court after trial that the individual committed no violation of this Title.

d. Any Operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Commission shall be empowered to seize forfeited products.

e. Any stock, goods or other items subject to this Act that have not been registered, licensed, or taxes paid shall be contraband and subject to immediate confiscation by the Commission or its employees or agents, Provided, that within 15 days of the seizure the Commission shall cause to be filed an action against such property alleging the reason for the seizure or confiscation, and upon proof, the Court shall order the property forfeited and title vested in the Sac and Fox Nation of Oklahoma.

f. Physical seizure of items shall be in accordance with the provisions contained in Title 14, chapter 1, General Revenue and Taxation.

Section 1016. Possession for Personal Use

Possession of beer or alcoholic beverages for the personal use by persons over the age of 21 years shall, unless otherwise prohibited by Federal or Tribal law or regulation, be lawful within the Sac and Fox Indian Country, so long as such beer or alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Sac and Fox Indian Country and consumed within a private residence or location, or at a location or facility specifically licensed for the public consumption of alcoholic beverages.

Section 1017. Transportation Through Reservation Not Affected

Nothing herein shall pertain to the otherwise lawful transportation of beer or alcoholic beverages through the Sac and Fox Indian Country by persons remaining upon public highways and where such beverages are not delivered, or sold or offered for sale to anyone within the Sac and Fox Indian Country.

Section 1018. Separability

If any provision of these laws is held invalid, the remainder of the laws and their application to other persons or circumstances is not affected.

Section 1019. Relation to Other Sac and Fox Laws

All prior statutes, ordinances, and resolutions enacted by the Sac and Fox Nation regulating, authorizing, prohibiting or in any way relating to the sale of beer or alcoholic beverages within the Sac and Fox Indian Country are hereby repealed and have no further force or effect.

Section 1020. Sovereign Immunity Preserved

Nothing in this statute shall be construed as a waiver or limitation of the sovereign immunity of the Sac and Fox Indian Nation or its agencies, nor their officers or employees.

Section 537. Possession of an Alcoholic Beverage.

(a). It shall be unlawful to buy, sell, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or any other beverage or product containing alcohol for ingestion by human beings; or to appear or be found in a place where beer or alcoholic beverages are sold and/or consumed, except as allowed by the Sac and Fox Beer and Liquor Act or regulation there under.

Dated: June 25, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–17089 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–22–P

Bureau of Land Management

[NV–942–06–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert H. Thompson, Acting Chief, Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION: 1. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on March 7, 1996:

The plat showing a subdivision of original lot 1, section 24, Township 21 South, Range 53 East, Mount Diablo Meridian, Nevada, was accepted March 5, 1996.

This plat was prepared to meet certain admnistrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on June 26, 1996:

The plat, in two (2) sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and a portion of the Boulder Canyon Project Federal Reservation Boundary, and the subdivision of sections 2, 11, and 14, Township 23 South, Range 63 East, Mount Diablo Meridian, Nevada, under Group No. 760, was accepted June 25, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on August 22, 1996:

The plat, in six (6) sheets, representing the dependent resurvey of a portion of the north boundary and the east boundary of Township 40 North, Range 63 East; and the dependent resurvey of the Eighth Standard Parallel North, through a portion of Ranges 63 and 64 East, the south boundary and a portion of the west boundary, and the dependent and independent resurvey of the subdivisional lines, and the metes-and-bounds survey of Tracts 42 through 49, and the survey of sections 37 through 41, Township 40 North, Range 64 East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

The plat representing the dependent resurvey of the Eighth Standard Parallel North, through a portion of Ranges 62 and 63 East; and the dependent resurvey of a portion of the north boundary of Township 40 North, Range 63 East; and the dependent resurvey of a portion of the east boundary of Township 40 North, Range 62 East; and the survey of the subdivisional lines of Township 40½ North, Range 63 East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

The plat, in two (2) sheets, representing the dependent resurvey of the Eighth Standard Parallel North, through a portion of Range 62 East, the east boundary, a portion of the north boundary and a portion of the subdivisional lines of Township 41 North, Range 62 East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

The plat, in two (2) sheets, representing the dependent resurvey of the west and north boundaries and the subdivisional lines, and the subdivision of section 30, Township 41 North, Range 63 East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

The plat representing the dependent resurvey of the south boundary of Township 42 North, Range 64 East; and the dependent resurvey of the west boundary and a portion of the subdivisional lines of Township 41 North, Range 64 East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

The plat comprising the boundaries of Township 40½ North, Range 62½ East, Mount Diablo Meridian, Nevada, under Group No. 676, was accepted June 18, 1996.

These surveys were executed to meet certain administrative needs of the Bureau of Land Management.

4. Subject to valid existing rights the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those portions of the lands listed under item 3 that are original surveys are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to August 22, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

5. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: June 27, 1996.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 96–17129 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–HC–P

Minerals Management Service

Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection.

SUMMARY: The Department of the Interior has submitted a proposal for the collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (Act). The Act provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Submit written comments by August 5, 1996.

ADDRESSES: Submit comments and suggestions directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0058), Washington, D.C. 20503.

Send a copy of your comments to the Chief, Engineering and Standards Branch, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Engineering and Standards Branch, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070–4817; telephone: (703) 787–1562. You may obtain copies of the proposed collection of information and related forms by contacting MMS's Clearance Officer at the telephone number listed below.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart I, Platforms and Structures.

OMB Number: 1010–0058.

Abstract: Section 3506 of the Act (44 U.S.C. Chapter 35) requires that OMB provide interested Federal agencies and the public an opportunity to comment on information collection requests.

Respondents submit information on, and maintain records of, the design, fabrication, installation, use, and inspection of all platforms and structures on the OCS. The MMS regional offices use this information to ensure the structural integrity for the safe conduct of drilling, workover, and production operations, considering the specific environmental conditions at the platform location, and to ensure that such integrity will be maintained throughout the useful life of the structures.

Description of Respondents: Federal OCS oil and gas lessees.

Frequency: Varies.

Estimated Number of Respondents: 130 respondents providing 555 responses.

Estimated Total Annual Burden on Respondents: 15,803 reporting hours; 6,000 recordkeeping hours.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Comments: The OMB is required to make a decision concerning the proposed collection of information between 30 and 60 days after publication of this notice in the Federal Register. Therefore, a comment to OMB is best ensured of having its full effect if OMB receives it within 30 days of publication.

Bureau Clearance Officer: Carole deWitt (703) 787–1242.

Dated; June 17, 1996.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 96–17130 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–MR–M

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection.

SUMMARY: The Department of the Interior has submitted a proposal for the collection of information listed below to the Office Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (Act). The Act provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. When OMB approves the collection and assigns a control number and expiration date, they will be displayed on the cover sheet to the questionnaire.

DATES: Submit written comments by August 5, 1996.

ADDRESSES: Submit comments and suggestions directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–XXXX), Washington, D.C. 20503.

Send a copy of your comments to the Chief, Engineering and Standards Branch, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Engineering and Standards Branch, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070–4817; telephone (703) 787–1562. You may obtain copies of the proposed collection of information and related forms by contacting MMS's Clearance Officer at the telephone number listed below.

SUPPLEMENTARY INFORMATION:

Title: Social and Economic Adaptations by Fish Harvesters in the Santa Barbara Channel-Santa Marie Basin Area, California.

OMB Number: To be assigned.

Abstract: Section 3506 of the Act (44 U.S.C. Chapter 35) requires that OMB provide interested Federal agencies and the public an opportunity to comment on information.

Utah State University, Department of Forest Resources, will conduct a study for MMS which will provide an analysis of the social composition and the social and economic adaptation of commercial fish harvesters in the Santa Barbara Channel-Santa Maria Basin area. The research will be centered upon the commercial fish harvesters working out of the ports of Morro Bay, Port San Luis, Santa Barbara, Ventura, and either Channel Islands or Port Hueneme. The research will require interviews with fish harvesters from each port with analysis comparisons among ports and in the aggregate. The information collected under this study will aid MMS in assessing the actual or potential impacts of Outer Continental Shelf oil and gas activities on the social organization of fish harvesters, the lives of fishing.

Description of Respondents: Fish harvesters and spouses.

Frequency: One time (1 response per respondent).

Estimate of Burden: We estimate interviews with fish harvesters will average 53 minutes each; interviews with the spouses will average 30 minutes each.

Estimated Number of Respondents: 450 fish harvesters; 284 spouses.

Estimated Total Annual Burden on Respondents: 539.5 hours.

Type of Request: New.

Form Number: N/A.

Comments: The OMB is required to make a decision concerning the proposed collection of information between 30 and 60 days after publication of this notice in the Federal Register. Therefore, comment to OMB is best ensured of having its full effect if OMB received it within 30 days of publication.

Bureau Clearance Officer: Carole deWitt (703) 787–1242.

Dated: June 10, 1996.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 96–17131 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

The proposal for the revised collection of information listed below has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Copies of the information collection and the supporting documentation may be obtained by contacting Reclamation's Clearance Officer at the telephone number listed below. Comments on this information collection should be made within 30 days directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Bureau of Reclamation, Paperwork Reduction Project (1006–0006), Washington DC 20503, Telephone (202) 395–7340.

Title: Certification and Reporting Summary Forms for Acreage Limitation, 43 CFR Part 426.

Abstract: These forms are to be used by water district offices to summarize individual landholder certification and reporting forms as required by the Reclamation Reform Act of 1982 (Title II of Pub. L. 97–293) and 43 CFR Part 426, Rules and Regulations for Projects Governed by Federal Reclamation Law. This information allows Reclamation to

establish water users' compliance with Reclamation law.

Bureau Form Numbers: 7–21SUMM–R and 7–21SUMM–C.

OMB Approval Number: 1006–0006.

Reclamation will display a valid OMB control number on either the forms or the instructions associated with the forms. Persons who are required to respond to the information collection need not respond unless the OMB control number is current.

Frequency: Annually.

Description of Respondents: Contracting organizations for Reclamation project irrigation water.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 40 hours per response.

Estimated Number of Respondents: 303.

Estimated Number of Responses per Respondent: 1.25.

Estimated Annual Responses: 379.

Estimated Total Annual burden on Respondents: 15,160 hours.

Reclamation's Clearance Officer: Marilyn Rehfeld (303) 236–0305 extension 459.

All comments received on this information collection request in Federal Register notice 61 FR 9485, Mar. 8, 1996, have been summarized and included in the request for OMB approval.

Dated: June 28, 1996.

J. Austin Burke,

Director, Program Analysis Office.

[FR Doc. 96–17099 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–94–M

Information Collection Submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

The proposal for the revised collection of information listed below has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Copies of this information collection and the supporting documentation may be obtained by contacting Reclamation's Clearance Officer at the telephone number listed below. Comments on this information collection should be made within 30 days directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Bureau of Reclamation, Paperwork Reduction Project (1006–0005), Washington, DC 20503, Telephone (202) 395–7340.

Title: Individual Landholder's Certification and Reporting Forms for Acreage Limitation, 43 CFR Part 426.

Abstract: This information collection requires certain landholders to complete forms demonstrating their compliance with the acreage limitation provisions of reclamation law. The forms establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of reclamation law.

Bureau Form Numbers: 7–21INFO, 7–2180, 7–2180EZ, 7–2181, 7–2184, 7–2190, 7–2190EZ, 7–2191, 7–2194, 7–21PE, 7–21TRUST, 7–21VERIFY, 7–21XS, 7–21FC, 7–21CONT.

OMB Approval Number: 1006–0005.

Reclamation will display a valid OMB control number on either the forms or the instructions associated with the forms. Persons who are required to respond to the information collection need not respond unless the OMB control number is current.

Frequency: Annually.

Description of Respondents: Owners and lessees of land on Federal Reclamation projects, whose landholdings exceed specified thresholds.

Estimated Number of Respondents: 41,400.

Estimated Number of Responses per Respondent: 1.02.

Estimated Annual Responses: 42,200.

Estimated Total Annual Burden on Respondents: 14,800.

Reclamation's Clearance Officer: Marilyn Rehfeld (303) 236–0305 extension 459.

All comments received on this information collection requested in Federal Register notice 61 FR 9485, Mar. 8, 1996, have been summarized and included in the request for OMB approval.

Dated: June 28, 1996.

J. Austin Burke,

Director, Program Analysis Office.

[FR Doc. 96–17100 Filed 7–3–96; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America vs. The Thomson Corporation and West Publishing Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* vs. *The Thomson Corporation and West Publishing Company*, Civ. Action No. 96–1415. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

On June 19, 1996, the United States filed a Complaint seeking to enjoin a transaction in which The Thomson Corporation (''Thomson'') agreed to acquire West Publishing Company (''West''). Thomson and West are two of the country's largest publishers of law books and legal research materials. Thomson and West publish numerous competing legal publications, including the only two annotated United States Codes and the only two enhanced U.S. Supreme Court reporters. The Complaint alleged that the proposed acquisition would substantially lessen competition in the market for legal publications in violation of section 7 of the Clayton Act, 15 U.S.C. 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. 1.

The proposed Final Judgment orders defendants to divest 51 legal publications to one or more purchasers who have the ability effectively to compete in the market for legal publications. To insure that each divested product will be sold as a viable, ongoing line of business, Thomson is required to divest related production assets in addition to its rights to publication titles, and to allow the purchaser to seek to hire employees who have been working on the products. The defendants are also required to license openly the right to use the pagination of individual pages in West's National Reporter System to any interested third party for a fee. Thomson is also to grant to Lexis-Nexis options to extend for five years its current licenses for the three important non-legal databases: Investext, ASAP, and Preicasts. In addition, Thomson is required to allow the state of California, Washington and Wisconsin to reopen the bidding for contracts presently held by Thomson for the publication of their respective official state case law reporters. In the event any of these states choose another official reporter, Thomson is required to divest its assets related to its current contract and to divest its associated state digest.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the Federal Register and filed with the Court. Written comments should be directed to Craign W. Conrath, Chief, Merger Task Force, Antitrust Division, 1401 H Street NW., Suite 4000, Washington, DC 20530 (telephone: 202–307–5779). Copies of the Complaint, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street NW., Washington, DC 20530 (telephone: 202–514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue NW., Washington, DC 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Lawrence R. Fullerton,

Deputy Assistant Attorney General, Antitrust Division.

United States District Court for the District of Columbia

In the matter of United States of America, State of California, by and through its Attorney General Daniel E. Lungren; State of Connecticut, by and through its Attorney General Richard Blumenthal; State of Illinois, by and through its Attorney General Jim Ryan; Commonwealth of Massachusetts, by and through its Attorney General Scott Harshbarger; State of New York, by and through its Attorney General Dennis C. Vacco; State of Washington, by and through its Attorney General Christine O. Gregoire, and State of Wisconsin, by and through its Attorney General James E. Doyle, Jr.; Plaintiffs, vs. The Thomson Corporation and West Publishing Company, Defendants; Docket No.: 96–CV01415, Judge Charles R. Richey, File: 6/19/96.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the District for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the plaintiffs have not withdrawn their consent, which they may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Plaintiffs' consent to the entry of this decree should not be read to suggest that plaintiffs believe that a license is required before a legal publisher may star paginate to defendants' products. Plaintiffs expressly reserve the right to assert their views concerning the extent, validity, or significance of any intellectual property right claimed by defendants, in judicial proceedings or in any other forum. Plaintiffs and defendants agree that this Final Judgment shall have no impact whatsoever on any adjudication concerning these matters.

(4) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(5) Defendants will not consummate their transaction before the Court has signed this Stipulation and Order.

(6) Thomson shall prepare and deliver reports in the form required by the provisions of paragraph B of Section VI of the proposed Final Judgment commencing no later than July 19, 1996, and every thirty (30) days thereafter pending entry of the Final Judgment.

(7) In the event the plaintiffs withdraw their consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: June , 1996.

For plaintiff United States of America:

Craig W. Conrath,

Attorney, U.S. Department of Justice.

Keith S. Blair (DC Bar #450252),

Attorney, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street N.W., Washington, D.C. 20005, (202) 307–5779.

For defendant the Thomson Corporation.

Wayne D. Collins,

Shearman & Sterling, Citicorp Center, 153 East 53rd Street, New York, N.Y. 10022, (212) 848–4000, Attorney for The Thomson.

For plaintiff State of California:

Kathleen F. Foote.

For plaintiff State of Connecticut:

Aaron S. Bayer.

For plaintiff State of Illinois:

Christine H. Roszo.

For plaintiff Commonwealth of Massachusetts:

George K. Weber.

For plaintiff State of New York:

Stephen N. Houck.

For defendant West Publishing Company:

James E. Schatz,

Schatz Paquin Lockridge Grindal & Holstein P.L.L.P., Suite 2200, 100 Washington Avenue Sol, Minneapolis, MN 55401, (612) 339–6900, Attorney for West Publishing, Company.

For plaintiff State of Washington:

Tina E. Kondo.

For plaintiff State of Wisconsin:

Kevin J. O'Connor.

So ordered: _____ United States District Judge.

Final Judgment

WHEREAS plaintiffs, the United States of America (hereinafter ''United States''), the State of California, the State of Connecticut, the State of Illinois, the Commonwealth of Massachusetts, the State of New York, the State of Washington, and the State of Wisconsin, having filed their Complaint herein, and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, prompt and certain divestiture or license of certain assets to one or more third parties is the essence of this agreement;

AND WHEREAS, defendants acknowledge that plaintiffs' consent to the entry of this decree should not be read to suggest that plaintiffs believe

that a license is required before a legal publisher may star paginate to defendants' products and that plaintiffs expressly reserve the right to assert their views concerning the extent, validity, or significance of any intellectual property right claimed by defendants, in judicial proceedings or in any other forum. Plaintiffs and defendants further agree that this Final Judgment shall have no impact whatsoever on any adjudication concerning these matters.

AND WHEREAS, the parties intend to require defendants to divest, as viable lines of business, certain assets so as to ensure, to the sole satisfaction of the plaintiffs, that the Acquirer will be able to publish and sell the assets as viable, ongoing product lines;

AND WHEREAS, defendants have represented to plaintiffs that the divestitures required below can and will be made as provided in this Final Judgment and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I.

Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II.

Definitions

As used in this Final Judgment:

A. ''Acquirer'' means the person(s) to whom Thompson shall sell the Divestiture Products (as defined below).

B. ''Divestiture Products'' means the product lines listed on Exhibit A.1 and Exhibit A.2 attached hereto, in any medium, including all rights and interests in them, including all intellectual property rights, all existing work in progress, plates, films, master tapes, machine-readable codes for CD–ROM production, existing inventory, pertinent correspondence and files, a copy of the current subscriber list, all related subscriber information, advertising materials, contracts with authors, software, and, at Acquirer's option, computers and other physical assets used primarily for production of the Divestiture Product. Auto-Cite is a Divestiture Product and its divestiture shall include the sale of all Auto-Cite trademarks and service marks, the assignment of the Auto-Cite License Agreement, and delivery of a transferable royalty-free perpetual license of the Auto-Cite case database as of the time of the devestitive and all software, trade secrets, and know-how used in producing and updating the Auto-Cite case database.

C. ''Official Reporter Contract States'' means California, Washington, and Wisconsin.

D. ''Official Reporter Contract'' means a contract between Thomson and an Official Reporter Contract State pursuant to which Thomson publishes the official case law reporters for that state.

E. ''Retained Product'' means any product offered for sale or in development by Thomson or West as of June 1, 1996, that is not a Divestiture Product.

F. ''Auto-Cite License Agreement'' shall mean the agreement by which Thomson currently licenses the use of Auto-Cite to Lexis-Nexis, specifically, the Thomson Legal Publishing License Agreement dated March 7, 1991, as amended by a letter agreement dated March 22, 1996 between Andrew G. Mills of Thomson and Louis J. Andreozzi of Lexis-Nexis.

G. ''Thomson'' means defendant The Thomson Corporation, a Canadian corporation with its headquarters in Toronto, Ontario, Canada, and includes its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

H. ''West'' means defendant West Publishing Company, a Minnesota corporation with its headquarters in Eagan, Minnesota, and includes its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

I. ''Lexis-Nexis'' means Lexis-Nexis, a division of Reed Elsevier Inc., a Massachusetts corporation with its headquarters in Newton, Massachusetts, and includes its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

J. ''National Reporter System'' means those printed case report series published by West that West has designated, or in future designates, as part of the National Reporter System.

III.

Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Thomson, as a condition of the sale or other disposition of any or all of the Divestiture Products, shall require the Acquirer to agree to be bound by the provisions of this Final Judgment.

IV.

Divestiture of Assets

A. Thomson is hereby ordered and directed, within nine (9) months from the date of this Final Judgment is filed with the Court, to divest the Divestiture Products listed on Exhibit A.1 and A.2. the United States, in its sole discretion, may agree to an extension of this time period of up to three (3) months, and shall notify the Court in such circumstances.

B. Divestiture under Section IV.A of the Divestiture Products listed on Exhibit A.1 shall be accomplished in such a way as to satisfy the United States, in its sole discretion after consultation with the state plaintiffs, (and, for state specific Divestiture Products, to satisfy, the appropriate state plaintiff) that the Divestiture Products can and will be operated by the Acquirer as viable, ongoing product lines. Divestiture Products under Section IV.A shall be made to a purchaser for whom it is demonstrated to the sole satisfaction of the United States after consultation with the state plaintiffs, (and, for state specific Divestiture Products, to the satisfaction of the appropriate state plaintiff) that (1) the purchase is for the purpose of competing effectively in the publication and sale of the Divestiture Products, and (2) the Acquirer has the managerial, operational, and financial capability to compete effectively in the publication and sale of the Divestiture Products. Defendants are prohibited from entering into any agreement with the Acquirer to license exclusively the Divestiture Products to the Defendants.

C. Thomson shall include in any purchase agreement made in connection with the divestiture obligations in Section IV.A the option to the Acquirer, exercisable at the time of the closing of the purchase agreement, to require Thomson to continue, for a reasonable period of time and for reasonable compensation, to produce the Divestiture Product on behalf of the Acquirer, provided that the Acquirer shall control all non-production-related

aspects of the Divestiture Product, including pricing, promotion, sales, and order fulfillment.

D. The Acquirer of any Divestiture Product which Thomson currently uses, in whole or in part, in any Retained Product (e.g., for purposes of supplying a Retained Product with primary law content or copies or indices of annotations or headnotes from a Divestiture Product) shall grant Thomson a royalty-free license to continue to use the Divestiture Product to the same extent for another twelve (12) months immediately following the closing of the sale of the Divestiture Product (twenty-four (24) months in the case of Auto-Cite).

E. In accomplishing the divestiture ordered by this Final Judgment, the defendants shall make known, by usual and customary means, the availability of the Divestiture Products. The defendants shall provide any person making inquiry regarding a possible purchase of a copy of the Final Judgment. The defendants shall also offer to furnish to any bona fide prospective purchaser, subject to custody confidentiality assurances, all reasonably necessary information regarding the Divestiture Products, except such information subject to attorney-client privilege or attorney work product privilege. Defendants shall make available such information to the plaintiffs at the same time that such information is made available to any other person. Defendants shall permit bona fide prospective purchasers of the Divestiture Products to have access to personnel and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the divestiture required by this Final Judgment.

F. Defendants shall make available to plaintiffs and to Acquirer information about the personnel involved in editorial product of each of the Divestiture Products to enable Acquirer to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirer to employ any West or Thomson employee whose primary responsibility is the production, sale or marketing of such Divestiture Product.

G. Thomson shall take all reasonable steps to accomplish quickly the divestitures contemplated by this Final Judgment.

V.

Appointment of Trustee

A. In the event that Thomson has not divested the Divestiture Products within nine (9) months from the date this Final Judgment is filed with the Court, Thomson shall notify the plaintiffs of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States to effect the divestiture of the Divestiture Products. Unless the plaintiff otherwise consent in writing, the divestiture shall be accomplished in such a way as to satisfy the United States, in its sole discretion after consultation with the state plaintiffs, (and, for state specific Divestiture Products, to satisfy the appropriate state plaintiff), that the Divestiture Products can and will be used by the Acquirer as viable on-going product lines. The divestiture shall be made to an Acquirer for whom it is demonstrated to the United States' sole satisfaction after consultation with the state plaintiffs, (and, for state specific Divestiture Products, to the satisfaction of the appropriate state plaintiff) that the Acquirer has the managerial, operational, and financial capability to compete effectively in the publication and sale of the Divestiture Products, and that none of the terms of the divestiture agreement interfere with the ability of the purchaser to compete effectively in the publication and sale of the Divestiture Products.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Products. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, V and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. The trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States after consultation with the state plaintiffs, (and, for state specific Divestiture Products, acceptable to the appropriate state plaintiff), and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than (1) the trustee's malfeasance, or (2) that the sale is contrary to the express terms of this Final Judgment. Any such objections by defendants must be conveyed in writing to the plaintiffs and the trustee within ten (10) days after the trustee has provided the notice required under Section VI.

C. The trustee shall serve at the cost and expense of Thomson, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Thomson and the trust shall then be terminated. The compensation of such trustee and that of any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Products and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Thomson shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of Thomson and West, and defendants shall develop financial or other information relevant to such assets as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include

extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI.

Notification

A. Within two (2) business days following execution of a definitive agreement, Thomson or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the plaintiffs of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Thomson. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Products, together with full details of the same. Within fifteen (15) days after receipt of the notice, the plaintiffs may request additional information concerning the proposed divestiture, the proposed purchaser, and any other potential purchaser. Thomson or the trustee shall furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, the United States (or, for state specific Divestiture Products, the appropriate state plaintiff) shall notify in writing Thomson and the trustee, if there is one, if it objects to the proposed divestiture. If the United States (or, for state specific Divestiture Products, the appropriate state plaintiff) fails to object within the period specified, or if the United States (or, for state specific Divestiture Products, the appropriate state plaintiff) notifies in writing Thomson and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to Thomson's limited right to object to the sale under Section V.B. Upon objection by the United States (or, by the state specific Divestiture Products, the appropriate state plaintiff) or by Thomson under Section V.B, the proposed divestiture shall not be accomplished unless approved by the Court.

B. Thirty (30) days from the date when this Order becomes final, and every thirty (30) days thereafter until the divestiture has been completed or a trustee is appointed, Thomson shall deliver to the plaintiffs a written report as to the fact and manner of compliance with Section IV of this Final Judgment. Each such report shall include, for each person who during the preceding thirty (30) days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in all or any portion of the Divestiture Products, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. Thomson shall maintain full records of all efforts made to divest all or any portion of the Divestiture Products.

VII.

Financing

Thomson shall not finance all or any part of any purchase made pursuant to Sections IV or V of this Final Judgment without the prior written consent of the United States.

VIII.

Preservation of Assets

Until the divestitures required by Section IV.A of the Final Judgment have been accomplished:

A. Defendants shall take all steps necessary to ensure that each Divestiture Product listed on Exhibit A.1 will be maintained as an independent, ongoing, economically viable and active competitor in its respective line of business in the United States and that, except as necessary to comply with Section IV.B of this Final Judgment, the product management for all Divestiture Products, including the marketing and pricing information and decision-making, be kept separate and apart from, and not influenced by, Thomson's and West's businesses in other products.

B. Defendants shall use all reasonable efforts to maintain and increase sales of the Divestiture Products, and shall maintain at 1995 or previously approved levels for 1996, whichever are higher, promotional advertising, sales, marketing, and merchandising support for the Divestiture Products.

C. Defendants shall take all steps necessary to ensure that the Divestiture Products are fully maintained. Defendants shall not establish, prior to divestiture, any license of any of the Divestiture Products to themselves. Defendants' production, sales and marketing employees with primary responsibility for the Divestiture Products shall not be transferred or reassigned to any Retained Product, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policy, provided that defendants give the United States (and, for the state specific Divestiture Products, the appropriate state plaintiff) and Acquirer ten (10) days' notice of such transfer.

D. Defendants shall not, except as part of a divestiture approved by the United States, sell any Divestiture Products.

E. Defendants shall take no action that would jeopardize the sale of the Divestiture Products.

IX.

Star Pagination

A. Beginning no later than ten (10) business days after the entry of the Final Judgment, defendants shall grant to any third party a license in the form attached as Exhibit B to star paginate to West's National Reporter System publications subject to license fees not to exceed the price indicated below per format per year per 1,000 Characters (as defined in Exhibit B) contained in the material being star paginated:

First year of license:—$0.09.
Second year of license:—$0.11.
Third and subsequent years of license:—$0.13.

The license fees may increase at a rate based upon, but not to exceed, the change in the United States Department of Labor Producer Price Index for Finished Goods.

B. Any existing star pagination licensee may elect to modify its existing license on star pagination by substituting the terms and conditions of the license contained in Exhibit B on 120 days' notice.

X.

Options to Lexis-Nexis

Within ten (10) business days after the entry of the Final Judgment, Thomson shall grant to Lexis-Nexis the options to extend the License Agreements for Investext, ASAP, and Predicasts databases or any successor, follow-on, replacement, or substitute databases for an additional five (5) years beyond their current expiration dates, exercisable within one year of the date of the entry of this Final Judgment. Should Lexis-Nexis elect to exercise this option, all other terms and conditions of such License Agreement shall be no less favorable than the current terms and conditions. Nothing contained in any Lexis-Nexis agreement with Thomson shall be deemed to prohibit Lexis-Nexis from negotiating and contracting, but not implementing, the direct or indirect sourcing of information in those databases.

XI.

Option to Official Reporter Contract States

Within ten (10) business days after the entry of the Final Judgment, Thomson shall grant to the Official Reporter Contract States the option to terminate the contracts presently held by Thomson, for the publication of the official state case law reporters (listed in Exhibit A.3) in those states without cause upon ninety (90) days' notice, notwithstanding anything to the contrary in those contracts. This option may be exercised at any time prior to the expiration of the current Official Reporter Contract. In the event any of the Official Reporter Contract States elect to exercise this option:

A. Thomson shall undertake all reasonable efforts to assist the Official Reporter Contract State in finding a substitute publisher for the product(s) at issue.

B Upon the identification of a substitute publisher:

1. Thomson shall provide that entity with copies of all existing work in progress, plates, films, master tapes, machine-readable codes for CD–ROM production, existing inventory, pertinent correspondence and files, a current copy of the subscriber list, all related subscriber information, advertising materials, Official Reporter Contracts, software, and, at the substitute publisher's option, computers and other physical assets used primarily for production of the respective official state case law reporters.

2. Thomson shall make available to the United States (and, for state specific Divestiture Products, the appropriate state plaintiff) and to that entity information about the personnel involved in editorial production of the respective official state case law reporter to enable that entity to make offers of employment. Thomson shall not interfere with any negotiations by that entity to employ any Thomson employee whose primary responsibility is the production, sale or marketing of such official state case law reporter.

3. Thomson shall not transfer or reassign production, sales and marketing employees with primary responsibility for the official state case law reporter to any Retained Product, except for transfer bids initiated by employees pursuant to Thomson's regular, established job posting policy, provided that Thomson gives the United States (or, for state specific Divestiture Products, the appropriate state plaintiff) and that entity ten (10) days' notice of such transfer.

4. Thomson shall grant that entity an option to acquire Thomson's inventory of the official reports at its cost to Thomson; and

5. Thomson shall divest the digest product for that state set forth in Exhibit A.4, within the time periods and pursuant to the procedures set forth in Sections IV, V, VI, VII, and VIII of this Judgment.

C. Thomson shall transfer to the Official Reporter Contract State a license, which shall be perpetual in term, sublicensable, assignable, and royalty-free, to the use of any intellectual property rights which Thomson holds pertaining to the headnotes, case notes, and/or case summaries in the product(s) at issue.

XII.

Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the plaintiffs, including consultants and other persons retained by the United States, shall, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, or the appropriate State Attorney General with respect to the state specific Divestiture Products, and on reasonable notice to Thomson made to its principal offices, be permitted:

1. access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. subject to the reasonable convenience of Thomson and without restraint or interference from it, to interview directors, officers, employees, and agents of defendants, which may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, or the appropriate State Attorney General with respect to the state specific Divestiture Products, made to Thomson at its principal offices, Thomson shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in this Section XII shall be divulged by any representative of the plaintiffs to any person other than a duly authorized representative of the Executive Branch of the United States or of each state government, except in the course of legal proceedings to which the plaintiffs are a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Thomson to the plaintiffs, Thomson represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Thomson marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the plaintiffs shall give ten (10) days' notice to Thomson prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Thomson is not a party.

XIII.

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIV.

Termination of Provisions

Paragraphs IV, V, VI, VII, VIII, and XI, of this Final Judgment will expire on the tenth anniversary of the date of its entry.

XV.

Public Interest

Entry of this Final Judgment is in the public interest.

Dated .

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16 _____ United States District Judge.

Exhibit A

Exhibit A.1

U.S. Code Service
U.S. Reports, L.Ed.
U.S. Digest
Manual of Federal Practice, 4th Ed.
Bankruptcy Law & Practice, 6th Ed.
Bankruptcy (Epstein, Nickels & White)
Corbin on Contracts
Insurance Law (Appleman)
Search & Seizure (Thomson)

Ballantine's Law Dictionary
Auto-Cite
Deering's Annotated California Code
California ADR Practice Guide
California Civil Practice Handbook: Choice Between State and Federal Courts
California Civil Trailbook
California Litigation By the Numbers Court Rules Companion
California Negligence & Settlement
California Products Liability Law & Practice
California Trail
California Tort Law
Modern California Discovery
Colorado Trial Handbook
Trial Handbook for Connecticut Lawyers
Florida Criminal Practice & Procedure
Florida Evidence 2d
Illinois Jurisprudence
Indiana Appellate Handbook 2d
Kentucky Probate PSL
Kentucky Workers' Compensation PSL
Louisiana Code of Evidence—Annotated
Louisiana Successions
Louisiana Workers' Compensation
Annotated Laws of Massachusetts
Massachusetts Corporation PSL
Massachusetts Domestic Relations PSL
Massachusetts Landlord-Tenant Law
Massachusetts Real Estate PSL
Michigan Criminal Law
Michigan Statutes Annotated
Michigan Digest
New Jersey Criminal Procedure
New York Consolidated Laws Service
New York Wills and Trusts
Ohio Family Law
Ohio Probate
Modern Texas Discovery
Texas Civil Pre-Trail Procedure
Texas Trial and Appellate Practice
Washington Trial Handbook

Exhibit A.2

Michigan Law & Practice
New York Estate Administration
Pennsylvania Law Encyclopedia

Exhibit A.3

California Appellate Reports
California Reports
California Reports Advance Sheets
Washington Appellate Court Reports
Washington Supreme Court Reports
Wisconsin Official Reports
Wisconsin Official Reports Advance Sheets

Exhibit A.4

California Digest
Wisconsin Digest

EXHIBIT B

LICENSE AGREEMENT

THIS AGREEMENT, entered into in Eagan, Minnesota by and between _____ (''Licensee'') and WEST PUBLISHING COMPANY (and its successors, collectively ''Licensor'');

WHEREAS, Licensee desires to obtain a license from Licensor to allow Licensee to star paginate to certain West Case Reports in Licensee Case Reports contained in Licensee's [Licensee Product(s)/Service(s)]; and

WHEREAS, Licensor desires to grant Licensee such a license;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants which follow, the parties hereby agree that:

Article 1—Definitions

As used in this Agreement, the following terms shall have the following meanings:

1.01. ''West Case Reports'' shall mean Licensor's reports of judicial decisions, identified in Exhibit A to this Agreement, that are selected for reporting by Licensor and coordinated and arranged by Licensor within NRS Reporters.

1.02. ''NRS Reporters'' shall mean the following printed case report series published by Licensor that are a part of Licensor's National Reporter System and any future case report series published by Licensor that Licensor designates as a part of Licensor's National Reporter System:

Supreme Court Reporter
Federal Reporter
Federal Supplement
Federal Rules Decisions
Atlantic Reporter
North Eastern Reporter
North Western Reporter
Pacific Reporter
South Eastern Reporter
Southern Reporter
South Western Reporter
California Reporter
Illinois Decisions
New York Supplement
Bankruptcy Reporter
Military Justice Reporter
United States Claims Court Reporter
Federal Claims Reporter
Veterans Appeals Reporter

If Licensor (i) ceases publishing any NRS Reporter in printed form; and (ii) includes the case, reports of the court(s) previously included in said NRS Reporter as a part of a New Technology or only on WESTLAW, such case reports as a part of a New Technology or on WESTLAW shall be deemed to be said NRS Reporter. In such event, should WESTLAW or the New Technology continue to contain citations to such case reports in the same form (including volume numbers, abbreviated NRS Reporter designation, and beginning page numbers) as the ''NRS Citations'' for said NRS Reporter and with the same type of pagination as previously included in said NRS Reporter (i.e., such pagination shall not include the electronic pagination presently included on WESTLAW, any pagination related to WESTLAW Cites or any successor WESTLAW and/or New Technology citation form, or any other electronic pagination used on WESTLAW and/or the New Technology; jointly, ''WESTLAW/New Technology Pagination'') WESTLAW and/or the New Technology shall be deemed to be said NRS Reporter (with respect to the case reports in question) for purposes of the ''Star Pagination License'' provided for in Article 2; provided, however, that Licensee shall have no right whatsoever under this Agreement to produce, use, or make available WESTLAW/New Technology Pagination in any form or by any means.

1.03. ''Licensee Case Reports'' shall mean Licensee's reports of judicial decisions that are selected for reporting by Licensee in [Licensee Product(s)/Service(s)] and coordinated and arranged by Licensee within [Licensee Product(s)/Service(s)].

1.04. ''[Licensee Product(s)/Service(s)]'' shall mean *[description of Licensee Product(s)/Service(s)]* published or provided in [print, CD–ROM, online or other electronic format] by Licensee after the effective date of this Agreement.

1.05. ''NRS Pagination'' shall mean the page breaks and related page numbers of NRS Reporter publications. Should WESTLAW and/or a New Technology be deemed to be an NRS Reporter pursuant to Section 1.02, the ''pagination'' referenced in Section 1.02 (other than WESTLAW/New Technology Pagination) shall be deemed to be NRS Pagination; provided, however, that WESTLAW/New Technology Pagination shall not be NRS Pagination.

1.06. ''Licensed NRS Pagination'' shall mean the NRS Pagination which Licensee obtains a license to use pursuant to the terms and conditions of this Agreement.

1.07. ''Licensee Subscribers'' shall mean subscribers to or other licensees of [Licensee Product(s)/Service(s)] that include Licensed NRS Pagination.

1.08. ''Licensee Subscriber Limitations'' shall mean contractual obligations contained in the agreements pursuant to which Licensee Subscribers are licensed the right to access and use Licensed NRS Pagination as a part of [Licensee Product(s)/Service(s)] that (i) allow access to and use of Licensed NRS Pagination solely in the regular course of legal research and related work; (ii) prohibit the publication, broadcast,

loan, rent, lease, sale or other transfer of Licensed NRS Pagination, or of any copy or reproduction thereof; and (iii) prohibit or limit the making, maintenance or use of Licensed NRS Pagination, or of any copy or reproduction thereof, in the same manner as such actions are prohibited or limited for the other contents of [Licensee Product(s)/Service(s)]. [*Will not apply in cases of print licenses*]

1.09. ''PPI'' shall mean the United States Department of Labor, Bureau of Labor Statistics, Producer Price Index for Finished Goods (1982 = 100) or its successor index(es).

1.10. ''Character'' shall mean each alphabetic, numeric and punctuation symbol, and each space, in the material in question, and includes each mnemonic and other control, format and character code, whether or not displayed.

1.11. ''New Technology'' shall mean any form or means (including, without limitation, compact disc) by which databases containing legal materials may be used, made available, or otherwise distributed other than in any (i) printed or other hard copy form or means; (ii) microfilm, microfiche, or other form or means that can be visually perceived through magnification; or (iii) Online form or means.

1.12 ''Online'' shall mean a system of computer terminals directly linked to a central processing unit or units and related peripheral equipment on which a database is stored and/or searched, regardless of the software architecture employed.

1.13. ''WESTLAW'' shall mean the Online computer-assisted legal research services presently marketed by Licensor under the WESTLAW trademark, any portion of such services or any Online computer-assisted legal research service marketed by Licensor after the effect date of this Agreement, regardless of the name of the service; provided, however, that WESTLAW shall not include Licensor compact disc or ''New Technology'' products or services or Online updates or supplements thereto. Except as otherwise provided in the first sentence of this Section 1.13 or elsewhere in this Agreement, WESTLAW shall include all Online services (or portions thereof) described in the preceding sentence, regardless of how such services are distributed (including, without limitation, being made available directly to subscribers by Licensor, through agents or resellers, or through gateway arrangements with other database providers or distributors).

Article 2—License And Related Terms

2.01. *Star Pagination License.* During the term of this Agreement, subject to the terms and conditions hereof, including, without limitation, the timely payment by Licensee to Licensor of the license fees provided for in Section 2.03 hereof, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, non-transferable (except as specifically provided in Section 6.05 hereof), limited license (i) to obtain NRS Pagination from West Case Reports contained in NRS Reporter publications; (ii) to include such NRS Pagination (which shall become Licensed NRS Pagination when so included) in corresponding Licensee Case Reports contained in [Licensee Product(s)/Service(s)] to Licensee Subscribers subject to Licensee Subscriber Limitations; provided, however, that no right to in any way reproduce, use or make available, or authorize any third party to in any way reproduce, use or make available, West Case Reports, or any portion or portions thereof other than Licensed NRS Pagination as provided herein, is granted by Licensor to Licensee under this Agreement; provided, further, that Licensor shall not challenge, under any present or future legislation, any use by the Licensee of Licensed NRS Pagination if Licensee's use of same conforms to the terms of this Agreement.

2.02 *License Limitations.* Notwithstanding the provisions of Section 2.01 hereof or any other provision of this Agreement, the limited license granted by Licensor to Licensee hereunder does not include any right to in any way reproduce, use or make available, or authorize any third party to in any way reproduce, use or make available, any NRS Pagination or Licensed NRS Pagination in any form, format or means other than as specifically provided in Section 2.01 hereof; provided, however, that, subject to the terms and conditions of this Agreement, Licensee may authorize Licensee Subscribers to create and use printouts of Licensee Case Reports containing Licensed NRS Pagination subject to Licensee Subscriber Limitations; provided, further, that nothing in this Agreement shall prohibit Licensee from selling, leasing, licensing or otherwise transferring Licensee Case Reports that contain Licensed NRS Pagination to third party information providers, but such transfers shall not include or grant any right to reproduce, publish, broadcast, distribute, loan, rent, lease, sell or otherwise transfer, make available or use the Licensed NRS Pagination contained in such Licensee Case Reports.

2.03. *License Fees.* In consideration of the license granted under Section 2.01 hereof, Licensee shall pay Licensor the license fees provided for in this Section 2.03. *[Specific license fee terms to be agreed upon, but not to exceed the following license fees per format (i.e., for each existing format and for each New Technology) per year per 1,000 characters contained in Licensee Case Reports contained in [Licensee Product(s)/Service(s)] that include Licensed NRS Pagination, subject to change based upon, but not to exceed, changes in the PPI: nine cents ($.09) during the first year of this Agreement, eleven cents ($.11) during the second year of this Agreement, and thirteen cents ($.13) during the third year and subsequent years of this Agreement.]*

2.04. *No Warranty or Liability.* ALL NRS PAGINATION SHALL BE OBTAINED AND USED BY LICENSEE ON AN ''AS IS'' BASIS WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND LICENSOR SHALL HAVE NO LIABILITY WHATSOEVER TO LICENSEE IN ANY WAY RELATED TO ANY COPY OF NRS PAGINATION OR LICENSED NRS PAGINATION OBTAINED OR USED BY LICENSEE HEREUNDER.

2.05. *Display of Licensed NRS Pagination.* During the term of this Agreement, if Licensee includes Licensed NRS Pagination as a part of any Licensee Case Report, such Licensed NRS Pagination shall be presented no less prominently (in terms of size, high-lighting, underling, etc.) than any other unofficial pagination or pinpoint locators for the Licensee Case Report in question.

2.06. *Impossibility.* Nothing contained in this Agreement shall in any way require Licensor to continue to publish or provide NRS Reporters.

2.07. *Licensor's Subscription(s) to [Licensee Product(s)/Service(s)].* In order for Licensor to monitor Licensee's compliance with the terms and conditions of Articles 2 and 3 hereof, Licensee shall, at no charge to Licensor, provide Licensor with (a) subscription(s) to [Licensee Product(s)/Service(s)]. [A copy/Copies] of [Licensee Products(s)/Service(s)] shall be provided to Licensor as soon as it/they is/are made available to any third party.

Article 3—Notice Provisions

3.01. *Copyrights.* During the term of this Agreement, Licensee (i) shall respect and not contest the validity of the copyrights claimed by Licensor in Licensor's arrangements of case reports in NRS Reporters as expressed by NRS

Pagination; and (ii) shall not, except as specifically provided in this Agreement, copy, prepare a derivative work of, distribute a copy of or display publicly, any portion of any NRS Pagination for any commercial purpose whatsoever. Nothing contained in this Agreement shall be deemed to prohibit Licensee from copying or making any other use of the contents or pagination of any NRS Reporter publication after the term of copyright in such publication has expired as provided in 17 U.S.C. § 302, *et. seq.* and related statutes and regulations (or their successors).

3.02. *Copyright Notice.* As a condition of the license granted by Licensor to Licensee under Section 2.01 hereof, Licensee shall ensure that a copyright notice which complies with the provisions of 17 U.S.C. § 401, *et. seq.* and related statutes and regulations (or their successors) appears on all publicly distributed copies of [Licensee Product(s)/Service(s)] that contain any Licensed NRS Pagination from which such [Licensee Product(s)/Service(s)] can be visually perceived, either directly or with the aid of a machine or device.

3.03. *Notice to be Used in Connection with Licensed NRS Pagination.* Licensee shall cause the following notice, or such other notice as the parties may mutually agree upon from time to time, to be prominently displayed as a part of the [Licensee Product(s)/Service(s)] that contain(s) any Licensed NRS Pagination and as a part of the documentation made available in connection therewith:

STAR PAGINATION TO WEST PUBLISHING COMPANY'S NATIONAL REPORTER SYSTEM® PUBLICATIONS HAS BEEN CREATED AND ADDED TO THIS PUBLICATION BY [LICENSEE] AND IS BEING MADE AVAILABLE UNDER A LICENSE FROM WEST.

Article 4—Confidentiality

4.01. *Confidentiality Obligations.* During the term of this Agreement and thereafter, except as specifically provided herein and/or to the extent reasonably necessary to perform its obligations or exercise or enforce its rights hereunder, neither party shall provide or disclose to any third party, or itself use, unless authorized in writing to do so by the other party or properly directed or ordered to do so by public authority, any information or matter that (i) constitutes or concerns the terms and conditions of this Agreement; (ii) is provided to it by the other party hereunder or as a result hereof; or (iii) regards any dealings or negotiations with the other party related to this Agreement; provided, however, that the parties may consult with their respective counsel with respect to such information or matter and said counsel agree to abide by the terms and conditions of this Article 4.

4.02. *Limitation on Confidentiality.* Except with respect to information or matter constituting or concerning the terms and conditions of this Agreement or regarding any dealings or negotiations between the parties hereunder, the parties shall have no confidentiality obligation under Section 4.01 hereof with respect to any information or matter specified therein that (i) is already known to them, (ii) is rightfully disclosed to them by a third party that is not acting as an agent or representative for the other party, (iii) is independently developed by or for them, (iv) is publicly known, or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the parties. Any party claiming an exception to Section 4.01 hereof under this Section 4.02 shall have the burden of proving the basis for the exception.

4.03. *Confidentiality Standard.* The parties shall follow the same procedures to insure their compliance with the requirements of Section 4.01 hereof as they follow to protect their own confidential and proprietary information and matter of a similar nature.

4.04. *Injunctive Relief.* Each party shall be entitled to injunctive relief to enforce the other party's compliance with the obligations contained in Section 4.01 hereof, it being understood and agreed that the parties will not have an adequate remedy at law if such obligations are not complied with.

Article 5—Term and Termination

5.01. *Term and Termination.* Subject to the terms and conditions hereof, this Agreement shall become effective upon execution by both parties and shall remain in force [*specific term and related provisions as agreed upon*]. Licensee may terminate this Agreement by giving Licensor at least 90 days' prior written notice of termination.

5.02. *Effect of Termination.* After termination of this Agreement, Licensee shall have no contractual right to include NRS Pagination in [Licensee Product(s)/Service(s)] published or provided after the effective date of such termination.

Article 6—Miscellaneous Provisions

6.01. *Limitations of Liability and Claims.*

(a) EXCEPT AS SPECIFICALLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY HEREUNDER FOR ANY PROFITS LOST BY THE OTHER PARTY OR FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) No claim, regardless of form, which in any way arises out of this Agreement or the parties' performance of this Agreement may be made, nor arbitration proceeding based upon such a claim commenced, by either party more than one year after the basis for the claim becomes known to the party desiring to assert it.

6.02. *Relationship of the Parties.* The parties shall be independent contractors hereunder and neither party shall have the power or authority to bind the other party with respect to any third party. Except as specifically provided herein, each party shall bear its own costs and expenses.

6.03. *Effect of Agreement.* This Agreement embodies the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral or written, relating thereto. Any amendment hereof must be in writing and signed by both parties.

6.04. *Force Majeure.* Each party's performance hereunder is subject to interruption or delay due to causes beyond its reasonable control such as acts of God, acts of government, war or other hostility, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies, and the like. In the event of such an interruption or delay, any relevant period of performance of the party affected shall be extended for a period of time equal to the period of the interruption or delay and any obligation of the party whose performance is not affected which correspond to the interrupted or delayed performance shall be suspended for a period of time equal to the period of the interruption or delay. Any party whose performance hereunder is subject to such interruption or delay shall give prompt notice to the other party of the reason or reasons for the commencement of and of the conclusion of such interruption or delay.

6.05. *Assignment and Successors.* Neither this Agreement nor any part or portion hereof, or right granted hereunder, shall be assigned, sublicensed or otherwise transferred by Licensee without Licensor's prior written consent.

6.06. *Severability.* Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby.

6.07. *Arbitration.*

(a) Any and all disputes or controversies arising under this Agreement shall be resolved by private arbitration conducted in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association (''AAA''), as modified by the terms and conditions of this Section 6.07. The arbitration proceeding relating to any such arbitration shall be held in Minneapolis, Minnesota, and any judgment upon the resulting arbitration decision may be entered in the appropriate federal or state court located in Minneapolis, Minnesota. Each party hereby consents to arbitration jurisdiction and the jurisdiction of such courts for the purposes of the arbitration and related proceeding described in this Section 6.07.

(b) Arbitration proceedings under this Section 6.07 shall be commenced by a party by serving the other party with a notice of intent to arbitrate and filing such notice with the Minneapolis, Minnesota office of the AAA (''Office''). All arbitrations shall be conducted by a panel of three arbitrators selected as follows:

(i) Within ten (10) days after the notice of intent to arbitrate is filed with the Office, each party shall select an arbitrator and shall notify the other party and the Office of its selection. If either party fails to select an arbitrator within such ten (10) day period, the Office shall so notify such party, who shall thereafter have five (5) business days to select an arbitrator. Failing such selection, the Office shall make the appointment for such party.

(ii) The two arbitrators so selected shall select an neutral arbitrator within 15 days after the selection of the second of the initial arbitrators to be selected. The neutral arbitrator shall be counsel skilled in the licensing of copyrighted property. The neutral arbitrator shall not (A) be a present of former owner, officer, director, or employee of a party; (B) have or have had any business relationship (including, without limitation, an attorney-client relationship) with a party; or (c) be a present or former owner, officer, director, employee or member of any entity that has or has had a business relationship (including, without limitation, an attorney-client relationship) with a party. The initial arbitrators may seek a list of potential neutral arbitrators from the Office, but shall not be limited to such a list in selecting the neutral arbitrator. If the initial two arbitrators cannot agree on the required neutral arbitrator within said 15 day period, they shall so notify the Office within five (5) business days after the expiration of said 15 day period, and the Office shall then promptly select the required neutral arbitrator (who shall meet the criteria set forth above).

(iii) The neutral arbitrator so selected shall be the head of the arbitration panel and responsible for scheduling and coordinating the arbitration proceedings.

(c) The decision of the arbitration panel of three arbitrators shall (i) be made by at least a majority of the arbitrators; (ii) be made within 60 days after the neutral arbitrator is selected; (iii) be in writing; and (iv) set forth each of the factors considered by the arbitrators and the impact of each such factor on their decision.

(d) All arbitration decisions made in accordance with this Section 6.07 shall be final and binding upon the parties. Arbitration as provided for in this Section 6.07 shall be the sole and exclusive right and remedy of the parties with respect to any and all disputes or controversies, and each party hereby waives its right to institute any judicial proceedings with respect to any such matters, other than the right to enter judgment upon any arbitration decision rendered as provided above and to seek enforcement of such judgment once so entered.

(e) Each party shall bear its own costs and expenses (including, without limitation, all attorneys' fees, and all costs and expenses of presenting evidence to and calling witnesses before the arbitration panel) and those of the arbitrator it selects in connection with any arbitration proceeding conducted pursuant to this Section 6.07. The arbitrators shall, in their sole discretion, determine how the parties shall bear all other arbitration expenses. If required by the Office, each party shall deposit such sums of money with said Office as said Office deems necessary to defray arbitration expenses, and failure to so deposit shall be grounds for a default arbitration decision to be entered by the arbitrators against a party which fails to make such a deposit.

6.08. *Non-Waiver.* Failure of either party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision nor of the right to enforce such provision.

6.09. *Certain Taxes.* Any sales, use, value added and similar taxes which may be due with respect to Licensed NRS Pagination licensed to Licensee hereunder, or the license payments due or made by Licensee to Licensor hereunder, shall be the responsibility of Licensee and shall be paid by Licensee directly to the relevant taxing authority. Licensee shall obtain and provide to Licensor any exemption certificates necessary to absolve Licensor of any responsibility relating to such taxes.

6.10. *Notices.* In order to be effective, all notices, requests, demands, agreements, consents, approvals, permissions and other communications required or permitted hereunder shall be in writing, shall be delivered personally, faxed, transmitted by courier or express service, or mailed, with proper charge prepaid, to the party for whom intended as set forth below, and shall be deemed to be given upon the date of actual receipt:

To Licensee:
To Licensor: President, West Publishing Company,
By mail: P.O. Box 64526, 610 Opperman Drive, St. Paul, MN 55164.
(By other means): 610 Opperman Drive, Eagan, MN 55123.

The sending party shall have the burden of proving receipt. Either party may change any address to which notices and other communications are to be directed to it by giving notice of such change to the other party in the manner provided above.

6.11. *Governing Law.* This agreement shall be governed by and construed under the laws of the State of Minnesota, and, subject to Section 6.07 hereof, any action related in any way to this Agreement shall be brought in the appropriate federal or state court located in Minneapolis, Minnesota. Each party hereby consents to the jurisdiction of such courts for the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives.

[LICENSEE]
By _____
Its _____
Date _____

WEST PUBLISHING COMPANY
By _____
Its _____
Date _____

United States District Court for the District of Columbia

In the matter of: United States of America, 1401 H Street, NW., Suite 4000, Washington, DC 20530, (202) 307–1858; State of California, by and through its Attorney General, Daniel E. Lungren, 1300 I Street, Sacramento, California 95814, (916) 324–7874; State of Connecticut, by and through its Attorney General, Richard Blumenthal, 110

Sherman Street, Hartford, Connecticut 06105, (860) 566–5374; State of Illinois, by and through its Attorney General, Jim Ryan, 100 West Randolph Street, Chicago, IL 60601, (312) 814–5610; Commonwealth of Massachusetts, by and through its Attorney General, Scott Harshbarger, 1 Ashburton Place, Boston, Massachusetts 02108, (617) 727–2200; State of New York, by and through its Attorney General, Dennis C. Vacco, 120 Broadway, Suite 2601, New York, New York 10271, (212) 416–8275; State of Washington, and by and through its Attorney General, Christine O. Gregoire, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164, (206) 464–7663; State of Wisconsin, by and through its Attorney General, James E. Doyle, Jr., 123 West Washington, Madison, Wisconsin 53707, (608) 266–8986; Plaintiffs, vs. the Thomson Corporation, and One Station Place, Stamford, Connecticut 06902, (203) 328–9400; West Publishing Company, 620 Opperman Drive, Eagan, Minnesota 55123, 1–800–328–9352, Defendants; Civil No. 96–1415 (CRR), File: 6/25/96, Judge Charles R. Richey.

Competitive Impact Statement

The United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The plaintiffs filed a civil antitrust complaint on June 19, 1996, alleging that the proposed acquisition of West Publishing Company by the Thomson Corporation would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. 1. West and Thomson are two of the largest publishers of legal research materials in the United Staes.

The complaint alleges that the combination of these major competitors would substantially lessen competition in (1) the publication of research-enhanced cases and statutes (''enhanced primary law'') in nine enhanced primary law product markets, (2) the markets for certain secondary law products, and (3) the market for the provision of comprehensive online legal research services. The prayer for relief seeks a judgment that the proposed acquisition would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. 1. The prayer for relief also seeks a preliminary and permanent injunction preventing Thomson and West from carrying out the proposed merger, or any similar agreement, understanding or plan.

Shortly before that suit was filed, a proposed settlement was reached that permits Thomson to complete its acquisition of West, yet requires extensive divestitures and takes other steps to preserve competition in the markets in which the transaction raises significant competitive concerns. A Stipulation and proposed Final Judgment embodying the proposed settlement were filed at the same time the complaint was filed.

The proposed Final Judgment orders the defendants to divest the products listed in Exhibit A.1 and A.2 of this Competitive Impact Statement and to offer to divest the products listed in Exhibit A.3 and A.4 of this Competitive Impact Statement. In general, the defendants must complete these divestitures within nine months after entry of Final Judgment. If they do not, the Court may appoint a trustee to sell the assets. The proposed Final Judgment further requires Thomson to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, the products to be divested will be operated independently as continuing, viable, ongoing lines of business, and kept separate and apart from Thomsons and West's businesses in other products. The proposed Final judgment also requires Thomson to license to any publisher, for a fee, the use of ''star pagination'' (explained below), and requires Thomson to extend the licenses of certain products to Lexis-Nexis.

The plaintiffs and Thomson have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Defendant Thomson Corporation is a corporation organized and existing under the laws of the Province of Ontario, Canada, with its principal office in Toronto, Ontario, Canada. It is the world's largest publisher of information for professional markets, and it is one of the largest publishers of legal research materials in the United States.

West Publishing Company is a corporation organized and existing under the laws of the State of Minnesota, with its principal office in Eagan, Minnesota. West is the largest publisher of legal research materials in the United States, notably of court decisions contained in its National Reporter System.

On February 25, 1996, Thomson agreed to purchase West for approximately $3.42 billion in cash. This transaction, which would combine West and Thomson, precipitated the Government's suit.

B. Legal Research Materials

1. Enhanced Primary Law Products

Thomson and West compete directly with each other for print and/or CD–ROM sales in the following nine enhanced primary law product markets: United States code; United States Supreme Court case law; California code; California case law; Massachusetts code; Michigan code; New York code; Washington case law; and Wisconsin case law.

For both law reporters and codes, Thomson and West provide unique, enhanced primary law products. The enhanced case law reporters sold by Thomson and West in the above markets are distinguishable from any other legal research product in two respects. First, each reporter contains the entire body of case law for its respective jurisdiction. Second, each reporter contains comprehensive written descriptions of points of law within the opinions, also known as ''headnotes'' and ''summaries.'' Similarly, Thomson's and West's enhanced codes are distinguishable from other codes because they contain the entire code for the jurisdiction and contain comprehensive written descriptions of relevant case law relating to code sections, also known as ''annotations.'' There are no other codes or case law reporters in the above markets that offer this set of enhancements to consumers.

Unenhanced codes sold in print are not a substitute for enhanced primary codes, and legal researchers do not view them to be reasonably interchangeable. First, unenhanced codes are priced significantly lower than annotated primary codes. Second, unenhanced codes are used for different purposes than enhanced codes. For example, unenhanced codes are often used for the limited purposes of identifying the correct wording of a known statute or for obtaining a brief overview of the relevant statutes on a particular topic. Enhanced codes, unlike unenhanced codes, are appropriate sources of information when a researcher has a need to promptly determine judicial interpretations of statutory language or to determine how statutes may apply to a particular factual situation—the typical functions of an attorney

providing legal advice as it relates to statutes.

Likewise, unenhanced case law sold in print is not a substitute for enhanced case law. Unenhanced case law is generally used for different purposes than enhanced case law. For example, unenhanced case law is useful to check the correct language in a known case. However, enhanced primary law is necessary when the legal researcher wishes to identify and evaluate judicial interpretation of points of law within an opinion, what case law might apply to a particular factual situation, or how case law can be used to support a particular legal position—the standard practices of an attorney wishing to provide legal advice relating to case law.

Full-text searching of primary law on Lexis-Nexis, WESTLAW, and CD–ROM products is only a partial substitute to the enhanced primary law offered by Thomson and West. Full-text searching is not a good substitute, for most users and most uses, because it does not provide users with the editorial analysis of the West or Thomson enhanced primary materials.

Purchasers desiring to purchase enhanced codes would not turn to any alternative product in sufficient numbers to defeat a small but significant increase in price. In addition, purchasers desiring to purchase enhance case law reporters would not turn to any alternative product in sufficient numbers to defeat a small but significant increase in price.

2. Secondary Law Materials

Thomson and West also compete against each other for print and/or CD–ROM sales of national and state-oriented secondary law products, such as treatises and practice guides. Each of these competing products, together with similar competing products, is contained within a relevant secondary law product market (''relevant secondary law product markets''). One product from each such relevant secondary law product market is identified in Exhibit A (in addition to the enhanced primary law listed therein, as noted above). In each relevant secondary law product market, West and Thomson are either dominant or significant competitors.

Secondary law materials are used by researchers to become familiar with the law both before and after turning to primary law materials. These secondary materials enable the legal researcher, who might not have expertise in a particular area of the law, to begin his or her research in a focused manner. Secondary sources of law lead researchers to relevant case law, statutes, and other secondary law products. Secondary sources of law can also be used by researchers to provide clarification of primary law.

Purchasers desiring to purchase any of the secondary law products in the relevant secondary law product markets alleged in the complaint would not turn to any alternative product in sufficient numbers to defeat a small but significant increase in price.

3. Comprehensive Online Legal Research Services

West, through WESTLAW, is one of two major competitors in the provision of comprehensive online legal research services; the other competitor is Lexis-Nexis. WESTLAW and Lexis-Nexis are the two largest comprehensive online legal research services and they compete directly with one another.

West places its own primary and secondary law products on WESTLAW. Lexis-Nexis places its own and third parties' materials on its service, including some Thomson enhanced primary and secondary law products. Thomson licenses to Lexis-Nexis, among other products, the Auto-Cite electronic citator service. Auto-Cite is used to gather negative commentary on a case and quickly determine case history for use in correct citation. Thomson also licenses to Lexis-Nexis the United States Code Service, as well as several other Thomson enhanced primary law materials, and certain non-legal materials.

Print versions of the law are not adequate substitutes for comprehensive online legal research services. Legal researchers who have the necessary computer hardware and the necessary skills to use this product value the timeliness and speed of comprehensive online legal research services. Material provided on a comprehensive online legal research service is updated often and is thus more timely than material offered in printed form.

Full-text word searching of primary law on CD–ROMs is not an adequate substitute for comprehensive online legal research services. The content of most CD–ROMs is limited to a particular jurisdiction or topic. Moreover, the material contained on CD–ROMs is not as current as the material offered on an online legal research service. If the materials on CD–ROMs are not current, lawyers must still use online legal research services to supplement their research. Furthermore, the topical or limited jurisdictional focus of CD–ROMs limits their primary appeal to smaller law firms or firms specializing in a particular area of the law. These firms are not heavy users of comprehensive online legal research services.

While the Internet is a useful tool for some researchers, it is not a substitute for Lexis-Nexis and WESTLAW for several reasons. First, the material contained on the Internet is not nearly as comprehensive as the material offered on Lexis and WESTLAW. The Internet does not provide access to historical opinions, every court's opinions, every jurisdiction's statutes, or the number of secondary law products that Lexis-Nexis and WESTLAW offer. Second, the Internet's search mechanism is not as sophisticated or effective as Lexis-Nexis' or WESTLAW's. Third, the case law offered on the Internet does not provide citations that are accepted by courts or are relied on by attorneys.

Purchasers of comprehensive online legal research services would not turn to any alternative product in sufficient numbers to defeat a small but significant increase in price. Therefore, the provision of comprehensive online legal research services is an appropriate product market in which to assess the competitive effects of the acquisition.

C. Competition Between West and Thomson

Thomson and West compete directly to provide enhanced primary law in the relevant markets and consumers view the Thomson and West products as their first and second choices for primary law products. Indeed, in each relevant market, the Thomson and West products are the only printed products to which consumers can turn for enhanced primary law, and, to the limited extent to which full-text searching is a research enhancement, enhanced primary law products are offered by only Thomson, West, Lexis-Nexis and a few CD–ROM publishers.

It is unlikely that an entrant could offer comparable products, for three reasons. First, the entrant would have to compile an historical collection of cases. Second, the entrant would have to develop a sophisticated editorial staff capable of creating editorial enhancements that customers would accept as reliable. Third, West claims that its copyright is infringed by what is commonly referred to as ''star pagination,'' the insertion of symbols in the text of decisions to indicate where internal page breaks are in West's National Reporter System, and the placement nearby of the corresponding West reporter's page number. West page numbers are commonly required or expected by courts. West has granted few, if any, licenses to employ star pagination. Thus, existing or potential

participants in the markets for primary law products cannot offer products with star pagination without the threat of costly infringement litigation.

West and Thomson also aggressively compete against each other in the sale of several secondary law products, referred to in Exhibit B. Thomson and West are the only publishers—or two of very few publishers—in each relevant secondary law product market. As with enhanced primary law, it is unlikely that an extrant would be able to offer comparable products. Thomson's and West's titles are established resources and it would take a long time for a putative entrant to overcome West's and Thomson's acceptance by consumers. Furthermore, West's claim of copyright infringement for ''star pagination'' has a significant effect on the competitive viability of CD–ROM products, where it would be possible to include both primary and secondary law products on the same CD–ROM.

Thomson and West compete vigorously on the basis of price for both enhanced primary law products and secondary law products. Thomson and West look almost exclusively to each other in making pricing decisions and promoting both their enhanced primary and their secondary law products in the relevant markets, and consumers have benefitted from this competition. Thomson and West also compete directly on the basis of quality. The quality of Thomson's and West's enhanced primary and secondary law products has improved as a result of such competition. Unless restrained, the proposed acquisition would allow the combined entity unilaterally to raise prices without the threat of a new entry into these markets by a third party. Unless restrained, the proposed acquisition would also have an adverse effect on the quality of enhanced primary law products and secondary law products.

In the comprehensive online legal research services market, Thomson supplies enhanced primary law, secondary law products, non-legal products, and Auto-Cite to Lexis-Nexis. West offers the competing WESTLAW service, and consumers have benefitted from the vigorous competition that has existed between Lexis-Nexis and WESTLAW. To effectively compete against WESTLAW, Lexis-Nexis depends upon access to certain products that Thomson licenses to Lexis-Nexis. Unless restrained, the proposed acquisition will increase Thomson's incentive to exercise market power by increasing prices for, reducing quality and innovation of, or withholding access to certain products that Thomson licenses to Lexis-Nexis.

D. Anticompetitive Consequences of the Acquisition

The complaint alleges that Thomson's acquisition of West would substantially reduce or eliminate competition in (1) nine relevant enhanced primary law product markets, (2) the publication of secondary law in the relevant secondary law product markets and (3) the market for the provision of comprehensive online legal research services.

The complaint alleges that the acquisition would increase concentration significantly in the nine relevant enhanced primary law product markets and in the secondary law product markets. After the acquisition, the combined Thomson/West entity would dominate these relevant markets. Using a measure of market concentration called the HHI, defined and explained in Exhibit C, a combination of Thomson and West would substantially increase concentration in each of the nine relevant enhanced primary law product markets. The post-merger HHIs and increases in the HHIs for each market are listed in Exhibit C. Post-merger HHIs range between 4521 and 9010; increases range from 959 to 4234.

The complaint also alleges that it is unlikely that a new entrant would enter into any of these relevant markets that would be capable of restraining any anticompetitive increase in price within a two-year period. In the nine relevant enhanced primary law product markets and in the secondary law product markets, there is now competition between the parties that would end after the acquisition, risking price increases and reduced product quality and innovation for consumers.

In the market for the provision of comprehensive online legal research services, Lexis-Nexis depends upon access to some of Thomson's products to compete effectively against WESTLAW. The complaint alleges that the acquisition is likely to lessen competition substantially in the market for comprehensive online legal research services by increasing Thomson's incentive to increase the prices of, reduce the quality of, or withhold access to certain materials it provides to Lexis-Nexis. As a result of such an exercise of market power, there could be material injury to Lexis-Nexis' ability to compete effectively, and thus harm to competition in this market. In the event of such an exercise of market power by Thomson, Lexis-Nexis would be unable or unlikely to replace the licensed Thomson products in such a way, or within such time, as to maintain the level of competition that existed between WESTLAW and Lexis-Nexis before the acquisition. Reduced competition in the provision of comprehensive online legal research services would mean higher prices and reduced product quality and innovation for consumers of those services.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the nine enhanced primary law product markets. The proposed Final Judgment requires the divestiture of enhanced code products for the United States, California, Massachusetts, Michigan, and New York. It also requires the divestiture of U.S. Reports, L.Ed., a United States Supreme Court case law reporter. Divestiture of these, and all products to be divested pursuant to the proposed Final Judgment, must be accomplished by Thomson within nine months after entry of the Final Judgment. The defendants must divest the assets and rights associated with the divested products in such a way as to satisfy the plaintiffs that the divested products can and will be operated by the acquirer as viable, ongoing product lines, and that until the divestiture, the defendants will maintain them as such.

The proposed Final Judgment also permits states to reopen bidding of three state contracts to publish the official state reporter. This process will allow the states effectively to cause a divestiture of the state reporters are all contracted by a bid process, the reopening of the bidding would stimulate competition in the publication of state reporters.

Furthermore, under the proposed Final Judgment, one secondary law product in each of the secondary law markets will be divested. Competition from buyers of the divested secondary products should cause Thomson to continually enhance and improve its products in response to such competition. Thus, the proposed Final Judgment would preserve competition in the secondary law product markets.

The proposed Final Judgment also requires Thomson to license the use of star pagination in the National Reporter System to other legal publishers. As noted above, West has claimed that a license is required for star pagination. There is pending litigation over the validity of West's copyright claim. *See Oasis Publishing Co.* v. *West Publishing Co.*, F. Supp. , 1996 WL 264773 (D.Minn. 1996); *Matthew Bender and Company, Inc.* v. *West Publishing Co.*, Docket No. 94–CIV–0589 (S.D.N.Y.).

However, West has asserted a copyright claim and has thus far prevailed in litigation. As a result, only two licenses to use West pagination have been issued by West. This has created a barrier to entry for enhanced primary law and secondary law products incorporating such pagination. The proposed Final Judgment would allow any person to license use of the West pagination at maximum prices. Thus, the proposed relief reduces one important barrier to entry and provides publishers who wish to produce such products with a new option for introducing products that will compete with Thomson/West. Thus, this relief, together with the divestitures of enhanced primary and secondary law products, will aid in maintaining the vigorous competition in these markets that has existed before the merger.

The proposed Final Judgment should not be read to suggest that the plaintiffs believe that a license is required before a legal publisher may star paginate to defendants' products. Indeed, the Antitrust Division expressly reserves the right to assert its views concerning the extent, validity, or significance of any intellectual property right claimed by defendants, in judicial proceedings or in any other forum. The proposed Final Judgment shall have no impact whatsoever on any adjudication concerning these matters.

Additionally, pursuant to the proposed Final Judgment, Thomson must divest itself of Auto-Cite and extend the terms of existing licenses of Investext, ASAP and Predicasts databases to Lexis-Nexis. The divestiture of Auto-Cite will ensure that Thomson-West cannot injure competition in the comprehensive online legal research services market by increasing prices for, reducing quality and innovation of, or by denying Lexis-Nexis access Auto-Cite. Likewise, the extension of the licenses will ensure that Lexis-Nexis will have access to these resources while it has the opportunity to make appropriate competitive adjustments. Furthermore, the divestiture of the enhanced primary law products and the secondary law products would enable the new owner of those products to make them available to Lexis-Nexis without the owner having the anticompetitive incentive that arises from owning the main Lexis-Nexis competitor.

If the defendants fail to divest the divestiture products within nine months after entry of final judgment, the Court, upon application of the United States, shall appoint a trustee nominated by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Thomson will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the Divested Products and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished. After appointment, the trustee will file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under the proposed Final Judgment. If the trustee has not accomplished the divestiture within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. At the same time, the trustee will furnish such report to the parties, who will each have the right to be heard and to make additional recommendations consistent with the purpose of the trust.

The proposed Final Judgment requires that Thomson maintain the Divested Products separate and apart pending divestiture.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiffs and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to:

Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The plaintiffs considered, as an alternative to the proposed Final Judgment, a full trial on the merits of their complaint against Thomson. The plaintiffs are satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in (1) the nine enhanced primary law product markets, (2) the markets for the relevant secondary law products, and (3) the market for the provision of comprehensive online legal research services. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the United States Court of Appeals for the DC Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment require a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).'' [3]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 25, 1996.

Respectfully submitted,

Craig W. Conrath,

Chief, Merger Task Force, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530, (202) 307–5779.

Exhibit A

Exhibit A.1

U.S. Code Service
U.S. Reports, L.Ed.
U.S. Digest
Manual of Federal Practice, 4th Ed.
Bankruptcy Law & Practice, 6th Ed.
Bankruptcy (Epstein, Nickels & White)
Corbin on Contracts
Insurance Law (Appleman)
Search & Seizure (Thomson)
Ballantine's Law Dictionary
Auto-Cite
Deering's Annotated California Code
California ADR Practice Guide
California Civil Practice Handbook: Choice Between State and Federal Courts
California Civil Trialbook
California Litigation By the Numbers Court Rules Companion
California Negligence & Settlement
California Products Liability Law & Practice
California Trial
California Tort Law
Modern California Discovery
Colorado Trial Handbook
Trial Handbook for Connecticut Lawyers
Florida Criminal Practice & Procedure
Florida Evidence 2d
Illinois Jurisprudence
Indiana Appellate Handbook 2d
Kentucky Probate PSL
Kentucky Workers' Compensation PSL
Louisiana Code of Evidence—Annotated
Louisiana Successions
Louisiana Workers' Compensation
Annotated Laws of Massachusetts
Massachusetts Corporations PSL
Massachusetts Domestic Relations PSL
Massachusetts Landlord-Tenant Law
Massachusetts Real Estate PSL
Michigan Criminal Law
Michigan Statutes Annotated
Michigan Digest
New Jersey Criminal Procedure
New York Consolidated Laws Service
New York Wills and Trusts
Ohio Family Law
Ohio Probate
Modern Texas Discovery
Texas Civil Pre-Trial Procedure
Texas Trial and Appellate Practice
Washington Trial Handbook

Exhibit A.2

Michigan Law & Practice
New York Estate Administration
Pennsylvania Law Encyclopedia

Exhibit A.3

California Appellate Reports
California Reports
California Reports Advance Sheets
Washington Appellate Court Reports
Washington Supreme Court Reports
Wisconsin Official Reports
Wisconsin Official Reports Advance Sheets

Exhibit A.4

California Digest
Wisconsin Digest

Exhibit B

Secondary Law Products

U.S. Digest

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see BNS*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *see also Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'') (citations omitted).

[3] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette Co.*, 406 F. Supp. at 716, *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Manual of Federal Practice, 4th Ed.
Bankruptcy Law & Practice, 6th Ed.
Bankruptcy (Epstein, Nickels & White)
Corbin on Contracts
Insurance Law (Appleman)
Search & Seizure (Thomson)
Ballantine's Law Dictionary
California ADR Practice Guide
California Civil Practice Handbook: Choice Between State and Federal Courts
California Civil Trialbook
California Litigation By the Numbers Court Rules Companion
California Negligence & Settlement
California Products Liability Law & Practice
California Digest
California Trial
California Tort Law
Modern California Discovery
Colorado Trial Handbook
Trial Handbook for Connecticut Lawyers
Florida Criminal Practice & Procedure
Florida Evidence 2d
Illinois Jurisprudence
Indiana Appellate Handbook 2d
Kentucky Probate PSL
Kentucky Workers' Compensation PSL
Louisiana Code of Evidence—Annotated
Louisiana Successions
Louisiana Workers' Compensation
Massachusetts Corporations PSL
Massachusetts Domestic Relations PSL
Massachusetts Landlord-Tenant Law
Massachusetts Real Estate PSL
Michigan Criminal Law
Michigan Digest
Michigan Law & Practice
New Jersey Criminal Procedure
New York Wills and Trusts
New York Estate Administration
Ohio Family Law
Ohio Probate
Pennsylvania Law Encyclopedia
Modern Texas Discovery
Texas Civil Pre-Trial Procedure
Texas Trial and Appellate Practice
Washington Trial Handbook
Wisconsin Digest

Exhibit C

Definition of HHI and Calculations for Nine Markets

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2+30^2+20^2+20^2=2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which HHI is between 1000 and 1800 are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See *Merger Guidelines* § 1.51.

The HHIs for the nine primary law markets are as follows:

	Post merger	HHI increase
The market for:		
Enhanced United States Supreme Court case law	5023	959
Enhanced United States statutory law	9019	3964
Enhanced California statutory law	8088	3866
Enhanced California case law	4762	1540
Enhanced New York statutory law	8686	3792
Enhanced Massachusetts statutory law	8954	4234
Enhanced Michigan statutory law	8702	4196
Enhanced Washington case law	4521	996
Enhanced Wisconsin case law	5535	2424

Certificate of Service

I, Keith S. Blair, hereby certify that on June 25, 1996, I caused a copy of the Competitive Impact Statement, filed this day in *United States* v. *The Thomson Corporation and West Publishing Company,* to be served on defendants the Thomson Corporation and West Publishing Company by having a copy mailed, first class, postage prepaid, to:

Wayne D. Collins, Esq., Shearman & Sterling, Citicorp Building, 153 East 53rd Street, New York, New York 10022, Counsel for The Thomson Corporation.

James E. Schatz, Esq., Schatz Paquin Lockridge Grindal & Holstein P.L.L.P., Suite 2200, 100 Washington Avenue So., Minneapolis, MN 55401, Counsel for West Publishing Company.

Dated: June 25, 1996,

Keith S. Blair.

[FR Doc. 96–16891 Filed 7–3–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manfacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 13, 1996, Dupont Pharmaceuticals, The Dupont Merck Pharmaceutical Company, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration (DEA) for registration as bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 3, 1996.

Dated: June 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–17063 Filed 7–3–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby

given that on April 22, 1996, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm wishes to maintain its capability to import small quantities of the listed controlled substances in the event they are needed by the National Institute on Drug Abuse and other clients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 5, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–17064 Filed 7–3–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 1, 1996, and published in the Federal Register on April 8, 1996, (61 FR 15523), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

No comments or objections have been received. DEA has considered the factors on Title 21, United States Code, Section 823(a) and determined that the registration of the Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 C.F.R. 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–17065 Filed 7–3–96; 8:45 am]

BILLING CODE 4410–09–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 6-96; Sunshine Act Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and time	*Subject matter*
Fri., August 16, 1996 at 10:00 a.m.	Consideration of proposed decisions on claims against Albania.

Subject matter not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616-6988.

Dated at Washington, DC on July 2, 1996.

Jeanette Matthews,

Administrative Assistant.

[FR Doc. 96–17288 Filed 7–2–96; 2:18 pm]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. Ak960006 and WA960009 dated March 15, 1996. Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision AK960005 and WA960011. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume IV

Ohio
OH96–0038 (July 5, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

New Jersey:
NJ96–0002 (March 15, 1996)
NJ96–0003 (March 15, 1996)
NJ96–0004 (March 15, 1996)
NJ96–0007 (March 15, 1996)
New York:
NY96–0002 (March 15, 1996)
NY96–0003 (March 15, 1996)
NY96–0004 (March 15, 1996)
NY96–0005 (March 15, 1996)
NY96–0006 (March 15, 1996)
NY96–0007 (March 15, 1996)
NY96–0008 (March 15, 1996)
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NY96–0060 (March 15, 1996)
NY96–0067 (March 15, 1996)
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NY96–0074 (March 15, 1996)
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NY96–0077 (March 15, 1996)
Rhode Island:
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RI96–0002 (March 15, 1996)
RI96–0003 (March 15, 1996)
RI96–0004 (March 15, 1996)

Volume II

Pennsylvania:
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PA96–0029 (March 15, 1996)

Volume III

Alabama:
AL96–0034 (March 15, 1996)
Florida:
FL96–0001 (March 15, 1996)
FL96–0011 (March 15, 1996)
Georgia:
GA96–0003 (March 15, 1996)
GA96–0050 (March 15, 1996)
GA96–0053 (March 15, 1996)
GA96–0065 (March 15, 1996)
GA96–0073 (March 15, 1996)
GA96–0084 (March 15, 1996)
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GA96–0088 (March 15, 1996)
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KY96–0001 (March 15, 1996)
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KY96–0029 (March 15, 1996)
KY96–0044 (March 15, 1996)

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IL96–0003 (March 15, 1996)
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IL96–0007 (March 15, 1996)
IL96–0008 (March 15, 1996)
IL96–0009 (March 15, 1996)
IL96–0016 (March 15, 1996)
IL96–0023 (March 15, 1996)
IL96–0026 (March 15, 1996)
IL96–0049 (March 15, 1996)

Michigan:
MI96–0001 (March 15, 1996)
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MI96–0005 (March 15, 1996)
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MI96–0012 (March 15, 1996)
MI96–0017 (March 15, 1996)
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MI96–0031 (March 15, 1996)
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MI96–0047 (March 15, 1996)
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MI96–0062 (March 15, 1996)
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Minnesota:
MN96–0005 (March 15, 1996)
MN96–0007 (March 15, 1996)
MN96–0008 (March 15, 1996)
MN96–0015 (March 15, 1996)
MN96–0027 (March 15, 1996)
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Ohio:
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OH96–0003 (March 15, 1996)
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NE96–0011 (March 15, 1996)
NE96–0038 (March 15, 1996)
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NE96–0059 (March 15, 1996)
Texas:
TX96–0003 (March 15, 1996)
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TX96–0014 (March 15, 1996)
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TX96–0046 (March 15, 1996)
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TX96–0061 (March 15, 1996)
TX96–0085 (March 15, 1996)
TX96–0100 (March 15, 1996)
TX96–0114 (March 15, 1996)

Volume VI

Alaska:
AK96–0005 (March 15, 1996)
California:
CA96–0001 (March 15,1996)
CA96–0002 (March 15,1996)
CA96–0004 (March 15,1996)
CA96–0027 (March 15,1996)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Document, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by

each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC.; this 28th day of June 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–17012 Filed 7–3–96; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers; Meeting

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces the date, time, place, and agenda summary for the fifth and final meeting of the Mine Safety and Health Administration's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203; phone 703–235–1910.

SUPPLEMENTARY INFORMATION: A public meeting of the advisory committee will be held as follows:

(1) *Date and Time:*

a. July 22, 1996, beginning at 1:00 p.m. and ending at 7:00 p.m.

b. July 23–24, 1996, beginning at 8:00 a.m. and ending at 7:00 p.m. each day.

c. July 25, 1996, beginning at 8:00 a.m. and ending at 5:00 p.m.

(2) *Location:*

The meeting will be held the Hyatt Regency-Lexington, At Lexington Center, 400 West Vine Street, Lexington, Kentucky 40507; phone: 606–235–1234.

The Secretary of Labor established this advisory committee (60 FR 5947) to develop recommendations for improved standards or other appropriate actions addressing: permissible exposure limits to eliminate black lung disease and silicosis; the means to control respirable coal mine dust levels; improved monitoring of respirable coal dust levels and the role of the miner in that monitoring; and the adequacy of operator sampling programs to determine the actual levels of dust concentrations to which miners are exposed. The advisory committee is chartered through September 30, 1996 (60 FR 55284).

The agenda for the fifth meeting will include discussions on:

(1) Draft recommendations on permissible exposure limits for respirable coal mine dust and respirable silica developed by the committee during the fourth meeting;

(2) Implementation of dust controls at surface coal mines;

(3) Sampling to assure representative samples;

(4) Application of personal and area sampling strategies;

(5) Compliance sampling by MSHA and by the operator;

(6) The miner's role in respirable dust sampling;

(7) Dust sampling for surface mines;

(8) Utilization of medical data obtained as part of the medical surveillance program; and

(9) Research needs.

The committee will also take final votes on all previously drafted recommendations.

The public is invited to attend. The chairperson will provide one hour on July 23 and 24, 1996 for interested persons to make comments. Official records of the meeting will be available for public inspection at the above MSHA address.

Dated: June 28, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 96–17101 Filed 7–1–96; 11:57 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences; Committee of Visitors (1110).

Dates and Times: July 22–24, 1996; 8:30 a.m. to 5:00 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Machi Dilworth, Division of Integrative Biology and Neuroscience, National Science Foundation, Rm. 685, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1420.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Developmental Mechanisms Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17136 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).

Dates and Times: July 22–23, 1996; 8:30 a.m.–5:00 p.m.

Place: Room 580 National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Program Managers, NSF/EPA Partnership, Chemical and Transport Systems Divisions, Room 525, NSF, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF/EPA Partnership Proposal Solicitation (95–48) for financial support.

Agenda: To review and evaluate nominations for the NSF/EPA Partnership proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17137 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Dates and Times: July 23 and July 24, 1996; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, Virginia.

Type of Meeting: Closed.

Contract Person: Dr. Devendra P. Garg, Program Director, Dynamic Systems & Control Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x 5068.

Purpose of Meeting: To provide advise and recommendations concerning proposals submitted to NSF for finanicial support.

Agenda: To review and evaluate research proposals as part of selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including Technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. There matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: July 1, 1996

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17138 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Human Resource Development (#1199).

Dates and Times: Thursday, July 25, 1996 8:00 a.m.–5:00 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Drs. Betty Ruth Jones & Alexandra King, Program Directors, HRD, Room 815, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1633.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Centers of Excellence for Research, Teaching, and Learning (CERTL) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17139 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended); the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Communication.

Dates and Times: July 22, 1996; 8:30 a.m. to 5:00 p.m., July 23, 1996; 8:30 a.m. to 5:00 p.m., July 24, 1996, 8:30 a.m. to 4:00 p.m.

Place: Rooms 310, 320, and 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Nora Sabelli, Senior Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Networking Infrastructure for Education Program.

Reason for Closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17140 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Dates and Times: July 22, 1996; 7:30 p.m. to 9:00 p.m., July 23, 1996; 8:30 a.m. to 5:00 p.m., July 24, 1996; 8:30 a.m. to 5:00 p.m., July 25, 1996; 8:30 a.m. to 2:00 p.m.

Place: The Doubletree Hotel, 300 Army-Navy Drive, Arlington, VA 22202.

Type of Meeting: Closed.

Contact Person: Dr. Herbert Levitan, Section Head, Dr. Susan Hixson, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Course & Curriculum Development & the Faculty Enhancement Programs Panel Meetings.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17141 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Dates and Times: July 26, 1996; 8:30 a.m. to 5:00 p.m., July 27, 1996; 8:30 a.m. to 5:00 p.m.

Place: The Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Type of Meeting: Closed.

Contact Person: Dr. Herbert Levitan, Section Head, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Institution Reform of Undergraduate Education Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–17142 Filed 7–3–96; 8:45 am]

BILLING CODE 7555–01–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 Goals 2000: Educate America Act of 1994, Title V, Pub. L. 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education, and other key groups.

TIME AND PLACE: The meeting will be held from 8 a.m. to approximately 4 p.m. on Friday, July 19, 1996, in the Mt. Vernon Salon A & B, 2nd Floor of the Madison Hotel at 15th & M Streets, NW., Washington, DC.

AGENDA: The agenda for the Board Meeting will include discussion of: planning and framework discussions for the upcoming Skill Standards Summit this fall.

PUBLIC PARTICIPATION: The meeting from 8 a.m. to 4 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. Disabled individuals should contact Claire Grenewald at (202) 254–8628, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Sally Conway, NSSB Outreach Director, at (202) 254–8628.

Signed at Washington, DC, this 24th day of June 1996.

Judy Gray,

Executive Director, National Skill Standards Board.

[FR Doc. 96–17155 Filed 7–3–96; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Thursday, July 11, 1996.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The first two items are open to the public. The last item is closed to the public under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

6721 Railroad Accident Report: Derailment of Amtrak Train 49 ''The Lake Shore Limited'' While on the Consolidated Rail Corporation Tracks at Batavia, New York, August 3, 1994.

6722 Railroad Briefs of Accidents:

- The Raking Collision and Derailment of San Francisco Muni Cable Car 5 and Muni Cable Car 9 in San Francisco, California, August 17, 1995.
- The Rear End Collision and Derailment of Union Pacific Train APSE5Z with Union Pacific Train APLA5 in Laramie, Wyoming, November 18, 1995.
- The Employee Fatalities of 2 Port Authority Trans Hudson Track Workers in the Accident Involving Port Authority Trans Hudson Subway Train 122 in Harrison, New Jersey, December 2, 1995.

6700 Opinion and Order: Administrator v. Buckel, Docket SE–14129; disposition of Administrator's appeal.

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: July 1, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–17239 Filed 7–2–96; 11:03 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 396, Certification of Medical Examination by Facility Licensee.

2. Current OMB approval number: 3150–0024.

3. How often the collection is required: Upon application for an initial operator license, every six years for the renewal of operator or senior operator licenses, and upon notices of disability.

4. Who is required or asked to report: Facility employers of applicants for operator licenses.

5. The number of annual respondents: 975.

6. The number of hours needed annually to complete the requirement or request: Reporting: 243.75 hours (.25 hours per response), Recordkeeping: 497.5 hours (.10 hours per record).

7. Abstract: NRC Form 396 establishes the procedure for transmitting information to the NRC regarding the medical condition of applicants for initial or renewal operator licenses and for the maintenance of medical records for all licensed operators. The information is used to determine whether the physical condition and general health of applicants for operator licenses is such that the applicant would not be expected to cause operational errors endangering public health and safety.

Submit, by September 3, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by

telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 26th day of June, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford, Designated Senior,

Official for Information Resources Management.

[FR Doc. 96–17107 Filed 7–03–96; 8:45 am]

BILLING CODE 7590–01–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Data Report on Spouse.

3. The Form number, if applicable: NRC Form 354.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC employees, NRC contractors, and NRC licensees, applicants and others (e.g. intervenors) who marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.

6. An estimate of the number of responses: 60.

7. The estimated number of annual respondents: 60.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 12 (.20 hours per response).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: Completion of the NRC Form 354 is a mandatory requirement for NRC employees, contractors, licensees, applicants and others who marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance to permit the NRC to assure there is no increased risk to the common defense and security.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by (insert date) 30 days after publication in the Federal Register: Peter Francis, Office of Information and Regulatory Affairs (3150–0026), NEOB–10202, Office of Management and Budget, Washington DC, 20503.

Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo Shelton (301) 415–7233.

Dated at Rockville, Maryland, this 26th day of June, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–17106 Filed 7–3–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 40–1341]

Tennessee Valley Authority; Notice of Placing the Edgemont, South Dakota, Uranium Mill Tailings Disposal Site in the Custody and Long-Term Care of the U.S. Department of Energy Under the General Licensing Provisions of 10 CFR Part 40.28

AGENCY: Nuclear Regulatory Commission.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has accepted the Long-Term Surveillance Plan (LTSP) submitted by U.S. Department of Energy (DOE), by letter dated June 24, 1996, for the Edgemont, South Dakota uranium mill tailings disposal site. The LTSP was developed by DOE as the long-term custodian of the Edgemont site. By accepting the LTSP, the Edgemont site will be regulated by NRC under the general licensing provisions of 10 CFR 40.28, and the Tennessee Valley Authority's Source Material License SUA–816 for the Edgemont uranium mill site has been terminated. These actions complete all requirements for closure of the Edgemont site under Title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

Dated at Rockville, Maryland, this 27th day of June 1996.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–17108 Filed 7–3–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission For OMB Review; Comment Request; Extension of Standard Form 113–A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995) this notice announces a request submitted to the Office of Management and Budget (OMB) for renewal of authority to collect data for the Monthly Report of Federal Civilian Employment (SF 113–A). The information that is collected provides a timely count of Governmentwide employment, payroll, and turnover data. Uses of the data include monthly reporting to OMB and publishing the bimonthly Federal Civilian Workforce Statistics—Employment and Trends: answering data requests from the Congress, White House, other Federal agencies, the media, and the public; providing employment counts required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. The number of responding agencies is 130. The report is submitted 12 times a year. The total number of person-hours required to prepare and

transmit the reports annually is estimated at 3,120. OPM published a preliminary notice of its intention to submit this request to OMB in the May 3, 1996 Federal Register at page 19963. No comments were received as a result of this notification.

For copies of the clearance package, call James M. Farron, Reports and Forms Manager, on (202) 418–3208, or by e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before August 5, 1996.

ADDRESSES: Send or deliver comments to: May Eng, U.S. Office of Personnel Management, Room 7439, 1900 E Street, NW., Washington, DC 20415; and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: May Eng, (202) 606–2684, U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–16275 Filed 7–3–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22048; 811–4876]

American Corporate Trust; Notice of Application for Deregistration

June 28, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: American Corporate Trust.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 5, 1996 and amended on May 31, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 23, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, City Center, 100 2nd Ave. S., Suite 902, Box 8, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Staff Attorney, at (202) 942–0553, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered unit investment trust under the Act. On October 16, 1986, applicant filed with the SEC a notification of registration on Form N–8A pursuant to section 8(a) of the Act, and a registration statement to register its units under section 8(b) of the Act and the Securities Act of 1933. The registration statement became effective on August 21, 1987.

2. Applicant, during the life of the trust, offered shares in the following five series: First Yield Series, Second Yield Series, Third Yield Series, Fourth Yield Series, and Fifth Yield Series.

3. Trust assets were distributed to unitholders based upon their *pro rata* share. The size of each trust portfolio fell below mandatory liquidation levels and thus, each trust was liquidated. The bonds remaining in each series were sold at fair market value. The net asset value of those bonds was distributed in cash to the unitholders of the respective series. No brokerage commissions were incurred in connection with the distribution.

4. No expenses were incurred in connection with the distribution. As of the date of the application, applicant had no assets liabilities, or unitholders. Applicant is not engaged, nor proposes to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17153 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22044; 811–5568]

BEA Investment Funds, Inc.; Notice of Application for Deregistration

June 27, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: BEA Investment Funds, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 15, 1996, and amended on June 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 22, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, One Citicorp Center, 153 East 53rd Street, New York, N.Y. 10022.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Staff Attorney, at (202) 942–0553, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. the complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered under the Act as an open-end investment company and is organized as a Maryland corporation. On May 26, 1988, applicant filed with the SEC a registration statement on Form N–1A registering an indefinite number of shares of its Institutional Money Market Fund (''IMM''). The registration statement was declared effective on July 22, 1988 and the initial public offering

commenced that same day. Applicant registered shares in three additional series: the Institutional Government Fund (''IGF''), the Tax-Exempt Money Market Fund (''TEMMF''), and the U.S. Treasury Money Fund (''TMMF''). IGF was declared effective on December 28, 1990, and TEMMF and TMMF were declared effective on March 1, 1993. As of January 31, 1996, IGF was applicant's only outstanding series.

2. On January 10, 1996, applicant's board of directors approved the liquidation and dissolution and authorized the officers of the applicant to sell all or substantially all of the securities held by the applicant and other properties of the applicant for cash at the fair market value of such assets and properties. The board of director's determination to liquidate the applicant was based upon the perceived inability to raise assets, lack of shareholder interest, and inefficiencies associated with investing limited funds. Also on January 10, 1996, applicant's shareholders adopted and ratified resolutions approving and authorizing the liquidation and dissolution of the applicant.

3. As of January 31, 1996, there were 1,862,808.568 shares of common stock of IGF. These shares had an aggregate net asset value of $17,938,846.49 and a per share net asset value of $9.63. There were no other classes of securities of the applicant outstanding.

4. Applicant sold all of the securities held by it on February 1, 1996. The proceeds from the sale of these securities were $17,938,846.49. Such proceeds were fully distributed in cash to the shareholders on February 1, 1996. Each shareholder received the net asset value of its shares.

5. Expenses consisting of accounting, administrative, and certain legal expenses were incurred in connection with the liquidation and termination of applicant. These expenses totalled approximately $4,200 and were borne by BEA Associates, applicant's investment adviser. No brokerage commissions were incurred in connection with the liquidation.

6. As of the date of the application, applicant had no shareholders, assets, or liabilities, and was not a party to any litigation or administrative proceeding. Applicant is neither engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant intends to file a notice of termination with the State Department of Taxation and Assessment of Maryland.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–17069 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26538]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

June 28, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 22, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or other issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

System Energy Resources, Inc., et al. (70–8511)

Entergy Corporation (''Entergy''), P.O. Box 61005, New Orleans, Louisiana 70161, a registered holding company, and its subsidiary companies System Energy Resources, Inc. (''SERI''), Echelon One, 1340 Echelon Parkway, Jackson, Mississippi 39213; Entergy Arkansas, Inc., formerly Arkansas Power & Light Company (''Entergy Arkansas''), P.O. Box 551, Little Rock, Arkansas 72203; Entergy Louisiana, Inc., formerly Louisiana Power & Light Company (''Entergy Louisiana''), 639 Loyola Avenue, New Orleans, Louisiana 70113; Entergy Mississippi, Inc., formerly Mississippi Power & Light Company (''Entergy Mississippi''), P.O. Box 1640, Jackson, Mississippi 39205; and Entergy New Orleans, Inc., formerly New Orleans Public Service Inc. (''Entergy New Orleans'' and together with Entergy Arkansas, Entergy Louisiana, and Entergy Mississippi, ''Operating Subsidiaries''), 639 Loyola Avenue, New Orleans, Louisiana 70113, have filed a post-effective amendment to their application-declaration pursuant to Sections 6(a), 7, 9(a), 10, 12(b) and 12(d) of the Act and Rules 44, 45 and 54 thereunder.

By orders dated May 9, 1995 (HCAR No. 26287) and August 18, 1995 (HCAR No. 26358) (''Orders''), the Commission authorized SERI, from time to time through December 31, 1996, to (a) issue and sell one or more series of its first mortgage bonds (''Bonds'') and one or more series of its debentures (''Debentures'') in an aggregate principal amount not to exceed $265 million, and (b) enter into arrangements for the issuance and sale of tax-exempt revenue bonds (''Tax-Exempt Bonds'') in an aggregate principal amount not to exceed $235 million through December 31, 1996. The Commission additionally authorized SERI through December 31, 1996 to issue and pledge one or more new series of its first mortgage bonds (''Collateral Bonds'') in an aggregate principal amount not to exceed $251 million as security for the Tax-Exempt Bonds.

In the Orders, the Commission reserved jurisdiction over proposals by SERI to enter into reimbursement agreements underlying letters of credit (''Letters of Credit'') issued to support SERI's obligations in connection with the Tax-Exempt Bonds, pending completion of the record.

SERI proposes to increase its authorization to issue and sell one or more series of the Bonds and/or Debentures to a combined aggregate principal amount not to exceed $540 million. SERI further proposes to increase its authority to incur obligations in connection with the issuance and sale of Tax-Exempt Bonds to an aggregate principal amount not to exceed $350 million. Also, SERI proposes to increase its authority to issue and pledge Collateral Bonds, as security for the Tax-Exempt Bonds, to an aggregate principal amount not to exceed $395 million. SERI requests authority to extend its authorization to enter into the above transactions through December 31, 2000.

All other terms and conditions authorized in the Orders will remain the same, other than a change in the up-

front fees that may be paid for any Letter of Credit to up to one percent of the face amount of such Letter of Credit. These terms and conditions include, *inter alia*, assignments by SERI of contractual rights held be SERI under certain agreements entered into among SERI, Entergy and the Operating Subsidiaries as additional security for holders of any series of Bonds or in connection with the issuance of Tax-Exempt Bonds.

Entergy Corporation, et al. (70–8863)

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, and Entergy Power Marketing Corporation (''EPMC''), 900 South Shackleford Road, Suite 210, Little Rock, Arkansas 72211, a proposed wholly owned nonutility subsidiary company of Entergy, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, 87(b)(1), 90 and 91 thereunder.

Presently, EPMC has an order from the Federal Energy Regulatory Commission (''FERC'') certifying it as an exempt wholesale generator (''EWG'') in accordance with the requirements of the Act. Entergy, which owns 100% of the authorized and issued common stock of EPMC, has invested in EPMC and complied with the applicable requirements of section 32 and rule 53, of the Act, However, due to the uncertainty surrounding the requirement that EWGs be engaged solely and exclusively in the business of owning and/or operating eligible facilities and selling electric energy at wholesale, EPMC states that it will elect to decertify, and not maintain its status as a EWG.

As a result thereof, Entergy now proposes to finance EPMC, as a wholly owned nonutility subsidiary company, and EPMC will engage in wholesale brokering and marketing of energy commodities. EPMC will not own any utility assets, not will it own or operate any electric or gas utility company, as defined under the Act.

Specifically, EPMC proposes to provide, on behalf of associate and nonassociate companies, choices to major customers with respect to the purchase, sale, borrowing and lending of electricity, natural gas and other fuels, and the management of their operations. In connection with these activities, EPMC will purchase, sell, supply, market, broker, or otherwise trade electricity, gas or other fuels,[1] provide electricity or fuel management services, and engage in activities or perform services, related to the foregoing. In addition, EPMC proposes to provide instantaneous supply and sales options to electric generators; help customers manage price changes in electricity and fuel relative to time and location; and assist electric utilities and nonutility generators by managing fuel supply and transportation contracts, banking electricity until needed and providing price and deliver flexibility.[2]

EPMC also anticipates that it may engage in fuel delivery or fuel conversion, activities, whereby EPMC would deliver fuel supplies to a utility or non-utility generator for the conversion of such fuel into electric energy which then would be delivered to EPMC for resale. With respect to traditional power brokering activities, EPMC will act as an agent or broker for utilities, non-utility generators and other power marketers, to effectuate such parties' sales and purchases of electric energy at wholesale. With respect to retail activities, the applicants request that the Commission reserve jurisdiction pending completion of the record.

In order top finance the above-mentioned activities, Entergy seeks authority to make capital contributions to EPMC in an amount up to $20 million, and to provide up to $150 million in credit support, in the form of guarantees, for certain of EPMC's proposed transactions. Entergy's investment in EPMC will constitute EPMC's total capitalization.

EPMC proposes to engage in risk management transactions, including swaps, options and futures contracts that will assist its customers in hedging against adverse price impacts, However, EPMC will employ risk-reduction measures to limit potential losses that could be incurred through its activities. Specifically, EPMC will: (1) Seek to minimize the financial exposure of Entergy through its guarantees; and (2) not engage in speculative trading in the energy market and will use market hedging measures solely to minimize risk and will limit hedging activity to no more than the total amount of its commodities subject to market price fluctuation.

EPMC proposes to enter into a service contract with Entergy Enterprises, Inc. (''EEI''), whereby EEI will provide EPMC with administrative services, including maintaining books and records and preparing corporate filings. EEI will provide such services on an at-cost basis in accordance with rules 90 and 91 of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17151 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[1] EMPC anticipates that such fuels will include those likely to be involved in transactions concerning natural gas, such as oil and other hydrocarbons, wood chips, wastes and other combustible substances.

[2] In the future, EPMC may help electric utilities find the best way to meet Clean Air Act requirements through a combination of new gas technologies, emission credits, cross-fuel management and wholesale electricity purchases and sales.

[Rel. No. IC–22045; No. 812–9988]

Royce Capital Trust, et al.

June 27, 1996.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Royce Capital Trust (''Trust'') and Quest Advisory Corp. (''Quest'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) granting exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting shares of any current or future series of the Trust and shares of any other investment company that is designed to fund variable insurance products and for which Quest or its affiliates may in the future serve as investment adviser, administrator, manager, principal underwriter or sponsor (collectively with the Trust, ''Funds''), to be sold to and held by: (1) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated insurance companies (''Participating Insurance Companies''); and (2) qualified pension and retirement plans outside of the separate account context (''Plans'').

FILING DATE: The application was filed on February 9, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 22, 1996 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a

certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: Howard J. Kashner, Esq., Quest Advisory Corp., 1414 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Wendy F. Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Trust was organized as a Delaware Business Trust in January, 1996, and has registered with the Commission as an open-end management investment company.

2. Quest serves as investment adviser to the Trust and is a registered investment adviser under the Investment Advisers Act of 1940.

3. The Funds propose to offer shares of one or more of their series to insurance company separate accounts that fund variable annuity and variable life insurance contracts (''Contracts'') established by Participating Insurance Companies. These separate accounts may be registered as investment companies under the 1940 Act or exempt from registration pursuant to Section 3(c)(1) of the 1940 Act. Each Participating Insurance Company will enter into a fund participation agreement with the Funds in which the Participating Insurance company invests.

4. The Funds also intend to offer shares of each series directly to Plans outside of the separate account context. The Plans may choose one or more series of any of the Funds as the sole investment under the Plan or as one of several investments.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 63–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provided by Rule 6e–2(b)(15) is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available, however, only where the management investment company underlying the UIT offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.''

2. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as ''mixed funding.'' The use of a common management investment company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of unaffiliated insurance companies is referred to as ''shared funding.'' ''Mixed and shared funding'' denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. The relief granted by Rule 6e–2(b)(15), thus, is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. Rule 6e–2(b)(15), therefore, precludes mixed and shared funding.

3. Applicants state that because the relief under rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Plans.

4. In connection with flexible premium variable life insurance contracts issued through a UIT, rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Rule 6e–3(T) thus permits mixed funding but does not permit shared funding.

5. Applicants state that because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional relief is necessary if shares of the Funds also are to be sold to Plans. Applicants assert that the relief granted by paragraphs (b)(15) of Rules 6e–2 and 6e–3(T) should not be affected by the proposed sale of Fund shares to Plans because such sales may allow for the development of larger pools of assets, resulting in the potential for greater investment and diversification opportunities and for decreased expenses at higher asset levels resulting in greater cost efficiencies.

6. Applicants state that changes in the tax law have created the opportunity for the Funds to increase their asset base through the sale of Fund shares to the Plans. Applicants state that Section 817(h) of the Internal Revenue code, as amended, (''Code'') imposes certain diversification requirements on the underlying assets of the Contracts held in the Funds. The Code provides that such Contracts shall not be treated as an annuity contract or a life insurance contract for any period in which the underlying assets are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying variable contracts. Treas. Reg. 1.817–5 (1989). The regulations provide that, to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do, however contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by a qualified pension or retirement plan without adversely effecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. 1.817–5(f)(3)(iii).

7. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations, and that the sale of shares of the same investment company to both separate accounts and Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Applicants therefore request relief from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e–2(b)(15)

and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Fund to be offered and sold in connection with both mixed and shared funding, and to be sold directly to Plans. Relief is requested for a class or classes of persons and transactions consisting of Participating Insurance Companies and their scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter, and depositor of such separate accounts) investing in any of the Funds.

Disqualification

9. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as an investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). Rules 6e–2(b)(15) and 6e–3(T)(b)(15) provide exemption from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permit a person disqualified under Section 9(a) to serve as an officer, director or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permit the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the Fund.

10. Applicants state that the partial relief from Section 9(a) of the 1940 Act found in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of that section. Applicants state that those rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy or provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals employed by the Participating Insurance Companies, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. Applicants state that the relief requested should not be affected by the proposed sale of shares of the Funds to the Plans because the Plans are not investment companies and are not, therefore, subject to Section 9(a).

Pass-Through Voting

11. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company share held by a separate account. The application states that the Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission interprets the 1940 Act to require such privileges.

12. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder.

Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its Variable Contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority.

Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard voting instructions of its Contract owners if the Contract owners initiate any change in the investment company's investment policies, principal underwriter, or any investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(15)(ii) and (b)(7)(ii)(B) and (C) of each rule.

13. Applicants state that shares of the Funds sold to Plans will be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) When the Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Plans. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Plans because the Plans are not entitled to pass-through voting privileges. Applicants further assert that investments in the Funds by Plans will not create any of the voting complications occasioned by mixed and shared funding because Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

14. Applicants state that some Plans may provide participants with the right to give voting instructions. Applicants submit that there is no reason to believe that participants in Plans generally, or those in a particular Plan, either as a single group or in combination with other Plans, would vote in a manner that would disadvantage Contract owners. Accordingly, Applicants assert that the purchase of Fund shares by Plans that provide voting rights to participants does not present any complication not otherwise occasioned by mixed and shared funding.

Conflicts of Interest

15. Applicants state that no increased conflicts of interest would be present by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. Applicants note that where Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. Applicants submit that this possibility is no different and no greater than exists where a single insurer and

its affiliates offer their insurance products in several states.

16. Applicants further submit that affiliation does not reduce the potential for differences among state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15) discussed below) are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the decisions of a majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

17. Applicants also argue that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating insurance Company could disregard Contract owner voting instructions. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specific good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund. No charge or penalty will be imposed as a result of such withdrawal.

18. Applicants submit that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicants represent that the Funds will not be managed to favor or disfavor any particular insurance company or type of Contract.

19. Applicants note that Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations, nor the revenue rulings thereunder, present any inherent conflicts of interests if Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

20. Applicants note that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or the Plan is unable to net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Funds at their respective net asset values. The Plan will then make distributions in accordance with the terms of the Plan. A Participating Insurance Company will make distributions in accordance with the terms of the variable contract.

21. Applicants state that they do not see any greater potential for material irreconcilable conflicts arising between the interests of Plan participants and owners of the Contracts issued by the separate accounts of Participating Insurance Companies from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

22. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to Contract owners and to Plans. Applicants represent that a Fund will inform each shareholder, including each separate account and Plan, of information necessary for the shareholder meeting, including their respective share ownership in the Fund. A Participating Insurance Company will then solicit voting instructions in accordance with the ''pass-through'' voting requirements of Rules 6e–2 and 6e–3(T).

23. Applicants argue that the ability of the Funds to sell their respective shares directly to Plans does not create a ''senior security'', as such term is defined under Section 18(g) of the 1940 Act, with respect to any Contract owner as opposed to a participant under a Plan. Regardless of the rights and benefits of Plan participants and Contract owners under their respective Plans and Contracts, the Plans and separate accounts have rights only with respect to their shares of the Funds. Such share may be redeemed only at net asset value. No shareholder of any of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

24. Applicants state that there are no conflicts of interest between Contract owners and Plan participants with respect to the state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power to prevent insurance companies indiscriminately redeeming their separate accounts out of one Fund and investing those assets in another Fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. Conversely, trustees of Plans or the participants in participant-direct Plans can make the decision quickly and implement redemption of shares from a Fund and reinvest the monies in another funding vehicle without the same regulatory impediments or, as in the case with most Plans, even hold cash pending a suitable investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of Contract owners and the interests of the Plans and Plan participants conflict, the issues can be almost immediately resolved in that trustees of the Plans can, independently, redeem shares out of the Funds.

25. Applicants state that various factors have kept certain insurance companies from offering Contracts. According to Applicants, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment managers; and the lack of public name recognition as investment experts. Specifically, Applicants state that smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Contract business on their own. Applicants argue the use of the Funds as common investment media for the Contracts would ease these concerns. Participating Insurance Companies would benefit not only from the investment and administrative expertise of Quest and its affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Funds available for mixed and shared funding may encourage more insurance companies to offer variable contract such as the Contracts, which may then increase competition with respect to both the design and the pricing of variable contracts. Applicants submit that this can be expected to

result in greater product variation and lower charges. Thus, Applicants argue that Contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Funds to Plans should increase the amount of assets available for investment by such Funds. This should, in turn, promote economies of scale, permit increased safety of investments through greater diversification, and make the addition of new portfolios more feasible.

26. Applicants state that, regardless of the types of Fund shareholders, Quest is legally obligated to manage the Funds in accordance with each Fund's investment objectives, policies and restrictions as well as any guidelines established by the relevant Board of Directors or Trustees of the Funds. Applicants assert that Quest work with a pool of money without consideration for the identity of shareholders, and, thus, manage the Funds in the same manner as any other mutual fund.

27. Applicants believe that there is no significant legal impediment to permitting mixed and shared funding. Additionally, Applicants note the previous issuance of orders permitting mixed and share funding where shares of a fund were sold directly to qualified plans, such as the Plans. Applicants note further that there is ample precedent for extending exemptive relief to members of a class or classes or persons, not currently identified, that may be similarly situated in the future. Such class relief has been granted in various contexts and from a wide variety of the 1940 Act's provisions including class exemption in the context of mixed and shared funding.

Applicants' Conditions

The Applicants have consented to the following conditions if the order requested in the application is granted:

1. A majority of the Board of Trustees or Board of Directors (each a ''Board'') of each Fund shall consist of persons who are not ''interested persons'' of the Funds, as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder, and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any Director or Trustee, then the operation of this condition shall be suspended: (i) for a period of 45 days, if the vacancy or vacancies may be filled by the appropriate Board, (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (ii) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any irreconcilable material conflict between the interests of Contract owners of all separate accounts and of Plan participants and Plans investing in the Funds, and determine what action if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter billing, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are managed; (e) a difference in voting instructions given by owners of variable annuity and variable life insurance contracts; or (f) a decision by a Participating Insurance Company to disregard voting instructions of Contract owners; and, (g) if applicable, a decision by a Plan to disregard the voting instructions of Plan participants.

3. Participating Insurance Companies, Quest (or any other investment manager of a Fund), and any Plan that executes a participation agreement upon becoming an owner of 10% or more of the issued and outstanding shares of a Fund (''Participating Plans'') will report any potential or existing conflicts to the Board of any relevant Fund. Quest (or any other investment adviser of a Fund), Participating Insurance Companies and Participating Plans will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by a Participating Insurance Company to inform the Board whenever it has determined to disregard Contract holders' voting instructions and, if pass-through voting is applicable, an obligation by a Participating Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of all Participating Insurance Companies and Participating Plans investing in the Funds under their agreements governing participating in the Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of the Contract owners and, if applicable, Plan participants.

4. If it is determined by a majority of the Board of a Fund, or by a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Participating Plans will, at their expense and to the extent reasonably practicable (as determined by a majority of disinterested trustees or members of the Board), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series and reinvesting such assets in a different investment medium, which may include another series of a Fund or another Fund; (b) submitting the question of whether such segregation should be implemented to a vote of all affected Contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity or variable life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to Contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its separate account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Participating Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Participating Plan may be required, at the election of the Fund, to withdraw its investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility of taking remedial action in the event of a Board determination of the existence of an irreconcilable material conflict and bearing the cost of such remedial action, shall be a contractual obligation of all

Participating Insurance Companies and Participating Plans under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of the Contract owners and, as applicable, Plan participants.

For purposes of this Condition Four, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the relevant Fund or Quest (or any other investment advisor to a Fund) be required to establish a new funding medium for any Contract. No Participating Insurance Company shall be required by this Condition Four to establish a new funding medium for any Contract if an offer to do so has been declined by a vote of a majority of Contract owners materially affected by the material irreconcilable conflict. No Participating Plan shall be required by this Condition Four to establish a new funding medium for such Plan if (a) a majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer, or (b) pursuant to governing plan documents and applicable law, the Participating Plan makes such decision without Plan participant vote.

5. Quest, all Participating Insurance Companies, and Participating Plans will be promptly informed in writing of any Board's determination that a material irreconcilable conflict exists, and its implications.

6. Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Contract owners. Accordingly, the Participating Insurance Companies will vote shares of a Fund held in their separate accounts in a manner consistent with voting instructions timely received from Contract owners. Participating Insurance Companies will be responsible for assuring that each of their separate accounts calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Fund. Each Participating Insurance Company will vote shares for which it has not received voting instructions as well as shares attributable to it in the same proportion as it votes shares for which it has received instructions. Each Participating Plan will vote as required by applicable law and governing plan documents.

7. All reports of potential or existing conflicts of interest received by a Board, and all Board action with regard to determining the existence of a conflict, notifying Quest, Participating Insurance Companies and Participating Plans of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will notify all Participating Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, and to Plans; (b) due to differences of tax treatment and other considerations, the interests of various Contracts owners participating in the Fund and the interests of Plans investing in the Fund may conflict; and, (c) the Board will monitor the Fund for any material conflicts of interest and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which for these purposes, shall be the persons having a voting interest in the shares of the Fund) and in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Fund is one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) and, if applicable, Section 16(b) of the 1940 Act. Further, the Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent Rule 6e–2 or Rule 6e–3(T) is amended, or Rule 6e–3(T) is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Fund and the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

11. No less than annually, Quest (or any other investment adviser of a Fund), the Participating Insurance Companies and Participating Plans shall submit to the Boards such reports, materials, or data as the Boards may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions stated in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of Quest, Participating Insurance Companies and Participating Plans to provide these reports, materials, and data to the Boards shall be a contractual obligation of Quest, all Participating Insurance Companies and Participating Plans under the agreements governing their participation in the Fund.

12. If a Plan should become an owner of 10% or more of the issued and outstanding shares of a Fund, such Plan will execute a participation agreement with the applicable Fund including the conditions set forth herein to the extent applicable. A Plan will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the Fund.

Conclusion

For the reasons stated above, Applicants assert that the requested exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, are appropriate in the public interest consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–17150 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22046; 811–1500]

Sherman, Dean Fund, Inc.; Notice of Application

June 28, 1996.

AGENCY: Securities and Exchange Commission (''SEC').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Sherman, Dean Fund, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on June 10, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 23, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 3570 Hunters Sound, San Antonio, Texas 78230.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On May 15, 1967, applicant, a Delaware corporation, registered as an open-end management investment company under the Act by filing with the SEC a Notification of Registration on Form N–8A. SEC records indicate that on August 10, 1967, applicant filed a registration statement on Form S–5 that became effective on February 14, 1968. Applicant commenced its initial immediately. On September 13, 1993, pursuant to a shareholder vote, applicant changed its classification to a closed-end investment company. On September 14, 1993, applicant filed a registration statement with the SEC on Form N–2 to reflect this change.

2. On March 8, 1996, in order to accommodate requests from shareholders seeking to sell their shares, applicant filed a Notification of Repurchase Offer pursuant to rule 23c–3 under the Act to repurchase a total of 61,155 shares.[1] On March 29, 1996, applicant repurchased 60,580.683 shares at net asset value from 235 shareholders. As a result, applicant states that presently there are 68 beneficial owners of its shares.

3. As of the filing of this application, applicant had assets of $1,760,000 invested in three publicly traded securities. Applicant's liabilities consisted of approximately $13,000 attributable to management fees, legal and accounting expenses, and office expenses.

4. Applicant presently is not a party to any litigation or administrative proceeding.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the SEC, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the SEC shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

2. Section 3(c)(1) of the Act provides that an issuer is not an investment company within the meaning of the Act if (a) its outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons, and (b) it is not making and does not propose to make a public offering of securities.

3. Applicant believes that, pursuant to section 3(c)(1), it is no longer an investment company as defined in section 3 because only 68 persons are beneficial holders of its securities. Applicant states that it is not making and does not presently propose to make a public offering of its securities. Accordingly, applicant requests that the SEC issue an order under section 8(f) declaring that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17152 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Rule 23c–3 under the Act generally provides that a closed-end company may offer to repurchase securities, of which it is the issuer, subject to certain restrictions.

[Release No. 34–37379; File No. 265–19]

Consumer Affairs Advisory Committee; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission (''Commission'') Consumer Affairs Advisory Committee (''Committee'').

SUMMARY: The Securities and Exchange Commission's Consumer Affairs Advisory Committee will meet on July 22, 1996, in Room 1C30 at the Commission's Headquarters, 450 Fifth Street, NW., Washington, DC, beginning at 9:45 a.m. The meeting will be open to the public. This notice also serves to invite the public to submit written comments to the Committee.

ADDRESSES: You should submit written comments in triplicate and refer to File No. 265–19. Send your comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Jonathan M. Gottsegen, Counsel to the Director, Office of Investor Education and Assistance (202) 942–7040; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app 10a, requires the Securities and Exchange Commission to give notice that the Consumer Affairs Advisory Committee will meet on July 22, 1996, in Room 1C30 at the Commission's Headquarters, 450 Fifth Street, NW., Washington, DC., beginning at 9:45 a.m. The meeting will be open to the public.

The Committee's responsibilities include assisting the Commission in identifying investor problems and being more responsive to their needs. The Committee will explore fundamental issues of concern to investors, including matters currently under consideration by the Commission and topics of emerging concern to investors and the financial services industry.

Dated: June 28, 1996.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 96–17143 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37372; File No. 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Request and Order Approving Application for Extension of Temporary Registration as a Clearing Agency

June 26, 1996.

On June 6, 1996, the MBS Clearing Corporation (''MBS'') filed with the Securities and Exchange Commission (''Commission'') a request pursuant to

Section 19(a)[1] of the Securities Exchange Act of 1934 (''Act'') for extension of its temporary registration as a clearing agency under Section 17A[2] of the Act for a period of one year.[3] The Commission is publishing this notice of filing of request and order to solicit comments from interested persons and to grant MBS's request for an extension of its temporary registration as a clearing agency through June 30, 1997.

On February 2, 1987, the Commission granted MBS's application for registration as a clearing agency pursuant to Sections 17A(b) and 19(a)(1) of the Act[4] and Rule 17Ab2-1(c)[5] thereunder on a temporary basis for a period of eighteen months.[6] Subsequently, the Commission has issued orders that extended MBS's temporary registration as a clearing agency. The last extension order extended MBS's temporary registration through June 30, 1996.[7]

As discussed in detail in the original order granting MBS's registration, one of the primary reasons for MBS's registration was to enable it to provide for the safe and efficient clearance and settlement of transactions in mortgage-backed securities. Since the original temporary registration order, MBS has implemented several improvements to its operating and financial standards and continues to work towards enhancing the safety and efficiency of its operations. For example, over he past year the Commission granted permanent approval of MBS's Electronic Pool Notification (''EPN'') service, an electronic, post-trade communication system for mortgage-backed securities.[8] In addition, MBS modified its procedures relating to settlement balance order (''SBO'') settlement to help prevent participants from influencing the amount of their cash adjustments through submissions of internal trades.[9]

MBS has functioned effectively as a registered clearing agency for over nine years. Accordingly, in light of MBS's past performance and the need for MBS to provide continuity of service to its participants, the Commission believes that, pursuant to Section 17A(b)(2) of the Act, it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to approve MBS's request to extend its temporary registration through June 30, 1997. During this temporary registration period, the Commission expects MBS to file a request for permanent registration as a clearing agency. Any comments received during MBS's temporary registration will be considered in conjunction with the Commission's consideration of whether to grant MBS permanent registration as a clearing agency under Section 17A(b) of the Act.[10]

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the request for extension of temporary registration as a clearing agency that are filed with the Commission, and all written communications relating to the requested extension between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBS. All submissions should refer to File No. 600–22.

Conclusion

On the basis of the foregoing, the Commission finds that MBS's request for extension of temporary registration as a clearing agency is consistent with the Act and in particular with Section 17A of the Act.

It is therefore ordered, that MBS's temporary registration as a clearing agency (File No. 600–22) be, and hereby is, extended through June 30, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–17145 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(a) (1988).

[2] 15 U.S.C. 78q–1(a) (1988).

[3] Letter from Robert J. Woldow, Secretary and General Counsel, MBS, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission (June 6, 1996).

[4] 15 U.S.C. 78q–1(b) and 78s(a)(1) (1988).

[5] 17 CFR 240.17Ab2–1(c) (1994).

[6] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[7] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 32412; 28492 (September 28, 1990), 55 FR 41148; 29571 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; and 35132 (December 21, 1994), 59 FR 67743.

[8] Securities Exchange Act Release No. 36540 (November 30, 1995) 60 FR 63089 [File No. MBS–95–09] (order granting accelerated approval of proposed rule change).

[9] Securities Exchange Act Release No. 37205 (May 13, 1996), 989 61 FR 24898 [File No. MBS–95–08] (order approving proposed rule change).

[10] 15 U.S.C. 78q-1(b) (1988).

[11] 17 CFR 200.30–3(a)(50)(i) (1994).

[Release No. 34–37380; File No. SR–CBOE–96–37]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Amended, by Chicago Board Options Exchange, Incorporated Relating to a Pilot Operation of a System for Monitoring News Announcements Made After the Close of Trading in the Primary Market for the Underlying Stock

June 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange submitted to the Commission Amendment Nos. 1[3] and 2[4] to the proposed rule change on June 26, 1996. The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to institute a pilot test of a system that, shortly before

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange makes several clarifications to the proposed pilot. See Letter from Michael L. Meyer, Attorney, Schiff Hardin & Waite, to John Ayanian, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulations''), Commission, dated June 26, 1996 (''Amendment No. 1'').

[4] In Amendment No. 2, the Exchange clarifies that it intends to turn on the system each day a few minutes prior to the 3:00 p.m. central time close of trading in the primary market, in order to be certain that the system is operating by the time the primary market closes. Letter from Michael L. Meyer, Attorney, Schiff Hardin & Waite, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated June 26, 1996 (''Amendment No. 2'').

the close of trading each day, will monitor news announcements pertaining to underlying securities, and will automatically suspend the Exchange's automatic execution system in respect of options on those securities that are the subject of such announcements. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to establish a limited pilot test of an automated system that would monitor news wires received at the Exchange shortly before the close of trading each day, and would suspend the Exchange's automatic order execution system in a class of equity options whenever there is a news announcement pertaining to the security underlying options of that class. Options on equity securities are currently traded on CBOE until 3:10 p.m. central time on each trading day, which is 10 minutes after the close of trading on the primary market's for underlying securities. The Exchange notes that this additional period of options trading after the underlying market has closed is provided to accommodate orders to buy or sell options at prices that reflect the closing prices of the underlying securities. The Exchange has experienced difficulties when issuers of underlying stocks make significant news announcements after the 3:00 p.m. central time close of trading in the underlying stocks, but before options cease trading at 3:10 p.m. central time. The Exchange believes that because these issuers are often unaware of or indifferent to the fact that options trading on their stocks continues for 10 minutes after the stocks cease to trade, they do not wait until 3:10 p.m. central time to make these announcements. According to the Exchange, it is not uncommon for significant news announcements to be made between 3:00 p.m. and 3:10 p.m., when options are still traded primary markets. These announcements often require an immediate adjustment to the prices of series of options on the stock in question, to take into account the likely affect of the announcement on the market price of the underlying stock, even through the stock is not then trading in its primary market. The Exchange believes that until such option prices are adjusted, the Exchange's retail automatic execution system (''RAES'') may be providing automatic executions of customer orders at prices that do not reflect the current state of the market.

Currently, CBOE addresses this occurrence by positioning two Floor Officials in close communication with newsreaders in the Exchange's Control Room beginning shortly before 3:00 p.m. central time. If a significant news announcement is made, these two Floor Officials may exercise their authority under Exchange Rule 6.6(a) to declare a ''fast'' market, in the interest of maintaining a fair and orderly market, in the class or classes of options affected by the news announcement, and then to suspend RAES in respect of those classes as authorized under Rule 6.6(b)(v). The Exchange believes that there are at least two difficulties with this approach. First, it depends on the continuous availability of two Floor Officials at a critical time prior to the close of options trading when they might be needed to attend to other matters. Second, even if two Floor Officials are available, it still can take 30 seconds or more after a news announcement is received before the Floor Officials are able to suspend RAES, during which time a considerable number of orders may be automatically executed at inappropriate prices.

In response to these problems, CBOE developed a system that can monitor news wires during the 10 minutes following the close of trading in primary stock markets while options are still traded, and automatically suspend RAES in all series of options on those stocks that are the subject of news announcements. This permits RAES to be turned off at virtually the same time as the news item appears on the wire. According to the Exchange, when RAES is turned off, customer orders that might otherwise have been automatically executed will instead be automatically routed to the Public Automated Routing System (''PAR'') workstation [5] at the appropriate trading post, where they can be immediately executed at the then current price almost as quickly as if they had received automatic execution in RAES.

The Exchange notes that the automatic news monitor cannot determine the significance of a particular announcement, and will automatically suspend RAES in a class of options whenever there is any news announcement pertaining to its underlying stock. Because significant news announcements, however, tend to be concentrated during the period immediately following the close of trading in primary stock markets, CBOE intends to operate its new system only during the time from just before 3:00 p.m. central time to the close of options trading on CBOE at 3:10 p.m. central time, when it is not expected that there will be very many ''false alarm'' announcements. Additionally, two Floor Officials will promptly be informed each time RAES is automatically turned off in response to a news announcement, and if enough time remains before the 3:10 p.m. central time close of options trading, the Floor Officials should be able to evaluate the significance of the announcement, and if it is not significant or if there has been time for prices to have been adjusted, to turn on RAES for the remainder of the trading session.[6]

In order to test the effectiveness of this automatic system in actual market conditions, CBOE proposes to implement it in respect of various classes of options during a 30-day pilot period.[7] The Exchange believes that this will enable it to evaluate how quickly the automatic system if able to respond to news announcements, how many, if any, false alarms are received, how quickly customer orders are able to be rerouted and executed over the PAR system, and whether Floor Officials are able to make an evaluation of the situation and restore the operation of RAES in the limited time available after there has been an automatic suspension of RAES. If after the 30-day pilot period

[5] A PAR workstation is an automated, computer-based workstation that provides users with the ability to execute trades, transmit trade reports, and enter other data and commands at the touch of a screen, thereby eliminating the delay inherent in a keyboard-based system.

[6] The Commission expects that if there is enough time before the close of options trading, and the news is not significant or if there has been time for prices to have been adjusted, the Floor Officials will resume RAES operations for the subject options class.

[7] The Exchange will issue a circular to its membership outlining the terms of the pilot and the classes that will be included in it. Telephone conversation between Michael L. Meyer, Schiff Hardin & Waite, and Sharon Lawson and John Ayanian, OMS, Market Regulation, Commission, on June 25, 1996.

CBOE desires to implement the automatic system on a permanent basis for all classes of equity options, CBOE will make a subsequent filing to this effect under Section 19(b)(2) of the Act.

CBOE believes that the implementation of a pilot test of a system that, if successful, would permit the continued availability of CBOE's automatic execution system for public customer orders during the period when options are traded after the close of trading in the primary markets for underlying stocks and would assure that these orders are executed at fair prices in the event of significant news announcements, is in the interest of promoting just and equitable principles of trade and protecting investors and the public interest, and thus is consistent with the objectives of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of Section 6(b)(5) thereunder.

The Commission believes that the Exchange's proposal provides a reasonable method of testing a system to address pending news announcements after the close of trading in the primary market for the underlying securities.[8] The Commission notes that the test will be limited to news announcements after the close of trading in the primary market for the underlying stock, while continuing to (1) ensure prompt execution of customer orders in the particular class subject to a news announcement by rerouting such orders to a PAR workstation and (2) make RAES executions available in classes of options not subject to news announcements during the time when options continue to be traded after the close of trading in the primary market for underlying stocks.

As noted, the CBOE intends to evaluate the pilot in several respects to determine if it wants to implement the system on a permanent basis.[9] The CBOE will provide the Commission with the analysis of the pilot.

The Commission finds good cause for approving this proposed rule change, as amended, on an accelerated basis prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. Specifically, the Commission believes that accelerated approval of the proposal, as amended, is appropriate because it is to be implemented for a limited 30-day period which will provide CBOE with the time to test the effectiveness of the system.

Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve the proposed rule change, as amended, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing and Amendment Nos. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–96–37 and should be submitted by July 26, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–CBOE–96–37), as amended, is hereby approved for a 30-day pilot period, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

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[8] See Amendment No. 2, *supra* note 4.

[9] The pilot expires at 3:10 p.m. central time on July 26, 1996. Any request for an extension of the pilot period or request for permanent approval of the system would have to be submitted to the Commission pursuant to Section 19(b)(2) of the Act.

[10] 17 CFR 200.30–3(a)(12).

[Release No. 34–37377; File No. SR–NASD–96–22]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to an Extension of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature Until January 31, 1997

June 27, 1996.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 10, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to extend, until January 31, 1997, the effectiveness of certain rules governing the operation of the Nasdaq Stock Market, Inc.'s (''Nasdaq'') Small Order Execution System (''SOES''). Specifically, these SOES rules, which were previously approved by the Commission on a pilot basis on December 23, 1993[2] and recently extended through July 31, 1996,[3] provide for: (1) a reduction in the minimum exposure limit for unpreferenced SOES orders from five times the maximum order size to two times the maximum order size, and for the elimination of exposure limits for preference orders (''SOES Minimum Exposure Limit Rule''); and (2)

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 33377 (December 23, 1993), 58 FR 69419 (December 30, 1993) (''Interim SOES Rules Approval Order'').

[3] *See* Securities Exchange Act Release No. 36795 (January 31, 1996), 61 FR 4504 (February 6, 1996) (''Interim SOES Rules Extension Order'').

implementation of an automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (''SOES Automated Quotation Update Feature''). These rules are part of a set of SOES rules approved by the SEC on a pilot basis known as the Interim SOES Rules.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Commission originally approved the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature on a one-year pilot basis in December 1993, along with two other SOES rules which have since lapsed.[5] Since December 1993, the SEC has approved four NASD proposals to extend the effectiveness of the rules, with the most recent approval extending the rules through July 31, 1996.[6] With this filing the NASD proposes to further extend the effectiveness of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature until January 31, 1997, so that the rules can continue on an uninterrupted basis until the SEC has had an opportunity to consider Nasdaq's proposed NAqcess system.

As described in more detail below, because the NASD believes implementation of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature have been associated with positive developments in the markets for Nasdaq securities and clearly have not had any negative effects on market quality, the NASD believes it is appropriate and consistent with the maintenance of fair and orderly markets and the protection of investors for the Commission to approve a further limited extension of the effectiveness of these rules. The NASD believes the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature reflect a reasoned approach by the NASD to address the adverse effects on market liquidity attributable to active intra-day trading activity through SOES, while at the same time not compromising the ability of small, retail investors to receive immediate executions through SOES. Specifically, these rules are designed to address concern that concentrated, aggressive use of SOES by a growing number of order entry firms has resulted in increased volatility in quotations and transaction prices, wider spreads, and the loss of liquidity for individual and institutional investor orders.

The NASD believes that the same arguments and justifications made by the NASD in support of approval of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature and four extensions of these rules are just as compelling today as they were when the SEC relied on them to initially approve these rules. In sum, the NASD continues to believe that concentrated bursts of SOES activity by active order-entry firms contribute to increased short-term volatility, wider spreads, and less market liquidity on Nasdaq and that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature are an effective means to minimize these adverse market impacts. In addition, given the increased utilization of SOES since the SOES Maximum Order Size Rule lapsed at the end of March 1995, the NASD believes it is even more imperative that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature remain in effect to help to ensure the integrity of the Nasdaq market and prevent waves of SOES orders from a handful of SOES order-entry firms from degrading market liquidity and contributing to excessive short-term market volatility.

The NASD notes that the SEC made specific findings in the Interim SOES Rules Approval Order that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature were consistent with the Act. In particular, the SEC stated in its approval order that:

a. Because the benefits for market quality of restricting SOES usage outweigh any potential decrease in pricing efficiency, the Commission concludes that the net effect of the proposal is to remove impediments to the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that the proposed rule changes are designed to produce accurate quotations, consistent with Sections 15A(b)(6) and 15A(b)(11) of the Act. In addition, the Commission concludes that the benefits of the proposal in terms of preserving market quality and preserving the operational efficiencies of SOES for the processing of small size retail orders outweigh any potential burden on competition or costs to customers or broker-dealers affected adversely by the proposal. Thus, the Commission concludes that the proposal is consistent with Section 15A(b)(9) of the Act in that it does not impose a burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.[7]

b. The Commission also concludes that the proposal advances the objectives of Section 11A of the Act. Section 11A provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically effective execution of securities transactions, fair competition among market participants, and the practically of brokers executing orders in the best market. The Commission concludes that the proposal furthers these objectives by preserving the operational efficiencies of SOES for the processing of small orders from retail investors.[8]

c. The Commission believes that it is appropriate to restrict trading practices through SOES that impose excessive risks and costs on market makers and jeopardize market quality, and which do not provide significant contributions to liquidity or pricing efficiency. * * * The Commission believes that it is more important to ensure that investors seeking to establish or liquidate an inventory position have ready access to a liquid Nasdaq market and SOES than to protect the ability of customers to use SOES for intra-day trading strategies.[9]

d. The Commission believes that there are increased costs associated with active intra-day trading activity through SOES that undermine Nasdaq market quality. * * * Active intra-day trading activity through SOES can also contribute to instability in the market.[10]

e. In addition, these waves of executions can make it difficult to maintain orderly markets. Given the increased volatility

[4] As first approved by the Commission on December 23, 1993, the Interim SOES Rules has four components: (1) the SOES Minimum Exposure; (2) the Automated Quotation Update; (3) a reduction in the maximum size order eligible for executive through SOES from 1,000 shares to 500 shares (''SOES Maximum Order Size''); and (4) the prohibition of short sales through SOES. The SOES Maximum Order Size Rule lapsed effective March 28, 1995 and the rule prohibiting the execution of short sales through SOES lapsed effective January 26, 1995.

[5] *See* Interim SOES Rules Approval Order, *supra* note 2.

[6] *See* Interim SOES Rules Extension Order, *supra* note 3, and Securities Exchange Act Release Nos. 35275 (January 25, 1995), 60 FR 6327 (February 1, 1995); 35535 (March 27, 1995), 60 FR 16690 (March 31, 1995); and 36311 (September 29, 1995), 60 FR 52438 (October 6, 1995) (''October 1995 Extension Order'').

[7] Interim SOES Rules Approval Order, *supra* note 2, 58 FR at 69423.

[8] *Id.*

[9] *Id.* at 69424–25.

[10] *Id.*

associated with these waves of intra-day trading activity, market makers are subject to increased risks that concentrated waves of orders will cause the market to move away. As a result, individual market makers may be unwilling to narrow the current spread and commit additional capital to the market by raising the bid or lowering the offer. When market makers commit less capital and quote less competitive markets, prices can be expected to deteriorate more rapidly. Accordingly, the Commission believes that it is appropriate for the NASD to take measured steps to redress the economic incentives for frequent intra-day trading inherent in SOES to prevent SOES activity from having a negative effect on market prices and volatility.[11]

f. The Commission does not believe the intra-day trading strategies through SOES contribute significantly to market efficiency in the sense of causing prices to reflect information more accurately.[12]

g. The Commission has evaluated each of the proposed modifications to SOES, and concludes that each of the modifications reduces the adverse effects of active trading through SOES and better enables market makers to manage risk while maintaining continuous participation in SOES. In addition, the Commission does not believe that any of the modifications will have a significant negative effect on market quality. To the extent that any of the modifications may result in a potential loss of liquidity for small investor orders, the Commission believes that these reductions are marginal and are outweighed by the benefits of preserving market maker participation in SOES and increasing the quality of executions for public and institutional orders as a result of the modifications.[13]

h. The Commission * * * has determined that the instant modifications to SOES further the objectives of investor protection and fair and orderly markets, and that these goals, on balance, outweigh any marginal effects on liquidity for small retail orders, and any anti-competitive effects on order entry firms and their customers. The Commission concludes that the ability of active traders to place trades through a system designed for retail investors can impair market efficiency and jeopardize the level of market making capital devoted to Nasdaq issues. The Commission believes that the rule change is an appropriate response to active trading through SOES, and that the modifications will reduce the effects of concentrated intra-day SOES activity on the market.[14]

The NASD believes these significant statutory findings by the SEC regarding the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature and the SEC's assessment of the likely benefits to the marketplace that would result from the rules have been confirmed and substantiated by econometric studies on the effectiveness of the Interim SOES Rule conducted by the NASD's Economic Research Development[15] and an independent economist commissioned by the NASD.[16] When the SEC approved the Interim SOES Rules, it stated that ''[a]ny further action the NASD seeks with respect to SOES—extension of these modifications upon expiration, or introduction of other changes—will require independent consideration under Section 19 of the Act.'' [17] In addition, the SEC stated that, should the NASD desire to extend these SOES changes or modify SOES, the Commission would expect ''the NASD to monitor the quality of its markets and assess the effects of the approved SOES changes on market quality for Nasdaq securities.'' Also, if feasible, the SEC instructed the NASD to provide a quantitative and statistical assessment of the effects of the SOES changes on market quality; or, if an assessment is not feasible, the SEC stated that the NASD should provide a reasoned explanation supporting that determination.

In sum, the NASD's study found that:

- Since the SOES changes went into effect in January 1994, the statistical evidence indicated that when average daily volume, stock price, and stock price volatility are held constant through regression techniques, quoted percentage spreads in Nasdaq securities experienced a decline in the immediate period following implementation of the changes and have continued to decline since then. The statistical evidence also showed that the narrowing of quoted percentage spreads became more pronounced and robust the longer the Interim SOES Rules were in effect. In particular, quoted spreads in cents per share for the 500 largest Nasdaq National Market (''NNM'') securities experienced a sharp decline from April 28 to May 12 and from June 23 to July 18.[18]
- With the exception of a brief, market-wide period of volatility experienced by stocks traded on Nasdaq, the New York Stock Exchange, and the American Stock Exchange during the Spring, the volatility of Nasdaq securities appears to be unchanged in the period following implementation of the changes; and
- A smaller percentage of Nasdaq stocks experienced extreme relative price volatility after implementation of the rules and that these modifications, in turn, suggest a reduction in relative volatilities since the rules were put into effect.

The Furbush Study found that there was a statistically significant improvement in effective spreads for the top 100 Nasdaq stocks (based on dollar volume) during the three month period following implementation of the rules. Moreover, the study also found that the most significant improvement in effective spreads for the top 100 stocks occurred for trade sizes between 501 and 1,000 shares, precisely the level that was made ineligible for SOES trading by the Interim SOES Rules. In addition, the study found that the average number of market makers for the top ten Nasdaq-listed stocks increased from 44.3 to 46.0, or 3.8 percent, and from 30.2 to 30.9 for the top 100 stocks, or 2.3 percent. Although correlation does not necessarily imply causation, as noted by the SEC when it approved the Interim SOES Rules and extensions of the Interim SOES Rules, the NASD believes that positive market developments clearly have been associated with implementation of the Interim SOES Rules.

The NASD also believes that these studies of the effectiveness of the Interim SOES Rules lend credence to another NASD study that was submitted to the SEC in support of approval of the Interim SOES Rules.[19] In the May 1993 SOES Study, the NASD found that concentrated waves of orders entered into SOES by active order-entry firms resulted in discernible degradation to the quality of the Nasdaq market. Specifically, the study found, among other things, that: (1) Bursts of orders entered into SOES by active order entry firms frequently result in a decline in the bid price and a widening of the bid-ask spread; (2) that there is a significant

[11] *Id.* at 69425–26.

[12] *Id.*

[13] *Id.*

[14] *Id.* at 69429.

[15] *See* letter from Gene Finn, Vice President & Chief Economist, NASD, to Katherine England, Assistant Director, National Market System & OTC Regulation, SEC, dated October 24, 1994 (letter submitted in connection with the NADD'S)N•PROVE filing, SR–NASD–94–13).

[16] The Association Between the Interim SOES Rules and Nasdaq Market Quality, Fear Furbush, Ph D.

[17] Interim SOES Rules Approval Order , *Supra* note 2, 59 FR at 69429.

[18] Some press reports have attributed the recent decline in spreads for Nasdaq stocks to the publication, on May 26 and 27, 1994, of newspaper articles in The Wall Street Journal, The Los Angeles Times and other publications reporting the results of an economic study conducted by two academicians that illustrated the lack of odd-eighth quotes for active Nasdaq stocks. Contrary to these press reports, this study shows that spreads had indeed narrowed before publication of these articles (from April 28 to May 12), stabilized at these narrower levels from mid-May until June 23, and declined again from June 23 to July 18.

[19] *See* NASD Department of Economic Research: Impact of SOES Active Trading Firms on Nasdaq Market Quality (May 12, 1993) (''May 1993 SOES Study''). *See also* Securities Exchange Act Release No. 32313 (May 17, 1993), 58 FR 29647 (publication of the study for comment).

positive relationship between increases in spreads and volume attributable to active order-entry firms as it related to total SOES volume per security; and (3) activity by active order-entry firms resulted in higher price volatility and less liquidity—higher price changes are associated with high active trading firm volume, even after controlling for normal price fluctuations.

The NASD also believes market activity since the SOES Maximum Order Size Rule lapsed on March 28, 1995, provides further support for the effectiveness of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature and the NASD's economic rationale for these rules. In particular, an analysis prepared by the NASD's Economic Research Department clearly illustrates that there has been a dramatic increase in SOES volume since the SOES Maximum Order Size Rule lapsed and that many market maker positions have been abandoned. These two phenomena appear to be linked. Those Nasdaq stocks that have experienced the greatest decline in the number of market makers are the ones that have experienced the greatest increase in SOES volume since the rule lapsed.[20] The NASD believes these figures indicate that the relaxation of one of the Interim SOES Rules may have contributed to some of the adverse market developments that the NASD was seeking to avoid through implementation of the Interim SOES Rules (*e.g.*, degradation in market maker participation and market liquidity).[21] Accordingly, the NASD believes that any further relaxation of the Interim SOES Rules by permitting the SOES Minimum Exposure Limit Rule or the SOES Automated Quotation Update Feature to lapse would further harm the Nasdaq market. In light of the significance of these figures and their indicated adverse ramifications upon the Nasdaq market, the NASD also believes that SEC reconsideration of its position with respect to the entry of 1,000-share orders into SOES is warranted.

The NASD also has prepared another report that the NASD believes illustrates that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature have had no adverse impact on the market for Nasdaq securities.[22] This report was in response to the Commission's request in the Interim SOES Rules Extension Order that the NASD:

> monitor the extent to which exposure limits are exhausted, the extent to which the automated quotation update feature is used, and the effects these two aspects have on liquidity. Moreover, the Commission expects the NASD to consider the possibility of enhancements to eliminate the potential for delayed and/or inferior executions.[23]

In sum, the December 1995 Monitoring Report found that it is a very infrequent occurrence for a market maker to have its exposure limit exhausted in a NNM security. In particular, from the period October 2, 1995 to November 22, 1995, there were, on average, 83 instances per day where a market maker's exposure limit in NNM securities was exhausted.[24] Thus, given the fact that there was an average of 44,062 market making positions in NNM securities and 3,932 NNM securities trading per day during this time period, the impact of these individual exposure limit exhaustions on the availability of SOES to investors throughout the trading day was infinitesimal. Each market making position experienced .0019 exposure limit exhaustions per day over this time period and each NNM security experienced .0211 exhaustions per day. Moreover, while Nasdaq could not readily determine the extent to which the exposure limit exhaustions occurred simultaneously in the same security, given the stark infrequency with which the exposure limit exhaustions occurred, the NASD believes it is extremely improbable that a NNM security would experience a situation where the SOES exposure limits for all market makers in that stock were exhausted at the same time. Indeed, this conclusion is borne out by the extremely short time-span in which SOES orders are executed. Specifically, the report shows that, on average, SOES orders are executed 1.62 seconds after entry and that 98.5 percent of all SOES orders are executed within three seconds.[25]

The report also showed that SOES exposure limit exhaustions tend to cluster in active NNM securities with high numbers of market makers. This further illustrates the extremely low probability that all market makers in the same security would ever have their exposure limits exhausted simultaneously. Lastly, examining one trading day, the report shows that active SOES order entry firms accounted for 92 percent of the exposure limit exhaustion, as might be expected given that these firms account for 89 percent of SOES dollar volume. Accordingly, the NASD and Nasdaq believe that the SOES Minimum Exposure Limit Rule has had a very negligible, if any, impact on the availability of SOES to small, retail investors.

The report also found that the Automated Quotation Update Feature appears to be used extensively by some market making firms. Specifically, the report shows that the quote update feature is sued by 126 market makers for 10,646 market making positions. Thus, this feature is currently being used by 26 percent of the market makers and for 24 percent of all market making positions. In addition the report showed that, on average, 3,394 quotations a day were generated by the quote update feature from October 2, 1995 to November 21, 1995. Accordingly, the NASD and Nasdaq believe that the Automated Update Feature has effectively served its intended purpose of helping to maintain continuous quotations in Nasdaq, minimize ''closed quote'' conditions, and avoid unexcused market maker withdrawals, thereby promoting market liquidity.

Accordingly, the NASD believes the Commission should properly view these two SOES rules as strictures that are highly correlated with improvements in market liquidity, not as rules that have had or could have a damaging effect on liquidity. The NASD and Nasdaq also believe the monitoring report illustrates that implementation of the Automated Quotation Update Feature and the SOES Minimum Exposure Limit Rule have not diminished the significant benefits provided to investors through the automatic execution capabilities of SOES. Simply put, these two SOES rules have in no way altered the operation of SOES as an automatic

[20] *See* letter from Richard G. Ketchum, Executive Vice President & Chief Operating Officer, NASD, to Brandon Becker, Director, Division of Market Regulation, SEC, dated August 1, 1995.

[21] The NASD believes that elimination of the ban against short sales through SOES did not have a dramatic negative market effect because the NASD's short sale rule was approved during the time that the ban was in effect.

[22] *See* Monitoring Report of Exhaustion of SOES Exposure Limits and the Usage of Nasdaq Automated Quotation Update Feature, NASD Economic Research Department, December 18, 1995.

[23] October 1995 Extension Order, *supra* note 6, 60 FR at 52439, n. 12 (''December 1995 Monitoring Report'').

[24] The highest number of exposure limits exhausted on any day during this period was 119 on November 21, 1995 and the lowest number was 47 on October 4, 1995.

[25] The report also found that SOES orders can experience brief execution delays in isolated instances, as one order took as long as 87 seconds to be executed. While the NASD could not readily identify the reasons for these infrequent execution delays, the NASD believes these delays are likely the result of two factors. First, consistent with the NASD's short-sale rule, short sales entered into SOES cannot be executed on down bids. Second, waves of SOES orders transmitted by active SOES order-entry firms cause queues to develop in the processing of SOES orders, which, in turn, causes execution delays.

execution system that affords small, retail investors immediate execution at the inside market. However, as noted in the NASD's proposed NAqcess filing, the NASD believes the limit order processing capabilities and order execution algorithm of SOES could be significantly improved upon for the benefit of small investors and the market place as a whole.

Moreover, in the Interim SOES Rules Extension Order, an order approving a proposal identical to the NASD's instant proposal, the SEC found that the continued effectiveness of the SOES Minimum Exposure Limit Rule ''provides customers fair access to the Nasdaq market and reasonable assurance of timely executions.'' [26] With respect to the SOES Automated Quotation Update Feature, the SEC also stated that it believes ''that extending the automated update function is consistent with the Act and, in particular, the Firm Quote Rule. The update function provides market makers the opportunity to update their quotations automatically after executions through SOES; under the Commission's Firm Quote Rule, market makers are entitled to update their quotations following an execution and prior to accepting a second order at their published quotes.'' [27]

Therefore, in light of the above-cited statutory findings made by the SEC when it first approved the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature and extensions of these rules, coupled with the NASD's findings that these rules have been associated with positive market developments in terms of lower spreads on Nasdaq and fewer stocks with extreme relative price volatility, the NASD believes it would be consistent with the Act for the Commission to extend the effectiveness of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature for an additional six-month period. Moreover, even if the Commission is unwilling to find positive significance in the NASD's statistical analyses, at the very least, these studies indicate that the market has not been harmed by implementation of these rules.[28] Indeed, the Commission clearly stated in the Interim SOES Rules Extension Order that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature have not had a detrimental effect on the Nasdaq market: ''the Commission * * * continues to believe that the data submitted by the NASD demonstrates * * * [no] serious deterioration in the quality of the Nasdaq market subsequent to the adoption of the January 1994, January 1995, March 1995, and September 1995 Amended SOES Rules.'' [29]

The NASD believes that the proposed rule change is consistent with Sections 15A9b)(6), 15A(b)(9), 15A(b)(11) and 11A(a)(1)(C) of the Act. Among other things, Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Specifically, the NASD is proposing to extend the effectiveness of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature until January 31, 1997 because of concerns tat concentrated, aggressive use of SOES by a growing number of order entry firms has resulted in increased volatility in quotations and transaction prices, wider spreads, and the loss of liquidity for individual and institutional investor orders, all to the detriment of public investors and the public interest. The NASD believes the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature have operated to rectify this situation while continuing to provide an effective opportunity for the prompt, reliable execution of small orders received from the investing public. Accordingly, in order to protect investors and the public interest, the NASD believes the SEC should approve an additional six-month extension of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature through January 31, 1997, so that small investors' orders will continue to receive the fair and efficient executions that SOES was designed to provide.

Section 15A(b)(9) provides that the rules of the Association may not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature apply across the board and do not target any particular user or participant, as all dealers may set their exposure limits at two times the tier size and all dealers may elect to utilize the automated quote update feature. Accordingly, the NASD believes that these rule changes are not anti-competitive, as they are uniform in application and they seek to preserve the ability of SOES to provide fair and efficient automated executions for small investor orders, while preserving market maker participation in SOES and market liquidity.

Section 15A(b)(11) empowers the NASD to adopt rules governing the form and content of quotations relating to securities in the Nasdaq market. Such rules must be designed to produce fair and informative quotations, prevent fictitious and misleading quotations, and promote orderly procedures for collecting and distributing quotations. The NASD is seeking to continue the effectiveness of SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature so that SOES activity may not result in misleading quotations in the Nasdaq market. Market makers place quotes in the Nasdaq system and these quotes comprise the inside market and define the execution parameters of SOES. When volatility in the SOES environment causes market makers to widen spreads or to change quotes in anticipation of waves of SOES orders, quotes in the Nasdaq market become more volatile and may be misleading to the investing public. Accordingly, absent continuation of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature, the quotations published by Nasdaq may not reflect the true market in a security and, as a result, there may be short-term volatility and loss of liquidity in Nasdaq securities, to the detriment of the investing pubic. Further, the continuation of the automated refresh feature will ensure

[26] Interim SOES Rules Extension Order, *supra* note 3, 61 FR at 4505.

[27] *Id.* (footnotes omitted).

[28] Even if the Commission concludes that the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature have had no impact on market quality, the NASD believes the Commission's approval of New York Stock Exchange (''NYSE'') Rule 80A on a permanent basis illustrates that the Commission would still have a sufficient basis to approve an extension of the rules for a four-month period. In particular, the SEC's discussion of the statutory basis for approval of NYSE Rule 80A focused in large part on the fact that Rule 80A did not have any adverse impacts on market quality on the NYSE and that, as a result, the NYSE should be given the latitude to take reasonable steps to address excessive volatility in its marketplace. *See* Securities Exchange Act Release No. 29854 (October 24, 1994), 56 FR 55963 (October 30, 1994). Accordingly, the NASD believes the SEC should afford the NASD the same regulatory flexibility that it afforded the NYSE to implement rules reasonably designed to enhance the quality of Nasdaq and minimize the effects of potential disruptive trading practice.

[29] Interim SOES Rules Extension Order, *supra* note 3, 61 FR at 4506.

that a market maker's quotation is updated after an exposure limit is exhausted. Uninterrupted use of this function will maintain continuous quotations in Nasdaq as market makers exhausting their exposure limits in SOES will not be subject to a ''closed quote'' condition or an unexcused withdrawal from the market.

Finally, the NASD believes that the proposed rule change is consistent with significant national market system objectives contained in Section 11A(a)(1)(C) of the Act. This provision states it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure, among other things: (i) Economically efficient execution of securities transactions; (ii) fair competition among brokers and dealers; and (iii) the practicality of brokers executing investor orders in the best market. Specifically, the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature advance each of these objectives by preserving the operational efficiencies of SOES for the processing of small investors' orders, by maintaining current levels of market maker participation through reduced financial exposure from unpreferenced orders, and by reducing price volatility and the widening of market makers' spreads in response to the practices of order entry firms active in SOES.

In addition, for the same reasons provided by the SEC when it approved the Interim SOES Rules that are cited above in the text accompanying footnotes 6 through 13, the NASD believes that the proposed rule change is consistent with Sections 15A(b)(6), 15A(b)(9), 15A(b)(11) and 11A(a)(1)(C) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File Number SR–NASD–96–22 and should be submitted by July 26, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–17144 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[30] 17 CFR 200.30–3(a)(12).

[Release No. 34–37381; File Nos. SR–NSCC–96–09; SR–SCCP–96–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Permanent Approval on an Accelerated Basis of Proposed Rule Changes Relating to the Guarantee of Trades in Continuous Net Settlement Systems

June 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that the National Securities Clearing Corporation (''NSCC'') and Stock Clearing Corporation of Philadelphia (''SCCP'') (collectively referred to as ''Clearing Corporations'') filed with the Securities and Exchange Commission (''Commission'') on April 3, 1996, and May 8, 1996, respectively, the proposed rule changes as described in Items I and II below, which items have been prepared primarily by the Clearing Corporations. On May 8, 1996, SCCP filed an amendment to the proposed rule change to remove from consideration certain proposed amendments to its clearing fund calculations.[2] The proposals seek permanent approval of rule changes relating to the guarantee of trades in the Clearing Corporations' continuous net settlement (''CNS'') systems. The Commission is publishing this notice and order to solicit comments on the proposed rule changes from interested persons and to grant accelerated permanent approval of the proposed rule changes.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The proposals seek permanent approval of proposed rule changes to which the Commission has granted temporary approval.[3] The proposals authorize the Clearing Corporations to guarantee at an earlier time the settlement of participant trades in their CNS systems. In addition, NSCC's

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from J. Keith Kessel, Compliance Officer, SCCP, to Peter R. Geraghty, Senior Counsel, Commission (May 8, 1996). The amendment also requested permanent approval of SCCP's CNS guarantee procedures.

[3] The proposals, along with a similar proposal submitted by the Midwest Clearing Corporation (''MCC''), were originally approved on a temporary basis in 1989. For a complete discussion of these proposals, refer to Securities Exchange Act Release Nos. 27192 (August 29, 1989), 54 FR 37010 (approving File Nos. SR–NSCC–87–04, SR–MCC–87–03, and SR–SCCP–87–03 until December 31, 1990). In addition, the Commission has temporarily extended the respective proposals on six previous occasions in Securities Exchange Act Release Nos. 28728 (December 31, 1990), 56 FR 717 (approving File Nos. SR–NSCC–90–25, SR–MCC–90–08, and SR–SCCP–90–03 until June 30, 1991); 29388 (June 28, 1992), 56 FR 30951 (approving File Nos. SR–NSCC–91–06, SR–MCC–91–03, and SR–SCCP–91–03 through June 30, 1992); 30879 (July 1, 1992), 57 FR 30279 (approving File Nos. SR–NSCC–92–04, SR–MCC–92–07, and SR–SCCP–92–02 through June 30, 1993); 32547 (June 29, 1993), 58 FR 36491 (approving File Nos. SR–NSCC–93–04, SR–MCC–93–02, and SR–SCCP–93–02 through June 30, 1994); and 33996 (June 27, 1994), 59 FR 33996 (approving File Nos. SR–NSCC–94–09, SR–MCC–94–06, and SR–SCCP–94–02 through June 30, 1995); and 35916 (June 28, 1995), 60 FR 35575 (July 10, 1995) (approving File Nos. SR–NSCC–95–04, SR–MCC–95–02, and SR–SCCP–95–03). On January 5, 1996, MCC withdrew from the securities clearance business. Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 (order approving File No. SR–MCC–95–04).

proposal seeks approval of its revised clearing fund calculations designed to protect against any increased risk caused by such earlier guarantees.[4]

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Clearing Corporations included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Clearing Corporations have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The proposed rule changes seek permanent approval of the Clearing Corporations' procedures whereby they guarantee the settlement of all pending CNS trades as of midnight on the day after the trade date for locked-in or automatically compared trades and as of midnight on the day trades are reported to members as compared for all other trades.[6] NSCC's proposal also seeks approval of revisions to the CNS portion of its clearing fund formula.[7] This revision is designed to protect against increased risk associated with earlier guarantees.[8]

The Clearing Corporations believe that the proposed rule changes are consistent with the Act and particularly with Section 17A of the Act because the proposed changes will help the Clearing Corporations to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible.[9]

(B) Self-Regulatory Organizations' Statement on Burden on Competition

The Clearing Corporations believe that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received from Members, Participants or Others

The Clearing Corporations have neither solicited nor received any comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act [10] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and be designed to remove impediments to and perfect the national system for the clearance and settlement of securities transactions. The Commission believes that the Clearing Corporations' procedures for earlier guarantees and NSCC's revised formula for calculating CNS clearing fund contributions are consistent with the Clearing Corporations' obligations under Section 17A(b)(3)(F) because the proposals should help the Clearing Corporations increase certainty as to settlement of securities transactions by reducing the time that clearing members are exposed to the risk of counterparty default. The Commission further believes that the proposals achieve that goal without compromising the safeguarding of securities and funds in the Clearing Corporations' custody or control or for which they are responsible.

The Commission also believes that NSCC's revised CNS formula,[11] as well as its additional existing safeguards such as monitoring member financial condition, reviewing member settlement activity in relation to prior activity, monitoring securities settled in its system for volatility, and the ability to collect additional fund deposits, should reduce the risk that a member purchasing securities will be unable to pay for the securities upon delivery and protects NSCC if the market price of compared trades moves away from their contract price before settlement. Thus, the Commission believes the NSCC proposal is also consistent with Section 17A(b)(3)(F) [12] of the Act because it should help NSCC reduce its risk of loss and thereby should enhance its ability to safeguard securities and funds under its control.

Because the Commission was concerned about the ability of the proposed CNS clearing fund formulas to guard against increased risk posed by an earlier CNS guarantee,[13] the Commission originally approved the proposed rule changes on a temporary basis in order that the procedures and formulas could be carefully monitored before they were approved permanently. The Commission is now permanently approving the Clearing Corporations' earlier guarantee procedures and NSCC's revised CNS formula because during the temporary approval period, the Commission has not received any reports of problems caused by NSCC's CNS clearing fund formula or the earlier CNS guarantees.

The Clearing Corporations have requested that the Commission find good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for so approving the proposed rule changes because the Commission has noticed the proposals on seven separate occasions without receiving any comment letters and does not expect to receive any with regard to the current proposals. Furthermore, accelerated approval will allow the Clearing Corporations to continue to

[4] In its original filing with the Commission, SCCP proposed revisions to its program governing the guarantee of CNS trades and its clearing fund calculations. *Supra* note 2. Because the Commission has recently granted temporary approval to the proposed revisions to SCCP's clearing fund calculations in connection with a different filing in a separate order, SCCP, as noted above, amended its proposal to eliminate the proposed amendments to its clearing fund calculations. For a complete description of SCCP's formula, refer to Securities Exchange Act Release No. 36875 (February 22, 1996), 61 FR 7846 [SR–SCCP–95–06] (order approving proposed rule change).

[5] The Commission has modified the language in these sections.

[6] Until the Clearing Corporations guarantee settlement of a trade, each side to the trade bears the risk of the contraside defaulting if the Clearing Corporations cease to act for a defaulting member. Once the Clearing Corporations guarantee settlement, the original contractual obligations between the two parties are discharged and replaced by contracts between the Clearing Corporations and each of the original parties.

[7] NSCC's revised CNS clearing fund formula includes the following components (a) 2% of the member's projected total long CNS positions plus (b) the net of each day's difference between the contract price of pending, compared CNS trades, exclusive of trades reported by The Options Clearing Corporation (''OCC'') which are the result of options exercises and assignments, and the current market price for all guaranteed pending CNS trades, exclusive of trades reported by OCC which are the result of options exercises and assignments which have not yet reached settlement plus (c) .25% of the net of all guaranteed pending CNS trades and open CNS positions. The specific changes being made to NSCC's clearing fund formulas and other procedures are set forth in Exhibit A to NSCC's proposed rule change. A copy of the proposal with Exhibit A is available through the Commission's Public Reference Room or through NSCC.

[8] For a more detailed discussion of the proposal, refer to Securities Exchange Act Release Nos. 34261, 32547, 30879, 29388, 28728, and 27192 and the accompanying rule filings, *supra* note 4.

[9] 15 U.S.C. 78q–1 (1988).

[10] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[11] *Supra* notes 7 and 8.

[12] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[13] In addition, the Commission was concerned that daily clearing fund calculations based on mark-to-market average exposure for a rolling twenty-day period would not reflect actual mark-to-the-market exposure as well as, for example, daily collection of marks-to-the-market.

utilize the procedures without any disruption when the current temporary approval expires on June 28, 1996.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal offices of NSCC and SCCP. All submissions should refer to file numbers SR–NSCC–96–09 and SR–SCCP–96–02 and should be submitted by July 26, 1996.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes, as amended (File Nos. SR–NSCC–96–09 and SR–SCCP–96–02), be, and hereby are, permanently approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17146 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[14] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37382; File Nos. SR–Philadep–96–08 and SR–SCCP–96–04]

Self-Regulatory Organizations; Philadelphia Depository Trust Company and Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Changes Requesting Permanent Approval of the Adoption of Article 8 of the New York Uniform Commercial Code To Govern Certain Transactions

June 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 30, 1996, the Philadelphia Depository Trust Company (''Philadep'') and the Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes (File Nos. SR–Philadep–96–08 and SR–SCCP–96–04) as described in Items I and II below, which Items have been prepared primarily by Philadep and SCCP. The Commission is publishing this notice to solicit comments from interested persons and to grant accelerated approval of the proposed rule changes on a temporary basis through December 31, 1996.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

Philadep requests permanent approval of the adoption of Rule 32 and the amendment of Rule 1 of its rules, and SCCP requests permanent approval of the adoption of Rule 41 and the amendment of Rule 1 of its rules governing the choice of law to be elected in certain transactions effecting Philadep, SCCP, their participants, and pledged. On January 26, 1996, the Commission temporarily approved through June 30, 1996, Philadep's and SCCP's proposed rule changes adopting Article 8 of the New York Uniform Commercial Code (''UCC'') as their choice of law governing certain transactions.[2]

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, Philadep and SCCP included statements concerning the purpose of and the basis for the proposed rule changes and discussed any comments received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. Philadep and SCCP have prepared summaries, as set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and the Statutory Basis for, the Proposed Rule Changes

Philadep and SCCP propose to permanently adopt Rules 32 and Rule 41, respectively, and to permanently amend Rule 1 of their rules to codify their decision to elect certain New York commercial code provisions to govern certain transactions for the purpose of providing a uniform, consistent, and predictable body of law. Specifically, Rule 32 and Rule 41 will assure that the rights and obligations of Philadep and SCCP, their participants, and their pledgees with respect to transfers and pledges of securities, to the extent Article 8 of the UCC applies thereto, will be governed by and construed in accordance with Article 8 of the UCC of New York in effect from time to time. The definition of ''security'' under Rule 1 of both Philadep's and SCCP's rules was amended to cite to New York UCC Article 8 as opposed to Pennsylvania UCC Article 8.

Philadep and SCCP note that uncertainty exists whether New York law or Pennsylvania law may apply to any particular transfers and whether some transfers within Philadep's or SCCP's systems may be governed by Pennsylvania's UCC Article 8 while other transaction within such systems may be governed by New York's UCC Article 8. With so many of the transactions for which Philadep and SCCP provide depository, clearance, and settlement services potentially being affected (*e.g.*, those transactions effected through interface with broker-dealers, banks, and other institutions which are participants in The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC'') systems), it is problematic that different rules of law under Article 8 of the UCC may govern the rights and obligations of parties to such transfers. Philadep and SCCP, therefore, have chosen to elect the application of New York's UCC Article 8 rather than Pennsylvania's UCC Article 8. The choice of New York law also assures that DTC, NSCC, and their respective participants and pledgees will find harmonious commercial code

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36781 (January 26, 1996), 61 FR 3958 [File Nos. SR–SCCP–96–01 and SR–Philadep–96–01] (order granting accelerated approval on a temporary basis of proposed rule changes to provide for the application of Article 8 of the New York UCC).

provisions governing their extensive dealings with Philadep and SCCP, their participants, and pledgees in this area as the former New York based groups already are subject to New York law.

Philadep and SCCP believe the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because the rules are designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities, to remove impediments to and perfect the mechanism of a national market system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organizations' Statements on Burden on Competition

Philadep and SCCP do not believe that the proposed rule changes will impact or impose a burden on competition.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Section 17A(b)(3)(F)[3] of the Act requires the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities. The Commission believes the proposed rule changes are consistent with these requirements because adoption of Article 8 of the New York UCC should help provide certainty with respect to the substantive rights and obligations under UCC Article 8 that are applicable to Philadep and SCCP and their participants particularly with respect to transactions with broker-dealers, banks, and other institutions that are participants of other foreign or domestic clearing entities.

Philadep and SCCP have requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will enable Philadep and SCCP to continue to choose Article 8 of the New York UCC as the governing law for certain transactions, thus enabling Philadep and SCCP to continue to settle without any disruption securities transactions between U.S. broker-dealers and Canadian broker-dealers. Currently, the West Canada Depository Trust Company (''WCDTC'') and the West Canada Clearing Corporation (''WCCC'') act as a corresponding depository for and conduct clearance and settlement with Philadep and SCCP, respectively. With WCDTC and WCCC as participants of SCCP and Philadep, transactions in certain Canadian and U.S. securities between Canadian and American brokers will continue to be cleared and settled through the facilities of Philadep and SCCP. The staff of the Board of Governors of the Federal Reserve System has concurred with the Commission's granting of accelerated approval.[4]

The Commission is granting temporary approval of the proposed rule changes because the Commission believes the adoption of Article 8 of the New York UCC should continue to be examined before the selection of such governing law is permanently approved. The Commission will continue to analyze the developments and the application of Article 8 of the New York UCC including the effect of the choice of law provisions upon third parties. For these reasons, the Commission is temporarily approving the proposed rule changes through December 31, 1996.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making such submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552 will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal offices of Philadep and SCCP. All submissions should refer to File Nos. SR–Philadep–96–08–SR–SCCP–96–04 and should be submitted by July 26, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–Philadep–96–08 and SR–SCCP–96–04) be, and hereby are, approved through December 31, 1996.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17147 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[4] Telephone conversation between John Rudolph, Board of Governors of the Federal Reserve System, and Chris Concannon, Staff Attorney, Division of Market Regulation, Commission (June 28, 1996).

[5] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37383; International Series Release No. 998; File No. SR–Philadep–96–09]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Seeking Permanent Approval of the Designation of the West Canada Depository Trust Company as a Correspondent Depository

June 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 30, 1996, the Philadelphia Depository Trust Company (''Philadep'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–Philadep–96–09) as described in Items I and II below, which items have been prepared primarily by Philadep. The Commission is publishing this notice to solicit comments from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through December 31, 1996.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to seek permanent approval of the designation of the West Canada Depository Trust Company (''WCDTC'') as Philadep's nonexclusive agent and

[1] 15 U.S.C. 78s(B)(1) (1988).

custodian in receiving securities deposited by WCDTC participants for delivery to Philadep. This custodial arrangement was temporarily approved through June 30, 1996.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to seek permanent approval of the designation of WCDTC to act as a nonexclusive agent and custodian for Philadep in receiving securities deposited by certain WCDTC sponsored participants for credit to their respective subaccounts in WCDTC's omnibus account at Philadep. The custodial arrangement was effectuated by a contract executed between Philadep and WCDTC. WCDTC's rights and obligations as a participant will be governed by Philadep's rules and procedures.

At or before 12:45 p.m. (Philadelphia time) on any business day Philadep is open, WCDTC will notify Philadep via facsimile transmission or through Philadep's Automated Deposit System of initiated and pending instructions to Canadian transfer agents to transfer various Canadian securities held by WCDTC into Philadep's nominee name. Philadep will credit WCDTC's account(s) for Canadian issues at the time of this notification. At the time of physical receipt of the securities by Philadep, Philadep will credit WCDTC's account for incoming deposits of U.S. issues which were received by WCDTC and designated for physical delivery and deposit to its Philadep account.

With regard to Canadian issues, WCDTC will cause the Canadian transfer agent to reregister the shares in Philadep's nominee name and to deliver them to WCDTC as agent and custodian of Philadep. With respect to acting as Philadep's agent for interfacing with Canadian transfer agents, WCDTC has more direct knowledge of and familiarity with Canadian transfer agents. WCDTC has a Canadian address and is expected to obtain receipt of certificates faster than Philadep would obtain receipt through the international postal system. Earlier receipt of certificates means earlier certainty with respect to the value and validity of deposited certificates. This is a benefit to Philadep because the earlier Philadep receives notice of defects in a certificate the sooner it can reverse the credit to the WCDTC's account and the better it can limit the risk that the securities will have been transferred out of the account before the reversal of the credit can take place.

For Canadian issues returning to WCDTC from the Canadian transfer agent, WCDTC will safeguard the deposited securities and will hold them with deposit tickets attached and segregated from other securities held by WCDTC until forwarded to Philadep via licensed air courier or other carrier agreed upon by the parties. Securities held overnight will be deposited in WCDTC's vault. If WCDTC fails to deliver these securities to Philadep, Philadep will apply a short charge to WCDTC's account for the full value of the fails. For fails to deliver resulting from settled CNS transactions, Philadep will short the participant's CNS account with the Stock Clearing Corporation of Philadelphia (''SCCP''), Philadep's affiliated clearing corporation. SCCP will mark to market all short positions and collect marks daily.

If the deposited securities are U.S. securities, WCDTC will forward the securities directly to Philadep on the day the securities are reported to Philadep. Securities will be shipped to Philadep via licensed air courier or other carrier agreed upon by the parties.

WCDTC and Philadep have agreed that securities placed within the custody and control of WCDTC on behalf of Philadep will not be subject to any right, charge, security interest, lien or claim of any kind in favor of WCDTC or any person claiming through WCDTC. WCDTC and Philadep have further agreed that WCDTC will have no legal or equitable right, title, or interest in or to such securities including but not limited to any right, title, or interest in or to any principal or interest coupons, redemption proceeds, payments or payable amounts relating to any securities. In addition, WCDTC will maintain adequate insurance coverage with respect to any securities which are in its custody on behalf of Philadep. Furthermore, WCDTC has made a participants fund contribution of $1,000,000, which is in excess of the minimum amount required under the applicable formula, and WCDTC's parent organization, the Vancouver Stock Exchange, has executed an irrevocable standby letter of credit in the amount of $5 million (Canadian Dollars) to be issued to Philadep securing its obligations.

Philadep believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the rule proposal fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and further assures the safeguarding of securities and funds in its custody or control or for which Philadep is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[3] The Commission believes that Philadep's designation of WCDTC as a correspondent depository is consistent with Philadep's obligations under Section 17A(b)(3)(F) because the proposed rule change should help foster cooperation and coordination between the U.S. and Canadian clearance and settlement systems by facilitating a link between Philadep and WCDTC.

Philadep has requested that the Commission find good cause for proving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow Philadep to continue its custodial

[2] Securities Exchange Act Release No. 36782; International Series Release No. 923 (January 26, 1996), 61 FR 3956 [File No. SR–Philadep–96–01] (order granting accelerated approval on a temporary basis of a proposed rule change to appoint the West Canada Depository Trust Company as a Correspondent Depository).

[3] 15 U.S.C. 78q–1(b)(3)(F) (1988)

arrangement with WCDTC thus allowing WCDTC to continue to settle without any disruption securities transactions between U.S. broker-dealers and Canadian broker-dealers.

The Commission is granting temporary approval of the proposed rule change through December 31, 1996, so that Philadep and the Commission can continue to monitor and analyze the development of WCDTC as a correspondent depository before granting permanent approval. During this period, the Commission will continue to monitor and correspondent depository arrangement between Philadep and WCDTC to ensure that proper risk management procedures are in place. Furthermore, Philadep will continue to be required to file monthly reports analyzing activity in WCDTC's omnibus account and subaccounts. For these reasons, the Commission is temporarily approving the proposed rule change through December 31, 1996. The staff of the Board of Governors of the Federal Reserve System have concurred with the Commission's granting of accelerated approval.[4]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR–Philadep–96–09 and should be submitted by July 26, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–Philadep–96–09) be, and hereby is, approved through December 31, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17148 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[4] Telephone conversation between John Rudolph, Board of Governors of the Federal Reserve Board, and Chris Concannon, Division of Market Regulation, Commission (June 28, 1996).

[5] 17 CFR 200.30 3(a)(12) (1995).

[Release No. 34–37378; File No. SR–PHLX–96–24]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its Holiday Schedule Respecting the Early Closure of Its Equity Trading Floor at 1:15 p.m., Equity and Index Options Trading Floor at 1:10 and 1:15 p.m. Respectively, and its Currency Options at 1:00 p.m. on Friday July 5, 1996

June 27, 1996.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder, [2] notice is hereby given that on June 24, 1996, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is approving this proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b–4 of the Act, proposes to amend its holiday schedule respecting the early closure of the PHLX equity trading floor at 1:15 p.m.,[3] equity and index options trading floor at 1:10 and 1:15 p.m. respectively, and PHLX currency options at 1:00 p.m. on Friday July 5, 1996.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The PHLX, under its previously adopted holiday schedule, had planned to be open for a full day of trading on Friday, July 5, 1996. However, the registered national securities exchanges are planning an early closure of equity trading at 1:00 P.M.[4] on Friday, July 5, 1996, in part due to fact that the exchanges do not anticipate that there will be significant trading volume on the day after the Fourth of July, Independence Day, our national holiday. Therefore, the PHLX proposes the early closure of its equity trading floor at 1:15, the equity and index options trading floor at 1:10 P.M. and 1:15 P.M. respectively, and PHLX currency options at 1:00 P.M. on Friday, July 5, 1996.

The PHLX requests accelerated effectiveness of this proposed rule change pursuant to Section 19(b)(2) in order to provide member firms and customers with sufficient notice and lead time to prepare for closing on July 5, 1996.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to protect and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that, according to PHLX, equity trading between 1:00 and 1:15 p.m. will be pursuant to PHLX Rule 101.02 which facilitates ''PPS'' and ''GTX'' designated orders. Telephone Conversation between Murray L. Ross, Secretary, PHLX, and Elizabeth Prout Lefler, SEC, on June 26, 1996.

[4] The Commission notes that, according to the PHLX, the New York Stock Exchange will conduct its normal after-hours session between 1:00 and 1:30 P.M. *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR–PHLX–96–24 and should be submitted by July 26, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the PHLX's proposal to amend its holiday schedule respecting the early closure of the PHLX equity trading floor at 1:15 P.M., equity and index options trading floor at 1:10 and 1:15 P.M. respectively, and PHLX currency options at 1:00 P.M. on Friday, July 5, 1996, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

The Commission believes that, because the registered national securities exchanges are planning an early closure of equity trading at 1:00 P.M. on Friday, July 5, 1996, in part due to fact that the exchanges do not anticipate that there will be significant trading volume on the day after the Fourth of July, Independence Day, our national holiday, it is appropriate to grant the request of the PHLX to modify its previously adopted holiday schedule. Because the PHLX had planned to be open for a full day of trading on Friday, July 5, 1996, accelerated approval will permit the PHLX to provide member firms and customers with sufficient notice and lead time to prepare for closing early on July 5, 1996.

Based on the above, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act, to accelerate approval of the amended proposed rule change in that it will promote just and equitable principles of trade and remove impediments to a free and open market by providing the Exchange with the basis for notifying its members and customers of the scheduled change, thus ensuring the protection of investors and the public.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Accelerating approval of this proposal will provide the Exchange with sufficient time to notify member firms, and customers of the schedule change and allow such persons and entities to consider their trading strategies in light of the amended holiday schedule. The Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6(b)(5) and 19(b)(2) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–PHLX–96–24) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–17068 Filed 7–3–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. § 78s(b)(2) (1988).

[6] 17 CFR 200.30–3(a)(12) (1995).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. Since the last list was published in the Federal Register on June 14, the information collections listed below have been proposed or will require extension of the current OMB approvals.

(Call the SSA Reports Clearance Officer on (410) 965–4125 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections.)

1. Application for Wife's or Husband's Insurance Benefits—0960–0008. The information collected on form SSA–2 is needed by the Social Security Administration to determine an applicant's eligibility to wife's or husband's benefits. The respondents are individuals who wish to file for those types of benefits.

Number of Respondents: 700,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 116,667 hours

2. Statement of Marital Relationship (By One of the Parties)—0960–0038. The information collected on form SSA–754 is used by the Social Security Administration to prove or disapprove the existence of a valid common-law marriage. The respondents are individuals who allege a common-law marriage to someone entitled to Social Security benefits.

Number of Respondents: 30,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 15,000 hours

3. Worker's Compensation/Public Disability Benefit Questionnaire—0960–0247. The information collected on form SSA–546 is used by the Social Security Administration to help determine if receipt of a workmen's compensation or public disability benefit by an individual will cause a reduction in his or her Social Security disability benefits. The respondents are applicants for Social Security Title II disability benefits.

Number of Respondents: 100,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 25,000 hours

4. Voluntary Customer Surveys In Accordance with E.O. 12862 Within the Social Security Administration—0960–0526. These voluntary customer surveys will be used to ascertain customer satisfaction with the Social Security Administration in terms of timeliness, appropriateness, access, and other measures of quality service. Surveys will involve individuals that are the direct or indirect beneficiaries of SSA services. The average burden per response for these activities is estimated to range from 5 minutes for a simple comment card to 2 hours for participation in a focus group.

FY 1997: Number of Respondents: 1,328,767
Frequency of Response: 1
Estimated Annual Burden: 121,840 Hours
FY 1998: Number of Respondents: 1,339,327
Frequency of Response: 1
Estimated Annual Burden: 124,784
FY 1999: Number of Respondents: 1,328,707
Frequency of Response: 1
Estimated Annual Burden: 122,670

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The information collections listed below, which were published in the Federal Register on May 2 and May 8, 1996 have been submitted to OMB.

1. Survey of Employers Regarding A Pre-retirement Satellite Broadcast—0960–NEW. The Social Security Administration is attempting to establish satellite communications with private sector employers as an economical and efficient means of providing program information and training. SSA will broadcast a pre-retirement seminar via satellite and ask employers to provide information on the broadcast. The information collected by SSA will be used to determine employer interest in receiving information by satellite and to determine what issues should be covered; i.e., retirement, legislative updates, wage reporting training, etc. The respondents are employers who have received the satellite transmission.

Number of Respondents: 10,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 833 hours

2. Modified Benefit Formula Questionnaire-Foreign Pension—0960–NEW. The information collected on form SSA–308 is used by SSA to determine exactly how much (if any) of a foreign pension may be used to reduce the amount of Social Security retirement or disability benefits under the modified benefit formula. The respondents are applicants for Social Security retirement/disability benefits.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 8,333 hours

Written comments and recommendations regarding these information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB), Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA), Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: June 24, 1996.

Judith T. Hasche,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–16695 Filed 7–3–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation, Federal Aviation Administration. (FAA)

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by July 23, 1996, in accordance with 5 CFR 1320.13. The following information describes the nature of the information collection and its expected burden.

DATES: Submit any comments to OMB by July 22, 1996.

SUPPLEMENTARY INFORMATION: Each year the System Safety Office produces a videotape titled ''VFR Arrival Procedures: Oshkosh '96'' for the Oshkosh Fly-In in August. To better serve our customers needs for this information and our distribution procedures, we will be asking pilots who fly in to Oshkosh a few short questions on the availability and usefulness of the videotape. This is a one day, one time survey.

Title: Oshkosh Video Survey.

Need: The System Safety Office will use this information to serve the needs of our customers better. Per their suggestions, we may be able to add information to the video or add distribution points.

Respondents: An estimated 100 pilots who fly into Oshkosh for the annual fly-in.

Frequency: One time oral survey.

Burden: One minute, 13 seconds per respondent for a total of 2 hours and 2 minutes.

FOR FURTHER INFORMATION: or to receive copies of the justification document submitted to OMB, you can contact Judith Street on (202) 267–9895 or write to her at: Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Avenue, SW, Washington, DC 20591

Comments may be submitted to the agency at the address above or to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503

Issued in Washington, DC on June 28, 1996.

Patricia W. Carter,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–17167 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–31]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of informaion in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 25, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragrahs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 1, 1996.

Joseph A. Conte,

Acting Assistant Chief Counsel for Regulations.

Petition for Exemption

Docket No.: 25886.

Petitioner: Washoe County Sheriff's Office.

Sections of the FAR Affected: 14 CFR 61.118.

Description of Relief Sought: To allow Washoe County to reimburse members of the Sheriff's Air Squadron for fuel, oil, and maintenance costs that occur during official search missions. In addition, the exemption, if granted, would permit the Sheriff's Air Squadron to transport personnel and equipment to the scene of a rescue.

Docket No.: 28545.

Petitioner: United Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.135(a)(3).

Description of Relief Sought: To allow United Airlines, Inc., to use electronic digital technology to present certain maintenance information and instructions to ground operations and management personnel without meeting the requirement to have the date of the last revision on each page of the information and instructions.

Docket No.: 28569.

Petitioner: Rocky Mountain Helicopters.

Sections of the FAR Affected: 14 CFR 133.1(d), 133.35(a), and 133.45(e).

Description of Relief Sought: To permit Rocky Mountain Helicopters to conduct external-hoist, high-altitude rescue operations using two Agusta A109K2 helicopters that are type certificated in the normal category and are not capable of maintaining hover with one engine inoperative.

Dispositions of Petitions

Docket No.: 5010.

Petitioner: Federal Aviation Administration, Office of Aviation Standards/Department of the Air Force.

Sections of the FAR Affected: 14 CFR 91.119 (b) and (c), 91.159, 91,175 (a) and (b), and 91.179(b).

Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5118, as amended, which permits the FAA's Office of Aviation Standards (AVN) to deviate from certain flight rules required by subpart B of part 91 while conducting flight inspections of air navigation facilities and instrument approach procedures. The amendment allows the Department of the Air Force's Flight Inspection Center, which operates jointly with the FAA's AVN, to conduct operations under the authority of Exemption No. 5118, as amended.

Grant, May 16, 1996, Exemption No. 5118B

Docket No.: 25060.

Petitioner: Douglas Aircraft Company.

Sections of the FAR Affected: 14 CFR 21.197.

Description of Relief Sought/ Disposition: To extend Exemption No. 4936, as amended, which permits the Douglas Aircraft company (DAC) to conduct training of DAC's pilot flightcrew personnel while operating under special flight permits issued for the purpose of production flight testing.

Grant, April 18, 1996, Exemption No. 4936B

Docket No.: 25336.

Petitioner: United Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.697(a)(3), 121.697 (b) through (d), and 121.709(b)(3).

Description of Relief Sought/ Disposition: To extend Exemption No. 5121, as amended, which permits United Airlines, Inc., to use computerized signatures to satisfy the airworthiness release signature requirements of §§ 121.697(a)(3), 121.697 (b) through (d), and 121.709(b)(3) in lieu of physical signatures.

Grant, April 18, 1996, Exemption No. 4121D

Docket No.: 25988.

Petitioner: Soloy Corporation.

Sections of the FAR Affected: 14 CFR 21.19(b)(1).

Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5172, as amended, which permits the Soloy Corporation to apply for a supplemental type certificate, rather than a new type certificate, for a design change that would convert the Cessna Caravan from a one-engine aircraft to a two-engine aircraft. The amendment you request would revise the name of the exemption holder from Soloy Dual Pac, Inc., to Soloy Corporation to reflect a merger of the two companies.

Grant, April 18, 1996, Exemption No. 5172C

[FR Doc. 96–17165 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–32]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 1, 1996.

Joseph A. Conte,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 26063
Petitioner: Reflectone Training Center—Dulles
Sections of the FAR Affected: 14 CFR 121.411 (a) (2) and (3) and (b)(2); 121.413 (b), (c), and (d); and appendix H to 121; 135.337 (a) (2) and (3) and (b)(2); and 135.339 (a)(2), (b), and (c)
Description of Relief Sought/ Disposition: To extend Exemption No. 5190, as amended, which permits the Reflectone Training Center—Dulles (RTC–D) to use qualified RTC–D instructor pilots and check airmen to conduct training and checking for certain part 121 and 135 certificate holders' pilots and flight engineers in airplanes manufactured by British Aerospace, Inc., or in FAA-approved Phase II (Level C) simulators without those instructors and check airmen meeting all the applicable training requirements of parts 121 and 135 and without RTC–D holding an air carrier operating certificate.
Grant, May 29, 1996, Exemption No. 5190C

Docket No.: 26349
Petitioner: Vocational Industrial Clubs of America
Sections of the FAR Affected: 14 CFR 147.21
Description of Relief Sought/ Disposition: To extend Exemption No. 5297, as amended, which permits aviation maintenance technician schools whose students participate in the U.S. Skill Olympics, sponsored by the Vocation Industrial Clubs of America, to allow authorized faculty members of those schools to determine if the student time dedicated to preparing for and participating in the U.S. Skill Olympics, up to 60 hours per student, per year, may be considered creditable in order to satisfy the requirements of § 147.21.
Grant, April 30, 1996, Exemption No. 5297C

Docket No.: 26533
Petitioner: Jump Shack
Sections of the FAR Affected: 14 CFR 105.43(a)
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5448, as amended, which permits Jump Shack to allow its employees, representatives, and other volunteer experimental parachute test jumpers under its direct supervision and control to make intentional tandem parachute jumps, and permits pilots in command of aircraft involved in these operations to allow such persons to make parachute jumps wearing a dual-harness, dual-pack parachute have at least one main parachute and one approved auxiliary (reserve) parachute packed in accordance with § 105.43(a). The amendment would modify the conditions and limitations of Exemption No. 5448, as amended, to correspond to the conditions and limitations in Exemption No. 4047, issued to Strong Enterprises, Inc., and The Relative Workshop, Inc., on June 25, 1984 (Docket No. 23869). By doing so, condition and limitation Nos. 10–14 would be removed from the Jump Shack exemption. While the request for extension has been granted, the request for amendment has been denied.
Grant, April 29, 1996, Exemption No. 5448B

Docket No.: 26669
Petitioner: Evergreen International Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.583(a)(8)
Description of Relief Sought/ Disposition: To permit Evergreen International Airlines, Inc., to provide transportation for its employees and dependents of its employees, to any destination, on company business, without complying with certain passenger-carrying requirements of part 121.
Grant, May 24, 1996, Exemption No. 6443

Docket No.: 26696
Petitioner: Ryan International Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.503(b) and 121.511(a)
Description of Relief Sought/ Disposition: To extend Exemption No. 5461, as amended, which permits pilots and flight engineers employed by Ryan International Airlines, Inc., to complete certain scheduled coast-to-coast, all-cargo, transcontinental flights with no more than one intermediate stop that exceeds 8 hours but no more than 11 hours of flight time during any 24 consecutive hours before being provided with at least 16 hours of rest.
Grant, May 30, 1996, Exemption No. 5461B

Docket No.: 26741
Petitioner: Pacific Wing, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To extend Exemption No. 5445, as amended, which permits appropriately trained pilots employed by Pacific Wing, Inc., to remove and reinstall the passenger seats in its aircraft that are used in operations conducted under part 135.
Grant, April 29, 1996, Exemption No. 5445B

Docket No.: 26753
Petitioner: Regional Airline Association
Sections of the FAR Affected: 14 CFR 61.49(a)
Description of Relief Sought/ Disposition: To extend Exemption No. 5492B, as amended, which permits the subject applicants to retake a written test or a flight test without waiting 30 days, provided that the part 135 authorized instructor who has given the applicant flight or ground instruction, as appropriate, endorses that the individual has successfully performed the failed item and finds the applicant competent to pass the test.
Grant, May 29, 1996, Exemption No. 5492B

Docket No.: 27494
Petitioner: Mr. Leon Lipsky
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought/ Disposition: To permit Mr. Lipsky to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.
Denial, May 31, 1996, Exemption No. 6449

Docket No.: 27577
Petitioner: Aviall
Sections of the FAR Affected: 14 CFR 145.45(f)
Description of Relief Sought/ Disposition: To extend Exemption No. 5940, which permits Aviall to maintain one copy of its repair station inspection procedures manual at each facility, rather than give a copy of the manual to each of its supervisory and inspection employees.
Grant, April 15, 1996, Exemption No. 5940A

Docket No.: 27665
Petitioner: Arnautical, Inc.
Sections of the FAR Affected: 14 CFR 121.411(a) (2) and (3) and (b)(2); 121.413 (b), (c), and (d); and appendix H to part 121
Description of Relief Sought/ Disposition: To extend Exemption No. 5894, which permits certain Arnautical, Inc. (ANC) pilot and flight engineer (FE) instructors to act as instructors and check airmen in FAA-approved simulators for part 121 certificate holders that contract for training provided by ANC without those instructors having received all the required ground and flight

training for each contracting part 121 certificate holder. It also permits certain ANC simulator instructors and check airmen to serve in advanced simulators without being employed by the contracting certificate holder for at least 1 year.

Grant, May 29, 1996, Exemption No. 5894A

Docket No.: 27690
Petitioner: Atlas Air, Inc.
Sections of the FAR Affected: 14 CFR appendix H to part 121
Description of Relief Sought/ Disposition: To extend Exemption No. 5888, as amended, which permits Atlas Air, Inc. (Atlas) to provide initial or upgrade training and checking in a Phase II (Level C) simulator and allow certain experienced pilots and flight engineers who have received training in a Phase II simulator to become Boeing 747 seconds in command in accordance with the training and checking provisions permitted under Phase III (Level D) of appendix H to part 121. This exemption also permits Atlas to conduct initial training in a Phase II simulator for pilots in command who have been approved by Atlas' Principal Operations Inspector.

Grant, May 29, 1996, Exemption No. 5888C

Docket No.: 28132
Petitioner: Washington State Department of Transportation
Sections of the FAR Affected: 14 CFR 61.118
Description of Relief Sought/ Disposition: To allow the Washington State Department of Transportation to reimburse private pilots who volunteer in its search and rescue program for their fuel and oil expenses incurred while performing search and rescue training and operations.

Partial grant, May 24, 1996, Exemption No. 6442

Petitioner: Ameriflight, Inc.
Sections of the FAR Affected: 14 CFR 21.197(c)(2)
Description of Relief Sought/ Disposition: To allow the issuance of a special flight permit with continuing authorization to Ameriflight, Inc., for aircraft that are operated and maintained in accordance with §§ 135.411(a)(1) and 135.419, ''Approved aircraft inspection program.''

Denial, April 18, 1996, Exemption No. 6422

[FR Doc. 96–17166 Filed 7–3–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Bellevue, King County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised Notice of Intent (ref. 12–1–94, FR Vol. 59, No.230)

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public that the purpose and scope of the Environmental Impact Statement proposed in the notice published in the Federal Register of December 1, 1994, has been substantially modified. The original NOI stated that an environmental impact statement (EIS) would be prepared for a proposed modification to a freeway interchange in King County, Washington, and that the modification would include realignment of the NE 8th St./I–405 interchange and implementation of a one-way couplet along NE 8th and NE 10th Streets.'' The scope of the proposes EIS will be expanded to include other alternatives that would add or modify access points on I–405 from NE 4th Street to NE 10th Street and improve traffic circulation between I–405 and downtown Bellevue.

FOR FURTHER INFORMATION CONTACT: Gene K. Fong, Federal Highway Administration, Evergreen Plaza Building, 711 South Capital Way, Suite 501, Olympia, Washington 98501, Telephone: (360) 753–9554; Robert D. Aye, Acting Region Administrator, Washington State Department of Transportation, Northwest Region, 15700 Dayton Avenue North, Seattle, Washington 98133–9710, Telephone: (206) 440–4691; Hank Howard, City of Bellevue Transportation Department, P.O. Box 90012, Bellevue Washington 98009–9012, Telephone: (202) 455–6867.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the City of Bellevue, Washington, will prepare an environmental impact statement (EIS) on a proposal to modify I–405 access to and from downtown Bellevue. The proposed improvements are considered necessary to accommodate the existing and projected traffic demand between downtown Bellevue and I–405, to relieve existing traffic congestion at the I–405/NE 8th Street freeway interchange, and to support improved high-occupancy-vehicle (HOV) access and usage.

Three build alternatives and a no-action alternative are presently under consideration. One build alternative would modify the interchange to provide I–405 access to NE 10th Street and to modify I–405 access from NE 8th Street. This alternative would include new ramps connecting NE 10th Street with I–405 and modifications to the existing ramps connecting NE 8th Street to I–405. It would also convert NE 8th and NE 10th Streets from I–405 to Bellevue Way to a one-way couplet system (both streets have two-way traffic at present) and provide for additional lanes at the intersection of NE 8th Street and 116th Avenue. This alternative was the only build alternative under consideration when the original Notice of Intent was issued. The second build alternative would widen the NE 8th Street/I–405 overpass, modify the existing southbound I–405 off-ramp at NE 8th Street, and construct a new HOV/transit interchange at NE 6th Street/I–405. NE 8th Street and the I–405 overpass would be widened from west of 112th Avenue to east of 116th Avenue to include an additional eastbound lane and provide for dual left turn lanes at the NE 8th Street/116th Avenue intersection. The existing southbound I–405 off-ramp to westbound NE 8th Street would also be modified to divert traffic to NE 10th Street. In conjunction with this ramp modification, 112th Avenue would be widened from NE 8th Street to NE 10th Street. The alternative would construct new ramps to the proposed I–405 inside HOV lanes at NE 6th Street and remove the existing HOV restrictions at NE 4th Street and I–405. The third build alternative would construct a new two-way viaduct over I–405 connecting NE 8th Street to NE 10th Street, provide I–405 access to and from NE 10th Street, and modify an existing I–405 on-ramp at NE 8th Street. The new two-way viaduct, with one lane in each direction, would connect NE 8th Street east of 116th Avenue to NE 10th Street at 112th Avenue. The existing southbound to westbound I–405 off-ramp at NE 8th Street would be relocated to NE 10th St. A new on-ramp would be constructed on NE 10th Street to provide new access to southbound I–405. In addition, NE 10th Street would be widened between 112th and 110th Avenue. The existing westbound to southbound I–405 on-ramp at NE 8th would be modified to accommodate these changes.

This EIS is being prepared because City of Bellevue officials believe that the project could have significant impacts related to land use and development and to visual quality. Although air quality is an issue of concern, no significant air quality impact are

anticipated from project implementation.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, affected tribes, and private organizations and citizens who have previously expressed or are known to have interest in this proposal. An open house and new public scoping meeting was held on June 27th, 1996 to provide information and seek public input on the proposed alternatives. An open house and public hearing will be held to receive comments on the draft EIS after it is circulated. The draft EIS will be available for public and agency review and comment prior to the public hearing. Public notice will be given of the time and place of the open house and hearing and the availability of the draft EIS.

To assure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS, or requests to be added to the mailing list should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 26, 1996.

José M. Miranda,

Environmental Program Manager Olympia, Washington.

[FR Doc. 96–17132 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Sarpy and Cass Counties, NE

AGENCY: Federal Highway Administration (FHWA), Nebraska Department of Roads (NDOR).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project in Sarpy and Cass Counties, Nebraska.

FOR FURTHER INFORMATION CONTACT:

Philip E. Barnes, PE, Operations Engineer, Federal Highway Administration, Room 220, 100 Centennial Mall North, Lincoln, Nebraska 68508–3851, Phone: (402) 437–5971

Mr. Arthur Yonkey, Project Development Engineer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, Nebraska 68509, Phone: (402) 479–4795

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the NDOR, will prepare a supplement to the final environmental impact statement (EIS) on a proposal to improve U.S. Highway 75 in Sarpy and Cass Counties, Nebraska. The original EIS for the improvements (FHWA–Neb–EIS–73–11–F) was approved on June 6, 1979. The proposed improvements to U.S. 75 will provide a divided four-lane, limited access highway along existing alignment between the towns of Nebraska City and Bellevue, Nebraska for a distance of about 48 km (29.8 miles). Improvements to the corridor are considered necessary to provide for existing and projected traffic demand and improve upon high accident locations.

The NDOR and FHWA have determined that a supplement to the EIS will be required for the 20 km (12.5 mile) segment from Murray (N–1) to Bellevue (Fairview Road) segment of the U.S. 75 improvements studied in 1994. The supplement will identify those aspects of the project that have changed, as well as those aspects of the existing environmental setting, that have changed since the FEIS was filed 16 years ago. Since the 1979 EIS, the concept is proposed to be revised as follows:

- Murray (N–1) to south edge of Plattsmouth—changed to a four lane rural expressway on existing alignment;
- Through Plattsmouth—suburban signalized four lane expressway; and
- North of Plattsmouth to Bellevue (Fairview Road)—retain four lane highway but increase access control to that of a freeway with access points (Interchanges) at Bay Road and north of LaPlatte Road.

This alternative, a bypass to the west of Plattsmouth, and no action (retain 1979 preferred alternative) are currently being considered.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal.

An agency scoping meeting was held on April 22, 1996. A public scoping meeting will not be held. Public notice will be given of the time and place of the public hearing. This draft supplemental EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues relating to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Nebraska Department of Roads at the addresses provided above.

Philip E. Barnes,

Operations Engineer.

[FR Doc. 96–17133 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–22–M

Commercial Vehicle Information Systems and Networks (CVISN) Model Deployment Program

AGENCY: Federal Highway Administration (FHWA).

ACTION: Request for application (RFA).

SUMMARY: The FHWA is soliciting applications for the CVISN Model Deployment Program. CVISN are information systems that support commercial vehicle operations (CVO). This includes information systems owned and operated by governments, motor carriers, and other stakeholders. CVISN is not a new national information system, but rather a way for existing systems to exchange information through the use of standards and the United States commercially available communications infrastructure. CVISN will enable government agencies, the motor carrier industry, and other parties engaged in commercial vehicle operations, safety, and regulation to exchange information and conduct business transactions electronically. The objectives of CVISN include the following elements:

a. Distribution of safety information to computers at the roadside to target high risk carriers;

b. Use of license plate reader(s) at roadside to electronically identify commercial vehicles and carriers to check safety information;

c. Electronic collection of inspection data from the roadside and uploading to SAFETYNET;

d. Electronic application for credentials by motor carriers;

e. Interfacing of State systems to the International Registration Plan (IRP) clearinghouse;

f. Interfacing of State systems to the International Fuel Tax Agreement (IFTA) clearinghouse; and

g. Electronic clearance at fixed and/or mobile sites.

This RFA has been sent to all State agencies that have major responsibilities for the State transportation system,

Motor Carrier Safety Assistance Program (MCSAP), vehicle registration, and vehicle fuel tax. The RFA outlines FHWA's plans for model deployment of CVISN in seven pilot States. A full text of the CVISN RFA is being provided for responses.

DATES: Applications must be submitted to FHWA on or before July 19, 1996.

ADDRESSES: Submit applications or mail to: Mr. Doug McKelvey, Federal Highway Administration, Office of Motor Carriers, 400 7th Street, SW., HSA–20, Room 3419, Washington, D.C. 20590 or Facsimile to: FHWA CVISN RFA at (202) 366–7908.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Swartzlander, Office of Motor Carriers, (202) 366–6066, or Mr. Kenneth Baxter, Office of Motor Carriers, (202) 366–8957.

SUPPLEMENTARY INFORMATION:

1. Introduction

1.1 Background

On April 11, 1996, notice of the FHWA intention to solicit application was published in the Federal Register (61FR16157). Comments from twenty-two states and two entities were received. The FHWA received comments from twenty-two States and two private agencies on the request for information (RFI). Overall, the responders were very supportive of CVISN and believe it is a worthy endeavor. The major comments and the FHWA's responses include the following:

1.1.1 All but one commenter agreed with the seven objectives. One commenter recommended that the hazardous materials transportation registration and permitting as an optional objective be added and require one pilot State to test this objective. This objective was not added because there are already seven objectives, and program funds and time are limited.

1.1.2 The majority of the States believe the Federal funding over a two-year period is appropriate to accomplish the seven objectives. Because of limited funding, it was decided to keep the two-year funding period.

1.1.3 The commenters offered varying opinions on the 50% minimum non-Federal cost sharing. FHWA will keep the 50% requirement in order to comply with the Department of Transportation and Related Agencies Appropriations Act, 1996 to vigorously pursue cost-sharing opportunities.

1.1.4 Several States were against giving extra credit for States that provide more than a 50% non-Federal match. This selection criteria element has been deleted because it would impose a hardship on some States.

1.1.5 The majority of the responders believe motor carrier support should be required/encouraged during the model deployment project, but there should be no required signature from the industry. The FHWA agreed to require documentation indicating motor carrier support.

1.1.6 The commenters offered varying opinions on the issue of requiring the governor's signature on the Memorandum of Agreement (MOA). Four States said the governor's signature should be required because deploying CVISN will require involvement of numerous State agencies and the signature will ensure complete allocation of resources. Other States said the governor's signature should not be required because every State's administrative requirements are different, the signature of the head of the State's lead agency should be sufficient, and requiring the governor's signature could discourage participation of larger States. It was decided to keep this item optional and allow each State to decide if they wanted to obtain the governor's signature.

1.1.7 A few responders recommended that States be allowed to form CVISN private and/or public partnerships. The FHWA supports this concept and believes the RFI/RFA acknowledges this concept. Additional language was added in the RFA to clarify this issue.

1.1.8 A recommendation to delete the requirement for a 20% non-Federal hard match was supported by the FHWA and the RFA will reflect this deletion and only specify a 50% non-Federal match.

1.1.9 One commenter suggested deleting the reference to provide free Carrier Automated Transaction (CAT) software. The commenter believes the reference to free software would result in government competing unfairly with private sector participation in CVO deployment. The FHWA agrees with this request and the RFA has been changed to say that it is available from commercial sources.

1.1.10 Interoperability with toll systems was also a concern. This issue is addressed in the RFI/RFA by requiring interoperability with major CVO clearance programs and encourages interoperability with toll deployment technology.

Commercial vehicle business practices and systems were originally designed primarily for intrastate trucking, but several factors have changed the way CVO business is conducted. These factors include increased emphasis on safety, improved truck technology, the construction of the Interstate Highway System, the industry's deregulation in 1980, and the interstate agreements for registration and fuel tax being adopted nationwide. The systems supporting CVO operations have not kept pace. Many of the systems supporting CVO are manual processes requiring redundant data entry and cannot share information within and among States and customers. Additionally, State safety and administrative responsibilities for commercial vehicles are projected to increase over the next several years and State budgets are anticipated to remain stable or face reductions. To address these issues, the United States Department of Transportation (US DOT), through the FHWA, intends to support model deployment of CVISN in a number of States. CVISN are information systems that support commercial vehicle operations. This includes information systems owned and operated by governments, motor carriers, and other stakeholders. CVISN is not a new information system, but rather a way for existing systems to exchange information through the use of standards and the existing commercially available communications infrastructure. CVISN will enable government agencies, the motor carrier industry, and other parties engaged in CVO safety and regulation to exchange information and conduct business transactions electronically. The purpose of investing in model deployment of CVISN in States is (1) to facilitate the development and deployment of Intelligent Transportation Systems (ITS) services that will increase the safety and productivity of CVO; and (2) to ascertain and educate the general public and key State and industry decision makers on the costs and benefits of ITS for CVO.

1.2 Description of CVISN Model Deployment Program

The model deployment of CVISN is focused on safety and administrative processes. Safety systems are being pursued to improve safety on the nation's highways and to reduce the burden on safe carriers, and help streamline government processes. Administrative processes are being pursued because of expected benefits to States and the high benefit/cost ratio identified in a recent study (''Assessment of ITS/Commercial Vehicle Operations and User Services—Qualitative Benefit/Cost Analysis'' June, 1996, American Trucking Associations) for carriers possessing 100 or more trucks.

Three examples of CVISN include screening for safety, acquiring credentials, and mainline screening. Screening for safety would include Safety and Fitness Electronic Records (SAFER) System information that would provide a carrier safety snap-shot to the State or its agent for use at the roadside mobile and/or fixed inspection/weigh facility. The vehicle would pull into the facility and the US DOT number would be obtained. This information is then checked on the pen base computer that has a selection algorithm that suggests if the vehicle should be inspected for safety. If the inspection is performed, information is entered into the database via the pen base computer.

Carriers and commercial motor vehicle operators will obtain credentials and perform carrier to State business transactions electronically, directly from their offices. Carrier Automated Transaction (CAT) Software that performs these transactions is available from commercial sources. Commercial vendors have agreed to use open standards being developed through the American National Standards Institute (ANSI). ANSI open standards allow organizations to develop compatible CAT type software. Larger carriers would likely use these open standards to integrate carrier to State transaction software into their existing fleet management systems. While the FHWA strongly encourages carriers and States to use multiple vendors and encourage a healthy competitive market, the CVO architecture requires that all communication systems and interfaces deployed under CVISN use an open architecture and comply with the ANSI X.12 standards for electronic data interchange. Public private partnerships are encouraged in CAT development and integration as they are in all CVISN systems.

Carriers could enroll in mainline screening projects that allow carriers to pass inspection stations at mainline speeds for those States with roadside inspection/weigh facilities. A carrier's safety record will be evaluated using available safety information. The probability of a safe carrier being inspected would be very low while the probability of an historically unsafe carrier would be very high. Participating motor carrier vehicles in the mainline screening program would be weighed and classified by high speed screening equipment on the highway preceding the inspection facility and electronically examined via a vehicle-mounted transponder to ensure that all required electronic screening criteria was met. If the vehicle meets the criteria, the driver will be electronically notified by an indicator device inside of the vehicle and allowed to bypass the inspection facility. When one or more of the criteria are not satisfied, the driver will be required to enter the inspection facility for further review.

This Request for Application (RFA) outlines FHWA's plans for model deployment of CVISN in seven model deployment States, one State from each of the seven truckshed regions. The trucksheds were defined by geographic distribution in the United States and by truck freight volumes, therefore piloting a national program in each of the seven regions is a logical progression to ''grow'' the program. Maryland and Virginia will be used to try the first generation of CVISN and it will then be refined and transferred to the model deployment State. States are encouraged to form partnerships with other States and the private sector in the CVISN program.

The complete RFA and additional information will be maintained on the World Wide Web at the Johns Hopkins University Applied Physics Laboratory (JHU/APL) home page (http://www.jhuapl.edu/transportation/ssd/cvo/other /downdocs/downdocs.htm). The Intelligent Transportation Society of America also provides information relevant to ITS and CVO on their home page (http://davinci.csn.net/itsa/).

1.3 CVISN Objectives

Each model deployment State is required to demonstrate the following over a two-year funding period at a few sites and for a portion of the truck and motor coach industry:

a. Distribution of safety information to computers at the roadside to target high risk carriers.

b. Use of license plate reader(s) at roadside to electronically identify commercial vehicles and carriers to check safety information.

c. Electronic collection of inspection data from the roadside and uploading to SAFETYNET.

d. Electronic application for credentials by motor carriers.

e. Interfacing of State systems to the International Registration Plan (IRP) clearinghouse.

f. Interfacing of State systems to the International Fuel Tax Agreement (IFTA) clearinghouse.

g. Electronic clearance at fixed and/or mobile sites.

The system for requesting oversize/overweight permits electronically is optional.

CVISN model deployment States using Dedicated Short Range Communications (DSRC) must be interoperable with major CVO clearance programs and it is desirable to be interoparable with toll deployment technology. This specifically includes adopting Electronic Data Interchange (EDI) and DSRC standards applicable to CVO when they become available. This is not designed to limit strategies, but to encourage innovative approaches to achieving the ITS/CVO vision of increased safety and efficiency. In addition, the FHWA will accept proposals outlining projects that include partnering of additional States in a truckshed region. The FHWA's plan includes expansion to additional States that may overlap trucksheds, however, funding is limited to one lead State per region. An example is a methodology that will identify high risk carriers, drivers, and vehicles based on a regional hypothesis.

Evaluation is another requirement. CVISN model deployment State must participate in an overall project evaluation. As a partner, the FHWA will provide an independent evaluator to work with the stakeholder in refining their draft evaluation plan early in the test. The evaluation process will help focus stakeholder efforts and resources through early evaluation planning to achieve the maximum cost/benefits from the program.

1.4 Expected CVISN Benefits

Expected Benefits for State Governments

a. Data interchange among State, carriers, financial institutions, and insurance carriers will be electronic and efficient.

b. Administrators and enforcement personnel will have electronic access to required data.

c. Enforcement resources can be focused on high risk carriers and drivers.

d. Credentials issuance, taxation, inspections, and compliance reviews will be automated to proceed more efficiently.

e. Better enforcement of weight, size, safety, and tax regulations.

f. In the long term, re-engineered policies and practices can be based on measured data and careful analysis.

Expected Benefits for Motor Carriers

a. Reduced administrative burden in regulatory compliance.

b. Vehicles of safe and legal carriers will incur less delay.

c. Technology investment can support multiple services.

d. Uniformity of services across North America.

e. Focus on unsafe carriers will ''level the playing field.''

f. Reduction in exposure to lane change movements at inspection sites.

g. Increased commercial vehicle fuel efficiency.

h. Reduced commercial vehicle emissions.

2. CVISN System and Organizational Coordination

The objectives of the CVISN model deployment program (Section 1.3) will require system and organizational coordination. The organizations and capabilities described here include the safety inspections and electronic clearance; registration; electronic credentials, clearance, and motor carriers; fuel tax system; and oversize/overweight. This section takes a paragraph to describe what each objective achieves with the CVISN deployment and how this is accomplished. The FHWA assumes that model deployment States will upgrade existing systems or use a private provider to operate and maintain the systems. The FHWA supports automation of the existing functions, but is not encouraging the addition of new systems.

2.1 Safety Inspections and Electronic Clearance

The State commercial vehicle safety system will upload inspections electronically at the roadside using the ASPEN portable computer system or current State system. Safety information will be provided electronically to the roadside to enforcement officers. Preliminary data have indicated that the effectiveness of roadside safety inspections can be doubled combining this safety information with experienced law enforcement officers. This will allow automated screening to clear safe operators and focus safety enforcement on high risk carriers. Federal model deployment funds could be used for hardware and software, and the State will provide manpower to solve organizational issues leading to deployment and resources such as motor carrier inspectors to operate the system. This will be coordinated with the existing Motor Carrier Safety Assistance Program (MCSAP). The State will also electronically clear transponder-equipped safe and legal trucks and buses at fixed and/or mobile sites.

2.2 Registration

The State registration system will electronically accept registration requests, issue credentials electronically, and respond to queries of authorized users. Federal model deployment funds could be used to purchase the necessary hardware and software to interface the existing pilot State registration system and utilize an interstate IRP clearinghouse. This IRP clearinghouse will be developed and operated under the direction of the IRP board of directors. The State registration agency will provide organizational coordination of the technology deployment and any modifications required in the existing State system software. Federal model deployment funds could be used for travel funding to resolve organizational issues and to participate in ANSI standards meetings to ensure the registration standards developed meet the pilot State's requirements.

2.3 Electronic Credentials, Clearance, and Motor Carriers

Carriers and commercial motor vehicle operators will be able to obtain credentials electronically. A small carrier if needed would go to a single location, either a State or private provider, versus the numerous locations currently required. User friendly personal computer (PC) software would be developed. This software will allow carriers to obtain credentials directly from their office. Larger carriers would likely integrate credential software in their existing fleet management system.

Carriers could apply for electronic clearance that allows safe and legal carriers with transponder-equipped vehicles to pass inspection stations or mobile sites at mainline speeds.

2.4 Fuel Tax System

The State fuel tax system will (1) electronically accept applications for fuel credentials, (2) issue them, (3) accept quarterly fuel tax reports, (4) respond to authorized queries, and (5) notify other IFTA application States electronically of carriers allocated for their State. Federal model deployment funds could be used to purchase the necessary hardware and software to interface the existing model deployment State fuel tax system and utilize an interstate fuel clearinghouse. This fuel clearinghouse will be developed and operated under the direction of the IFTA board of directors and coordinated with IFTA. The clearinghouse will notify the model deployment State electronically of all carriers allowed to operate in the pilot State, who are base-stated in other States. The fuel tax system will provide organizational coordination for the technology deployment and necessary modifications required in the existing system software. Federal model deployment funds could be used for travel funding to resolve organizational issues and to participate in the ANSI standards meetings to ensure the fuel tax standards developed meet the pilot State's requirements.

2.5 Oversize/Overweight (Optional)

The State oversize/overweight system will allow the carrier to request credentials electronically and issue oversize/overweight permits electronically for CVO vehicles in an approved envelope for size and weight. Requests outside the envelope will be notified to contact the organization in person. Where States have developed regional oversize/overweight agreements, the region will select a single State to issue credentials for that region. The State will provide manpower to resolve issues and operate the system. Federal model deployment funds could be used to purchase and install the system and provide travel funding to resolve the organizational issues and to participate in ANSI standards meetings to ensure the oversize/overweight standards developed meet the model deployment State's requirements.

3. CVISN Funding

In fiscal year (FY) 96, the FHWA expects to provide $500,000 to each model deployment State to enable them to automate their systems, purchase technologies for the model deployment, and develop business plans. Additional Federal FY 97 funding is planned. The actual amount will be based on implementation cost estimates, Congressional funding levels, and past performance. The availability of CVISN funding beyond FY 97 is undetermined at this time. Success of the CVISN model deployment program will have a significant role in future Federal funding.

3.1 Federal Allocation

Funding for each selected pilot State will be provided over a two-year funding period.

3.2 Eligible Costs for Federal Funding

Eligible expenditures for Federal funding will be for software development, equipment, installation, maintenance, and other expenses to achieve the objectives of the CVISN project.

3.3 Non-Federal Cost Sharing

The CVISN model deployment States will be asked to contribute at least 50% of the cost of the project in hard and/or soft matches. Non-Federal cost sharing (private and public) funds and other resources are required. An example of non-Federal cost sharing

includes (a) funds for equipment, (b) staff, (c) cash and (d) cost of integrating existing equipment for CVISN model deployment. In addition, the future non-Federal cost sharing percentage is subject to change depending upon Congressional funding.

4. Mainstreaming

Mainstreaming funds will be available to States and regions in FY 1996. These funds will help continue to build the organizational and institutional arrangements among State, carriers, and vendors to ensure the development and deployment of ITS/CVO user services to public and private markets. While the model deployment of the CVISN architecture proceeds in the model deployment State over the next two funding years, the State and regional forums will be strengthened by providing Federal funding to hire regional champions responsible for near-term deployment activities. The regional champions and forums will serve the following functions: (a) the development of regional and State ITS/CVO Mainstreaming plans to prepare for CVISN model deployment in States throughout the seven truckshed regions, (b) the dissemination of results from the initial CVISN model deployment to the rest of the regional forum and (c) facilitating information transfer between the regional champion and the program manager.

5. Evaluation

The FHWA will conduct a rigorous, independent evaluation of the effectiveness of the CVISN model deployment in achieving the CVISN objectives and National ITS program goals. The independent evaluation may be conducted using existing FHWA resources, or, as part of another solicitation, the FHWA may contract with one or more independent evaluation contractor(s) to evaluate the model deployments.

6. Application Requirements

The application to be a model deployment State shall include a memorandum of agreement (MOA) with the chief executive officer's (CEO) signature of relevant agencies demonstrating their support for providing the CVISN services previously outlined. A signature of the Governor is optional. A letter(s) of support from the CEO of a motor carrier is strongly encouraged. An organizational chart showing the relationship between the agencies, a point of contact for each agency and a lead agency will be identified at this time. This process is to ensure management support for CVISN services at all levels. If there is no MOA, the application will not be considered further.

Each application shall include and fully address the selection criteria statements in Section 7, Selection Criteria.

7. Selection Criteria

Selection for participation in the CVISN model deployment program will include the following criteria:

7.1 Institutional Capabilities

States interested in model deployment of CVISN should include, with their application of interest, supporting documentation indicating the extent to which of these institutional capabilities exist. Possessing more of these institutional capabilities will increase the ability of a State to be selected and to be a successful model deployment State.

a. Leadership and initiative on ITS/CVO issues and programs through participation in ITS/CVO institutional studies and operational tests.

b. Integration with safety strategies and projects targeting high risk carriers.

c. An ITS/CVO working group involving agencies and private industry.

d. An ITS/CVO plan (strategic, business, deployment, etc.). If a plan is available, a bullet list of major elements should be attached with the application including: (1) Goals, (2) Objectives, (3) Actions, (4) Schedule, and (5) Funding summary.

e. Strong commitment to customer service and the ability to work with the motor carrier industry in their State.

f. A project manager to oversee deployment of these services.

g. Experience and willingness to work with other State and CVO-related organizations at the regional and national level.

h. Commitment to participate in the evaluation and the CVISN model deployment following the two-year operational test.

i. Public/private partnerships involving CVO.

7.2 Technical Capabilities

States interested in model deployment of CVISN should include supporting documentation indicating their technical capabilities for the items below. It is not anticipated that most of these technical capabilities exist in States, but possessing more of these technical capabilities will increase the ability of a State to be a successful model deployment .

a. Significant public and/or private sector investment and technical capability in developing, operating, and maintaining CVO-related information management systems and technologies.

b. Significant progress in developing and operating (including the private sector) several ITS/CVO services, including:

1. Distribution of safety information to computers at the roadside to target high risk carriers.

2. Use of license plate reader(s) at roadside to electronically identify commercial vehicles and carriers to check safety information.

3. Electronic application for credentials by motor carriers.

4. Electronic collection of inspection data from fixed and/or mobile electronic safety screening programs, and the ability to support on-line data entry of safety information to SAFETYNET.

5. Electronic clearance programs where States operate a significant number of weigh stations, ports-of-entry, or mobile operations.

6. Electronic registration programs for carriers for interstate and intrastate registrations, and the ability to respond to electronic queries from government and industry to verify the status of registrations.

7. Electronic fuel tax reporting, and the ability to respond to electronic queries from government and industry to verify the status of fuel tax accounts.

8. Electronic oversize/overweight permitting, and the ability to respond to electronic queries from government and industry to verify the status of oversize/overweight permits.

c. State communications infrastructure or that of a private provider is sufficiently developed to provide on-line information exchange capability to the designated users.

d. Sufficient support equipment to carry out the model deployment of CVISN and ITS/CVO services.

8. Schedule

The time line for the CVISN model deployment State application and selection process is as follows:

Number and date	Event
1. May 20, 1996	Distribute request for Applications for CVISN Model Deployment Program.
2. July 19, 1996	Applications for CVISN Model Deployment Program due.
3. August 16, 1996 ...	Applications selected for CVISN Model Deployment Program.
4. September 20, 1996.	Funding agreements completed.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 28, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96–17110 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–22–P

[FHWA Docket No. 96–23]

Utilization of the Private Sector for Surveying and Mapping Services

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: Section 306 of title 23, United States Code, requires the Secretary of Transportation to issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under title 23 of the United States Code. The FHWA requests information from the public, State and local transportation agencies, public and private professional organizations, private sector firms, and others on the appropriate role of the State and private sector in surveying and mapping activities.

DATES: Comments must be received on or before September 3, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 96–23, Federal Highway Administration Room 4232, HCC–10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Félix Rodríguez-Soto, Office of Engineering, 202–366–1564, or Wilbert Baccus, (HCC–32), Office of the Chief Counsel, 202–366–0780. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 306 of title 23 of the United States Code, as amended by the National Highway System Designation Act of 1995, authorizes, wherever practicable, the use of photogrammetric methods in mapping and the utilization of the private sector for such services. Section 306(b) requires the Secretary of Transportation to issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under title 23 of the United States Code. Interested persons are invited to submit information and comments addressing the appropriate roles for States and the private sector in mapping and surveying activities including the following areas:

(1) preparation of standards and specifications;

(2) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector;

(3) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(4) recommending methods for increasing the use by the States of private sector sources for surveying and mapping activities.

The FHWA will review the information received and consider it in the development of the guidance required by the Act.

Authority: 23 U.S.C. 306, 315; 49 CFR 1.48.

Issued on: June 25, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96–17109 Filed 7–3–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Proposed Collection of Information: Notice of Reclamation; Electronic Funds Transfer, Federal Recurring Payments; Request for Debit, Electronic Funds Transfer, Federal Recurring Payments

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the forms ''Notice of Reclamation, Electronic Funds Transfer; Federal Recurring Payments request for Debit, Electronic Funds Transfer, Federal Recurring Payments.''.

DATES: Written comments should be received on or before September 3, 1996.

ADDRESSES: Direct all written comments to Financial Management Service, 3361–L 75th Avenue, Landover, Maryland 20785.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Wilson, Financial Management Service, Room 357–D, 401 14th St., S.W., Washington, D.C. 20227, (202) 874–7157.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Notice of Reclamation, Electronic Funds Transfer, Federal recurring Payments; Request for Debit, Electronic Funds Transfer, Federal Recurring Payments.

OMB Number: 1510–0043.

Form Number: FMS–133 and FMS–135.

Abstract: These forms are used when a program agency authorizes Treasury to recover payments that have been issued after the death of the beneficiary. FMS–133 is used by Treasury to notify the financial organization of its accountability concerning the funds. When there is no response to the FMS–133, an FMS–135 is sent requesting a debit to the financial organization's account.

Current Actions: There are no changes to this information collection. It is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 55,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 50,930.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: June 26, 1996.

Mitchell A. Levine,

Assistant Commissioner.

[FR Doc. 96–17135 Filed 7–3–96; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register
Vol. 61, No. 130
Friday, July 5, 1996

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 HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–704–FC]

42 CFR Parts 405, 417, 431, 473, and 498

Medicare and Medicaid Programs; Provider Appeals; Technical Amendments

Correction

In rule document 96–13521, beginning on page 32347 in the issue of Monday, June 24, 1996, make the following correction:

§498.74 [Amended]

On page 32351, in the first column, in amendatory instruction 9.b. to §498.74, in line 4, ''Council'' should read ''Council'' ''is''.

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–96]

Office of Administration; Submission for OMB Review: Comment Request

Correction

In notice document 96–15228, on page 30635 in the issue of Monday, June 17, 1996, in the first column, the Docket number in the heading should be corrected as set forth in the heading.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Weather Observation Service Standards

Correction

In notice document 96–16046 beginning on page 32887 in the issue of Tuesday, June 25, 1996, make the following corrections:

1. On page 32888, in the first column, in the second paragraph, in the third line, the second ''of'' should read ''or''.

2. On page 32889, in the second column, in the third and fourth lines from the bottom, the heading ''TOWER–AUGMENTED SERVICE (SERVICE LEVEL C)'' was inadvertently printed twice.

3. On page 32890, in the second column, in the ninth line from the bottom, ''Houston'' was misspelled.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–01]

Revision of Class E Airspace; Zuni, MN

Correction

In rule document 96–15646 appearing on page 31013 in the issue of Wednesday, June 19, 1996, make the following correction:

§ 71.1 [Corrected]

On page 31013, in the third column, in §71.1, under ASW NM E5 Zuni, NM [Revised], in the seventh line, insert ''Rock'' after ''Black''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–01]

Revision of Class E Airspace; Zuni, MN

Correction

In rule document 96–15646 appearing on page 31013 in the issue of Wednesday, June 19, 1996, make the following correction:

§ 71.1 [Corrected]

On page 31013, in the third column, in §71.1, under ASW NM E5 Zuni, NM [Revised], in the seventh line, insert ''Rock'' after ''Black''.

BILLING CODE 1505–01–D

federal register

Friday
July 5, 1996

Part II

Environmental Protection Agency

40 CFR Part 80

Regulation of Fuels and Fuel Additives: Certification Standards for Deposit Control Gasoline Additives; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL–5528–5]

RIN 2060–AG06

Regulation of Fuels and Fuel Additives: Certification Standards for Deposti Control Gasoline Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action establishes a certification program for detergent additives used to control the formation of port fuel injector deposits (PFID) and intake valve deposits (IVD) in gasoline engines. In accordance with Clean Air Act section 211(l), an interim detergent program has been in effect since January 1, 1995, requiring the use of detergents in virtually all gasoline used in the U.S. This final rule contains standardized test procedures and performance standards to ensure that such detergent gasoline will provide an effective level of protection against PFID and IVD. The regulations include a variety of certification options and compliance alternatives, affording cost-effective flexibility to regulated parties.

The effective control of deposits in gasoline engine and fuel supply systems has been shown to reduce the emission of nitrogen oxides, hydrocarbons, and carbon monoxide in engine exhaust, while enhancing fuel economy. Accordingly, the intent of the detergent certification program is to help achieve the primary public health and environmental protection goals of the Clean Air Act.

DATES: *Effective Date:* This rule is effective September 3, 1996.

The information collection requirements in 40 CFR 80.157(f)(5), 80.160(b)(2), 80.164(b)(3), 80.170(f)(5), and 80.173(b)(2) have not been approved by the Office of Management and Budget (OMB) and will not be effective until OMB has approved them, and EPA publishes a document announcing their approval.

The incorporation by reference of certain publications listed in the regulations are approved by the Director of the Federal Register as of September 3, 1996.

Compliance Dates: Compliance with the requirements of the detergent certification program is mandatory for detergent manufacturers, detergent blenders, and gasoline distributors on July 1, 1997, and on August 1, 1997 for gasoline retailers and wholesale purchaser-consumers, and any other party selling or transferring gasoline to the ultimate consumer.

ADDRESSES: Materials relevant to this final rule are contained in Public Docket No. A–91–77 at the following address: Air Docket Section (LE–131), room M–1500, 401 M Street SW., Washington, DC 20460; phone (202) 260–7548; fax (202) 260–4000. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., except on government holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying docket materials. Electronic copies of major documents associated with this rulemaking are available from the EPA internet site and via dial-up modem on the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). Details on how to access these sources are included in Section X of this preamble.

FOR FURTHER INFORMATION CONTACT: For information related to qualification of detergent additives for use in complying with gasoline detergency requirements contact: Jeffrey A. Herzog, U.S. EPA (FED), Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, MI 48105; Telephone: (313) 668–4227, Fax: (313) 741–7869. For information related to the registration of fuels and fuel additives under 40 CFR Part 79 contact: James W. Caldwell, U.S. EPA (6406J), Fuels and Energy Division, 401 M Street SW., Washington, DC 20460; Telephone: (202) 233–9303, Fax: (202) 233–9556. For information related to enforcement contact: Judith Lubow, U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office, 12345 West Alameda Parkway Suite 214, Lakewood, CO 80228; Telephone: (303) 969–6483, FAX: (303) 969–6490.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those involved with the production, distribution, and sale of gasoline and gasoline detergent additives. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Detergent manufacturers, Detergent transporters, Gasoline refiners and importers, Gasoline terminals, Detergent blenders, Gasoline truckers, and Gasoline retailers and wholesale purchaser-consumers.

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 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 organization is regulated by this action, you should carefully examine the applicability requirements in § 80.161(a), the detergent certification requirements in § 80.161(b), the program controls and prohibitions in § 80.168, and other related program requirements in subpart G, title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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I. Background

A. Rulemaking History

Section 211(l) of the Clean Air Act (CAA) specifies that, beginning January 1, 1995, all gasoline sold or transferred to the consumer must contain additives to prevent the accumulation of deposits in engines or fuel supply systems. The CAA charged EPA with the task of establishing specifications for such deposit control (detergent) additives.[1] As described below, today's final rule is the fourth in a series of rulemaking actions which EPA has taken to develop a gasoline detergent program that is both effective and reasonable, and to ensure ample opportunity for public participation in the regulation development process.

On December 6, 1993, EPA published a Notice of Proposed Rulemaking (NPRM, 58 FR 64213) which proposed that all gasoline, with limited exceptions, must contain additives to control port fuel injector deposits (PFID) and intake valve deposits (IVD). When fully implemented, the proposed program would establish a detergent additive certification program, including vehicle-based test procedures, specified test fuels, deposit control performance standards, and related enforcement provisions. However, recognizing that the regulated industry would need adequate lead time to complete such certification requirements, simpler interim requirements were proposed for use at the start of the program. While gasoline would be required to contain properly registered detergent additives beginning January 1, 1995, the procedures and criteria established to qualify a detergent additive for use in the interim program would be less rigorous than the standardized performance requirements envisioned for the full detergent certification program.

Rules governing the two phases of the program were not finalized at the same time. The rules for the Interim Detergent Program were published on October 14, 1994 (59 FR 54678), while today's rule establishes the final detergent certification program. EPA took these actions in two separate rulemaking steps for two main reasons. First, the effective date for the CAA's mandate to use deposit control additives was January 1, 1995. This required rapid promulgation of the interim program rule after close of the NPRM comment period, to give the regulated parties as much lead time as possible. However, to ensure consistency with industry practices, EPA wished to incorporate standardized test procedures in the detergent certification rule. At the time the interim program was promulgated, the American Society for Testing and Materials (ASTM) had just completed its IVD control test procedure (ASTM D 5500), but anticipated several more months' delay before completing development of its PFID control test

[1] EPA uses the term ''detergent'' to refer broadly to the additives required to meet the deposit control requirements established in this program. It is not meant to specify a design standard or to limit the kind of engine or fuel supply system deposits that are, or would properly be, the subject of regulation under sections 211(l) or 211(c).

procedure (later published as ASTM D–5598). EPA judged that a delay in finalization of the detergent certification program would be appropriate to permit adoption of both ASTM procedures.

The second reason for delaying promulgation of the certification program was to provide additional opportunity for public discussion and evaluation of potential regulatory requirements for control of combustion chamber deposits (CCD). Following publication of the NPRM, a public hearing was held (in Ann Arbor, Michigan on January 11, 1994) and written comments were accepted until March 11, 1994. Much of this public commentary pertained to the CCD issue. The comments were split between those who believed CCD controls were unneeded and infeasible and those who maintained that CCD problems were already significant and could be expected to grow worse with increased use of PFID and IVD detergents, and that CCD controls were both needed and feasible.

To further the resolution of this important issue, EPA published a Notice of Reopening of the Comment Period (59 FR 66860, December 28, 1994). The Reopening Notice requested additional information regarding the potential impacts of CCD on emissions, fuel economy, and driveability; the possible relationship(s) between IVD and PFID detergent additive levels, unwashed gum levels, and CCD formation; and possible CCD control approaches. The notice also sought additional public input on other key concerns raised during the initial comment period, including certification test fuel issues and various implementation and enforcement provisions proposed for the certification program.

EPA's summary and analysis of public comments on issues relevant to the interim provisions of the detergent program were published in a section of the preamble to the interim program final rule. Public comments on general provisions of the detergent certification program, including those received following the NPRM as well as those sent to EPA in response to the Reopening Notice, are extensively reviewed and analyzed in a separate document accompanying this rule.[2] A synopsis of EPA's evaluation of the CCD issue is provided below in Section II, and comments on other key topics are briefly described in the relevant sections of this notice. However, the reader is directed to the separate Summary and Analysis of Comments for detailed presentation and evaluation of these issues.

Public comments concerning the detergent program's enforcement issues have been handled in a somewhat different manner. Following promulgation of the interim detergent program, the regulated industry submitted a number of questions about the practical implementation of some of the enforcement provisions of the rule. In response, EPA provided guidance on various enforcement provisions, in a series of four Detergent Rule Question and Answer Documents (''Q&A Documents'').[3] Today's rule incorporates a variety of regulatory changes that are being made to codify the guidance. Section VIII of this preamble contains a synopsis of the key issues related to these regulatory changes, along with EPA's analysis of other enforcement-related comments not discussed in previously published documents.

B. Statutory Provisions and Legal Authority

Recognizing that deposits in gasoline engines and fuel supply systems can increase harmful exhaust emissions and adversely affect vehicle fuel economy and driveability, Congress specified in section 211(l) of the Clean Air Act that: ''Effective beginning January 1, 1995, no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers in the United States, any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems * * *'' Section 211(l) further provides that ''the Administrator shall promulgate a rule establishing specifications for such additives.''

In section 211(l), Congress delegated to EPA rulemaking authority to set specifications for detergent additives to prevent the accumulation of deposits in engines or fuel supply systems. To implement this grant of authority, EPA has reasonably interpreted the several ambiguous elements of this provision. EPA believes that its interpretations will promote the intent of Congress in adopting this provision. First, the statute states that the additives must ''prevent the accumulation of deposits.'' This term is ambiguous; it could be interpreted to mean that the specifications must ensure that an additive will not allow any deposits whatsoever to form, or that an additive must be able to prevent all deposits and eliminate existing deposits, or that an additive could be acceptable if it would provide a reasonable level of protection against accumulation of new deposits but would not make a great impact on any existing deposits. In addition, section 211(l) refers to ''deposits in engines or fuel supply systems.'' Deposits can form in almost any part of an engine or its fuel supply system, *e.g.* the intake valves, the port fuel injectors, the combustion chamber, the carburetor, the exhaust valves, and so on. Congress, however, did not specify which particular deposits must be controlled by the additives mandated by section 211(l), nor did it state that EPA must set specifications such that additives would prevent *all* possible deposits which could possibly form anywhere in an engine or fuel supply system. Finally, Congress did not define the term ''specifications'' in any way. This term could be interpreted to mean the additives' specific chemical composition, or performance characteristics, or the general type or amount of additive which must be added to gasoline. Therefore, the Agency believes that Congress left EPA with broad discretion and authority to implement those provisions in an appropriate regulatory framework that achieves the general goals of Congress in adopting section 211(l).

Looking at the Act's legislative history, EPA believes that the primary purpose of section 211(l) is to reduce emissions from gasoline-fueled vehicles and engines and to prevent engine wear or damage which could lead to increased emissions. Section 211(l) was added to the 1990 Clean Air Act Amendments during conference. Prior to the conference sessions, detergent additive provisions were included in the bills passed by each house of Congress only as items in different provisions for reformulated gasoline (RFG).

The bill passed by the House of Representatives contained a requirement that cleaner gasolines ''shall contain additives to prevent the accumulation of deposits in engine fuel supply systems.'' S. 1630, 101st Cong., 2d Sess., (1990). The Report of the House Committee on Energy and Commerce described the purpose of the RFG provision, stating that ''(s)uch cleaner gasoline must achieve the greatest reduction in ozone-forming VOC and air toxic emissions achievable through reformulation of conventional gasoline, taking into consideration the cost of achieving such emissions reductions and health, environmental

[2] See ''Summary and Analysis of Comments on General Provisions of the Detergent Certification Program'', Docket item V–B–02.

[3] Docket numbers IV–C–08, IV–C–09, IV–C–10, and IV–C–11.

and energy impacts.'' H.R. Rep. 490, 101st Cong. 2d sess., 297 (1990). Given the stated purpose of the RFG provision to reduce vehicle emissions, and the express requirement that RFG contain detergent additives, EPA believes that the House intended that EPA would require additives in RFG for the purpose of reducing emissions.

The bill passed by the Senate included detergents as an alternative to RFG regulations, as follows:

> In the event that the Administrator does not promulgate the [fuel quality] regulations required by this paragraph, effective January 1, 1994, it shall be unlawful to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce any fuel for use in a gasoline-powered vehicle unless such fuel contains additives effective in preventing the accumulation of deposits in fuel-injected engines.

S. 1630, 101st Cong. 2d sess., (1990). The Report of the Senate Committee on Environment and Public Works expressed the purpose of the RFG regulations as follows:

> Subsection (k)(1) requires the Administrator to establish fuel quality standards to maximize engine performance and to minimize emissions from the combustion of fuels in vehicles and engines. Engines may prematurely wear out due to impurities in the fuel. Such fuel can clog fuel injectors, cause additional corrosion and otherwise affect engine performance, and cause an increase in air pollution emissions from the engine. *In addition, fuel additives, such as detergents, are available to maximize the performance of engines and minimize emissions.*

S. Rep. No. 228, 101st Cong. 1st Sess., 116 (1989) (emphasis added). Thus, EPA believes that the primary legislative intent behind the precursors of section 211(l) was to prevent or reduce vehicle emissions.

The bill reported by the conference committee adopted an RFG provision which was similar to the House provision, although it no longer expressly required detergent additives in RFG. This provision required the Administrator to promulgate regulations imposing the more stringent of two options, either a formula, which would require detergent additives, or a performance standard for VOC emissions. In addition, this bill included the current section 211(l), which requires detergent additives in all gasoline sold after January 1, 1995. There is no further explanation anywhere in the legislative history of the addition of section 211(l) to the bill. H.R. Conf. Rep. No. 952, 101st Cong., 2d Sess., (1990).

EPA believes that it is reasonable to assume that the intent of Congress with respect to section 211(l) was essentially the same as its intent with respect to the prior iterations of the similar provisions in the RFG arena, *i.e.* to reduce vehicle and engine emissions, and to prevent engine wear which may contribute to such emissions. Section 211(l) provides EPA with broad authority to implement its provisions within an appropriate regulatory scheme that furthers the goals of Congress in adopting this provision.

In accordance with this interpretation, the certification program specifies the engine and fuel supply system deposits that must be controlled, the level of control that is required, and the responsibilities of various persons in the manufacturing, refining, and distribution systems to see that gasoline used by the ultimate consumer is properly additized. The certification program also establishes specifications for detergents for different gasoline pools depending on their deposit-forming tendency, and a specification for ''zero additive'' if a particular segregated gasoline pool is shown to have very little deposit-forming tendency. Like the existing interim detergent program, the certification program specifies that all parties involved in the chain of gasoline production, distribution and sale are responsible for compliance with the gasoline detergency requirements. The certification program also continues the interim program's precedent of applying certain requirements of the detergent program directly to manufacturers, distributors, and carriers of detergent additives, prior to, and after the blending of such additives into gasoline.

As discussed in the preamble to the interim rule, EPA is issuing today's final rule under the authority of sections 211 (a), (b), and (c) as well as section 211(l). These sections of the CAA underscore EPA's authority to require the submittal of compositional information and test data directly from manufacturers of gasoline detergent additives. Section 211(b)(1) authorizes EPA to require manufacturers to submit information on the composition and use of fuels and fuel additives designated under section 211(a). In 40 CFR part 79, gasoline fuels and any additives intended for use in gasoline fuels have been so designated. Furthermore, 211(b)(2)(B) specifically calls for fuel additive registrants to ''furnish the description of any analytical technique that can be used to detect and measure any additive in such fuel * * *'' EPA's authority to require the submittal of data from the detergent additive manufacturer is also supported by the provisions of Section 114 of the CAA, which authorizes the Administrator to collect any information which may reasonably be required to carry out the purposes of the Act from any person subject to the provisions of the Act.

Section 211(c)(1) provides EPA broad authority to regulate the introduction into commerce, production, distribution, and sale of fuels and fuel additives to protect the public health and welfare. Since the interim and certification program rules have been adopted pursuant to section 211(c) as well as section 211(l), the preemption provisions of section 211(c)(4)(A) act to prohibit certain state fuel controls. A specific exception to the Federal preemption is applicable in the case of California, which has established its own detergent program as permitted under section 211(4)(B). Also, pursuant to section 211(c)(4)(C), a state could adopt a detergent program as part of its State Implementation Plan if it were necessary to achieve a national primary or secondary ambient air quality standard. The relationship between the Federal and California detergent gasoline programs is discussed further in Section V below.

Section 211(c)(1) requires a finding that either (A) any emission product of a fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or (B) emission products of a fuel or fuel additive will impair to a significant degree the performance of any emission control device or system. EPA has determined that emissions from gasoline use cause or contribute to such harmful air pollution (58 FR 64213, 64215). This rule is the second phase in EPA's attempt to control such emissions through restrictions on the production and sale of gasoline and gasoline detergent additives. This rule requires that detergent additives manufactured for use in gasoline meet certain standards, and requires that gasoline be blended with such additives at the proper rate. This will reduce emissions from gasoline use that cause or contribute to harmful air pollution.

Before EPA can regulate under its section 211(c)(1)(A) authority, section 211(c)(2)(A) requires the Agency to consider ''other technologically or economically feasible means of achieving emission standards under section (202).'' This has been interpreted as requiring consideration of regulation through motor vehicle standards under section 202 prior to regulation of fuels or fuel additives under section 211(c)(1)(A). *Ethyl Corp.* v. *Environmental Prot. Agcy.*, 541 F.2d 1, 32 (D.C.Cir. 1976). This does not establish a mandatory preference for

vehicle controls over fuel controls, but instead calls for the good faith consideration of motor vehicle standards before imposition of fuel controls (541 F.2d at 32, n. 66). This merely reflects Congress' recognition that fuel controls under section 211(c)(1)(A) might logically involve controls on fuel composition itself, while vehicle standards under section 202 are generally performance standards regulating vehicle emissions and not the design or structure of the vehicle. Fuel controls might therefore lead to greater government involvement in the regulation of the manufacturing process than would be expected from vehicle controls (541 F.2d at 11, n. 13). Congress addressed this concern by requiring Agency ''consideration'' of vehicle standards under section 202 before imposition of fuel controls under section 211(c)(1)(A). It is important to note that the Administrator must in good faith consider such vehicle controls, but retains full discretion in deciding whether to adopt either fuel or vehicle controls, or both (541 F.2d at 32, n. 66).

In evaluating motor vehicle controls under section 202 in this context, EPA has found that vehicle manufacturers already have an incentive to design vehicles to reduce deposit formation. Deposits in fuel injectors and intake valves affect a vehicle's driveability as well as its emissions. Because consumers often look to a vehicle's manufacturer to resolve driveability problems, manufacturers who address such issues proactively through design modifications have a market advantage over those who do not.

Another issue that EPA considered with respect to motor vehicle controls is that deposits affect vehicles currently in use. Any motor vehicle standard which EPA might impose to prevent accumulation of deposits therefore would not have an impact until new model vehicles replaced a significant portion of the existing vehicle fleet. In addition, EPA is barred by section 202(i)(3)(C) from imposing new standards on light duty vehicles until after model year 2003; thus any emissions or other standard for such vehicles would not even be introduced into the U.S. vehicle market for almost a decade. A fuel control related to the gasoline, however, will help reduce emissions from the entire in-use fleet of motor vehicles, as well as from non-road engines and vehicles that use gasoline.

Finally, 211(l) requires that all gasoline sold to the ultimate consumer after January 1, 1995 contain detergent additives to prevent accumulation of deposits, and requires the Administrator to establish specifications for such additives. Therefore, whether or not it was appropriate to establish vehicle standards, it would not be possible for EPA to set vehicle standards alone.

Given these circumstances, EPA has determined that it is appropriate to promulgate this additive regulation now, regardless of whether motor vehicle controls are adopted later under section 202. This decision is based on the following facts. First, motor vehicle manufacturers are already designing engines to prevent susceptibility to deposit formation due to market incentives. Second, the requirement to sell additized gasoline will have immediate impacts on emissions from gasoline combustion from both motor vehicles and non-road engines and vehicles, as the detergents will begin preventing deposit formation as soon as the fuel is used. There also may be some additional clean-up benefit of using detergent additized gasoline in engines which already have deposits. Finally, EPA is required by law to promulgate this regulation under the separate authority of section 211(l).

C. Overview of This Action

With this final rule, EPA is establishing a detergent additive certification program which modifies many of the provisions of the existing interim detergent additive program. As mentioned above, the interim program requires compliance with the CAA mandate that all U.S. gasoline be treated with deposit control additive prior to its use by the consumer. To qualify for use as a detergent under the interim program, an additive must be properly registered (under 40 CFR part 79) and must have undergone some testing to demonstrate its ability to control deposit formation when used at the concentration (treat rate) recommended by its manufacturer. However, the interim program does not require specific test procedures and test fuels to be used for this purpose, nor does it include specific deposit control performance standards which must be met. Today's rule establishes these specific requirements for detergent certification, along with changes to the regulations regarding enforcement of the certification program. Further discussion of the enforcement provisions is presented below in Section VIII.

Broadly speaking, the detergent additive certification program follows the overall performance-based approach proposed in the NPRM. To be certified for use in compliance with gasoline detergency requirements, an additive must demonstrate the ability to meet specified standards of IVD and PFID control in the context of prescribed test fuels and standardized, vehicle-based test procedures. The practical result of this testing is to ascertain an additive treat rate that can meet the required standards of performance. The certification treat rate constitutes the lowest concentration at which the additive may be used by detergent blenders in formulating gasoline for sale to or use by the consumer.

As proposed in the NPRM, the certification program includes a number of voluntary certification options. These options permit a detergent additive to be tested in one or more test fuels, resulting in different minimum treat rate requirements for different types of gasoline (e.g., oxygenated or nonoxygenated, premium or regular) and/or different gasoline pools (e.g., national, PADD, or segregated supplies). The flexibility provided by these options is described in more detail in Section IV of this preamble.

While generally similar to the proposed approach, the detergent certification program finalized today differs somewhat from the NPRM in certain key areas. Most of these changes are the result of efforts by EPA to streamline and simplify the requirements of the program. For example, the NPRM proposed an approach based on a two-tier certification structure, such that gasolines of very high severity (i.e., tendency to produce IVD and PFID), would be required to be additized only with detergents that had undergone testing in specified high-severity test fuels. Implementation of this provision would not only require separate detergent certification for use in generic and high-severity gasolines, but would also require ongoing evaluations of the severity of gasoline supplied to the distribution terminals to determine if detergent certified for severe gasoline would be needed or if generic detergent would suffice. As described further in Section IV.B, EPA now believes that the potential benefit of the two-tier certification approach is far outweighed by the associated implementation burdens. Thus, today's rule finalizes a single-tier certification approach and does not contain special requirements for gasoline of very high severity.

Another departure from the proposed approach pertains to the number and composition of test fuels required for each certification option. Under the proposed rule, to qualify for national certification or for any certification option, a detergent additive would be required to undergo testing in a matrix of up to four test fuels. Each test fuel

was to contain a different combination of relatively high levels of specified fuel parameters (i.e., ''severity factors'') and oxygenate components. In addition, test fuels meeting the required specifications would have been required to be located among commercial fuel supplies, not specially formulated to specification from refinery blend stocks.

For reasons explained at length in the Summary and Analysis of Comments, and summarized below in Section VI, the test fuel requirements adopted today are considerably simpler than the proposed requirements. The final regulations require testing of a detergent additive in only one specified test fuel for any given certification option, and permit test fuels to be formulated to specification from refinery blend stocks rather than requiring them to be taken from finished gasoline stock located by sampling among commercial gasoline supplies. However, to ensure that test fuels resulting from this simplified process will adequately challenge the detergent additive, the regulations require certifiers to test the unadditized test fuels to demonstrate their deposit-forming tendency, prior to their use in additive certification testing.

A third set of provisions which reflect change from the proposed provisions is in the important area of basic information requirements. For example, the information which additive manufacturers must submit regarding the composition of their detergent additives has been changed to be more consistent with typical additive manufacturing practices (see Section III.A). Moreover, the proposed registration requirements for fuel blenders that relate specifically to the usage of detergent additives are not retained in this final rule (see Section III.B).

Subsequent sections of this preamble describe the major provisions of the detergent certification program in more detail, including further discussion of the way in which the requirements differ from those proposed in the NPRM.

D. Applicability

The applicability of detergency requirements to various categories of gasoline is based on the statutory language of § 211(l), which explicitly includes ''any gasoline'' in its mandate. EPA has interpreted this to include fuel commonly or commercially known as gasoline, that is produced for use in motor vehicles or engines or nonroad vehicles or engines. Thus, the applicability of this program is essentially the same as under the interim detergent program. The regulations apply to all gasoline, including conventional, reformulated (RFG), oxygenated, and leaded[4] gasoline, whether intended for or used by highway or nonroad vehicles or engines. Marine fuel, gasoline used for military purposes, gasoline service accumulation fuel under the Federal motor vehicle control program (for emissions control system deterioration testing purposes), and factory fill fuels are also required to comply with detergency requirements.

In the Reopening Notice, EPA requested comment on whether detergent-additized gasoline should continue to be required for the gasoline portion of E85 or M85 alcohol-based fuels, in view of comment from the automobile industry that some detergent additives might be incompatible with such fuels. In response, the American Petroleum Institute (API) commented that EPA should allow industry to resolve compatibility issues through the marketplace. API pointed out that E85 and M85 fuels are used in flexible-fuel vehicles, which are expected to be operated at times on ''ordinary'' detergent gasoline. Thus, due to mixing in the fuel tank, alcohol-based incompatibility problems which might arise between some detergents and alcohol-based fuels would need to be addressed even if the gasoline portion of the alcohol blends were exempt from detergency requirements. EPA agrees with API and, in this rule, has not changed the detergent applicability requirements of the interim program as they relate to the gasoline portion of alcohol-based fuels.

As in the interim program, the only categories of gasoline which EPA is exempting from detergency requirements are racing fuel, aviation fuel, emissions certification fuel, and fuel used for research and development purposes. In the case of the racing fuel exemption, this final rule removes the interim program's restriction that only gasoline sold or dispensed on the premises of a racing facility can qualify. In response to comments stating that the interim rule's restriction is inconsistent with the actual handling and use of racing fuel, EPA decided to permit racing fuel to qualify for the detergency exemption regardless of location, provided that the fuel is distributed only to racing vehicles that are restricted to nonhighway use, and dispensed only from retail pumps clearly labeled as containing racing gasoline (see Section VIII.B.7).

E. Program Start-Up and Compliance Dates

Full compliance with the provisions of the detergent certification program is not mandatory for approximately a year's time. This one-year start-up period is provided to allow certifiers sufficient lead time to complete their testing and reporting requirements, for detergent blenders to obtain supplies of certified additives and establish associated administrative and quality control support procedures, and for gasoline retailers to obtain sufficient quantities of properly additized gasoline. Since the interim program is to continue in effect until the certification program becomes mandatory, today's rule also revises enforcement provisions of the interim program to make these provisions more efficient and commensurate with those in the parallel certification program. The revisions to the interim program in today's rule become effective September 3, 1996.

Mandatory compliance with the requirements of the detergent certification program is required for different parties in the gasoline and detergent distribution system at different times, based on their position in the distribution chain. As of July 1, 1997, detergent manufacturers must sell only properly certified detergents to their detergent blending customers. Also as of July 1, 1997, detergent blenders must blend certified detergent at the prescribed concentration into all gasoline they distribute, and distributors must sell or transfer only gasoline and PRC properly additized with certified detergents. To facilitate the proper disposal of residual non-certified detergent additive, EPA will allow such detergent to be blended into gasoline in combination with certified detergent until January 1, 1998, provided that the noncertified detergent was in the detergent blender's possession prior to July 1, 1997 and that it accounts for less than 10 percent of a detergent storage tank's delivered capacity (i.e. no more than 10 percent of the detergent blended into a batch of gasoline). In addition, the total detergent blended into a batch of gasoline must be sufficient to attain the minimum concentration recommended by the additive manufacturer for the certified detergent.

Effective August 1, 1997, all gasoline sold or transferred to the ultimate

[4] Leaded gasoline was banned from use in highway vehicles as of January 1, 1996, and the EPA regulations no longer contain a generally applicable definition of leaded gasoline. However leaded fuel is still permitted to be used in nonroad engines, and leaded gasoline is subject to gasoline detergency requirements. In this final rule, therefore, EPA has included a definition of leaded gasoline (at § 80.140) that is applicable only to 40 CFR subpart G. This definition is effectively the same as the previous, generally applicable definition.

consumer must be additized with certified detergents in conformity with any applicable detergent use restrictions. An extra month is allowed from the time detergent blenders are required to begin blending certified detergent to the time gasoline retailers are required to sell gasoline containing certified detergent, to provide adequate time for gasoline containing noncertified detergent in the retailer's storage tanks to be replaced with properly additized gasoline. This approach is consistent with that used successfully in other EPA fuels programs, such as in the regulation of gasoline volatility (54 FR 11869, March 22, 1989), and the reformulated gasoline program (59 FR 7841, February 16, 1994).

Prior to July 1, 1997, additive manufacturers and detergent blenders may comply either with the interim detergent program regulations or the detergent certification program regulations finalized today. EPA anticipates that, many detergent additives will be certified prior to the final deadline,[5] and certified additives will inevitably be delivered to fuel terminals and blended into gasoline before the deadline. If a detergent is certified prior to July 1, 1997, the requirements of the certification program will apply to the use of that detergent as of the effective certification date. In most instances, the use of a certified additive prior to the required date will not significantly change the detergent blender's requirements under the interim rule. The provisions of both programs require the detergent blender to add detergent to gasoline at a treat rate no less than the minimum concentration recommended by the additive manufacturer (also called the lowest additive concentration or LAC),[6] and require the additive manufacturer to provide adequate blending instructions to the detergent blender, including the minimum recommended concentration reported to EPA in accordance with the applicable detergent certification requirements. Thus, while the specified minimum amount of detergent may well change after certification, the nature of the additization and record-keeping activities of the detergent blender will usually not be greatly affected.

Exceptions will occur in the case of detergent additives which have been certified under options that place restrictions on the type of gasoline in which the additive may be used (see Section IV). For example, a detergent may be certified with two different treat rates, one for use in all gasoline, and one for use only in nonoxygenated gasoline. In such an instance, if the detergent blender chooses to use the detergent at the treat rate certified for use in nonoxygenated gasoline, then the blender is required to conform to the certification program provisions which govern the handling of use-restricted certified detergents, even if this occurs before July 1, 1997. In the cited example, where the treat rate certified for nonoxygenated gasoline is to be used, the blender must use the detergent only to additize nonoxygenated gasoline. In addition, the blender must indicate on the outgoing product transfer document that the gasoline has been additized with detergent restricted only to nonoxygenated gasoline, thus informing downstream parties of the existing restrictions. In essence, each party in the distribution chain that handles gasoline additized with a detergent under a use-restricted certification must observe the product transfer document and all other applicable requirements of the certification program. Further discussion on additive manufacturer and detergent blender responsibilities in regard to the handling of use-restricted detergents can be found in Section VIII.

II. Combustion Chamber Deposit Control

In the NPRM, EPA did not propose any requirements for combustion chamber deposit (CCD) control because of uncertainty regarding the scope of the problem and the lack of suitable performance test procedures and performance standards. Subsequently, some commenters expressed concern that a Federal requirement for PFID and IVD control might encourage detergent overuse, which could potentially exacerbate CCD concerns. Other commenters, however, agreed that regulatory control of CCD was not appropriate due to the lack of data and adequate standardized performance test procedures and standards. As a result, EPA requested additional input from affected industries (see Docket item IV–E–35, ''Summary of Additional Comments on Combustion Chamber Deposits''), and published a notice formally reopening the comment period on the issue of CCD control. A detailed discussion of the comments and EPA's response may be found in the Summary and Analysis of Comments document located in the docket for this rulemaking. A brief synopsis of this discussion appears below.

After carefully reviewing all of the public comment and currently available information, EPA is not able to determine that a CCD control requirement is warranted. Available information on the impacts of CCD on emissions, fuel economy, and driveability are inadequate to draw conclusions regarding the costs and benefits of requiring additives for CCD control. In addition, no appropriate performance test procedures and standards or effective surrogate parameters for measuring CCD have yet been developed. Further study may indeed provide more information on which EPA could base a CCD control requirement. Thus, EPA will continue to evaluate CCD issues and will reconsider adopting a CCD control requirement at a later date if appropriate.

For these reasons, EPA is very pleased that, under the auspices of the Coordinating Research Council (CRC), members of the automotive and petroleum industries have embarked on a joint research program to investigate some of the controversial issues which still remain about the causes, effects, and accurate evaluation of CCD. The work of the CRC is expected to help elucidate the potential need for and environmental benefits of CCD control, and to investigate vehicle parameters that influence vehicle response to CCD in preparation for potential development of standard test procedures for measuring CCD and evaluating a detergent's ability to effectively control CCD. EPA believes that the products of CRC's work will greatly facilitate EPA's investigation of whether CCD control is necessary and feasible.

A. CCD Impacts on Vehicle Emissions

Most members of the petroleum and detergent additives industry commented that uncertainties persist regarding the scope of a CCD-related emission problem and that test procedures and standards are lacking. They stated that EPA should defer action until research planned by the CRC has been completed.

Automotive industry commenters stated that the CCD-related emissions impact is sufficiently well demonstrated to compel EPA to implement a CCD control requirement; this statement was supported by limited data and literature

[5] The certification date will be the earlier of the receipt by the certifier of acknowledgement by EPA of its receipt of the certification letter, or 60 days after the certifying party receives the return receipt from the postal carrier acknowledging that the letter was delivered to EPA.

[6] However, both the interim and certification programs contain a special provision allowing the detergent blender to use a detergent at a lower concentration than that recommended by the additive manufacturer, provided that the detergent blender informs EPA of this intent and can provide supporting data to substantiate the deposit control effectiveness of the detergent at the specified lower concentration.

references. Others stated that EPA should implement a requirement to ensure that detergent additives are used that can remove existing CCD and prevent the formation of CCD, because the vehicle octane requirement increase (ORI) caused by CCD results in higher emissions.

While EPA agrees that there is sufficient data to demonstrate a probable link between CCD formation and increased NO_X emissions, the magnitude of the NO_X emissions impact has not been sufficiently defined to allow EPA to determine how substantial an impact it is. The impact of CCD on hydrocarbon and carbon monoxide emissions is even more uncertain. Characterization of the magnitude of the CCD emissions impact is important so that EPA can evaluate the costs and effectiveness of potential CCD control measures. At this time, EPA is not in a position to determine that CCD, and particularly any detergent additive contribution to CCD, causes vehicle emission and performance problems warranting regulatory control. The weight of the public comment indicates that, for major marketers, representing 60–70 percent of gasoline sold in the U.S., EPA's IVD and PFID performance mandate will not cause a change in the types of detergent additives used or result in appreciably increased concentrations of these detergents. As for the rest of the market, EPA's IVD and PFID performance requirements are expected to bring the entire industry up to the levels of deposit control protection provided by major marketers prior to implementation of regulatory controls. Because EPA's IVD and PFID performance requirements are expected to bring the entire market up to a level of deposit control protection previously achieved by major marketers, EPA believes that these requirements will not create or exacerbate CCD problems. Thus, in the absence of sufficient data to support the need for a requirement to control the contribution of detergent additives to CCD, EPA disagrees with automobile industry comments that EPA is obligated to take immediate action in implementing such a requirement.

B. CCD Energy Impacts

As mentioned above, several commenters stated that CCD contributes to vehicle octane requirement increase (ORI), i.e., the need for higher octane fuels to prevent engine knock as the engine ages. Higher octane fuels require more crude oil to produce, thus causing an increase in total refinery and vehicle energy use. Several commenters also stated that if ORI were reduced, engine design might be further optimized for improved fuel economy using gasoline of the octane quality currently on the market.

The Department of Energy (DOE) conducted an evaluation of CCD control additive technologies that also have ORI claims, and of the potential energy and vehicle and refinery emissions implications of ORI control.[7] DOE concluded that a correlation exists between CCD and ORI. However, DOE also stated that automobile manufacturers generally design their vehicles to accommodate a worst case ORI condition, and provide a built-in margin to ensure that the vehicle can continue to operate on the fuel specified after the octane requirement stabilizes at about 15,000 miles. DOE stated that most automobiles do not require a higher octane fuel than recommended by the manufacturer. It is true that exceeding the octane specification of the fuel recommended by the manufacturer, if not compensated for by the use of a higher octane fuel, could cause engine knock in vehicles that are not equipped with knock sensors or retardation of engine timing in engines that are equipped with knock sensors. Both engine responses could result in inefficient combustion, and attendant reduced fuel economy. However, at this time, EPA agrees with DOE that the available information does not indicate widespread exceedance of the ORI tolerance built-in by engine manufacturers. Thus, EPA can not conclude that an ORI-based CCD control requirement should be implemented to prevent an adverse impact on fuel economy.

On the broader energy use question, the DOE analysis suggested that the potential changes in crude oil use combined with questionable effects on vehicle fuel economy would not make a compelling argument to support the position that a reduction in CCD would result in a cost-effective overall reduction in fuel consumption, total gasoline refinery and motor vehicle emissions or energy use, or dependency on foreign oil. In conducting its assessment, DOE took into account refinery processing efficiencies, energy yield, and vehicle fuel consumption. DOE stated that, based on their evaluation of available data, the potential direct vehicle emission effects of CCD control should be the primary factor considered in evaluating whether it is appropriate for EPA to implement a CCD control requirement. EPA agrees that the available information is inadequate to conclude that a reduction in ORI would result in a cost-effective reduction in total energy use or emissions from gasoline refineries and motor vehicles.

C. CCD Interference

Automotive industry commenters urged EPA to implement a CCD control requirement to prevent potential negative impacts of CCD on driveability, including combustion chamber deposit interference (CCDI). They stated that CCDI problems are expected with the increased use of IVD control additives.

The petroleum industry stated that there is no documented basis for EPA to consider a CCD control measure to prevent CCDI associated with detergent additive overuse. They stated that data indicates that manufacturing tolerances play a predominant role in the CCDI problem, and cited a study indicating that engines with a 0.9 mm squish gap design were unaffected by CCDI, while off-specification tolerances as low as 0.3 mm were virtually guaranteed to produce the engine knock associated with CCDI regardless of the fuel used.

EPA agrees that available data indicates that manufacturing tolerances play a predominant role in the CCDI problem. EPA therefore does not believe that there are compelling reasons at this time to implement a CCD control requirement in order to prevent CCDI-related driveability problems. Moreover, the IVD and PFID requirements implemented with this rulemaking are not expected to increase levels of CCD relative to those seen in current vehicles using major petroleum marketers' gasoline.

D. Unwashed Gum Levels and CCD

Several automobile industry commenters stated that, as a surrogate for CCD control, EPA should implement an interim limit on gasoline unwashed gum levels to prevent adverse side effects that might result from EPA's IVD and PFID performance mandates. One commenter presented an analysis of gasoline survey data which, it stated, indicates a correlation between increasing unwashed gum levels in commercial gasolines and the use of increasing concentrations of IVD detergent additives. Data was submitted by another commenter which, it stated, indicated that certain IVD and PFID additives contribute to CCD formation, and showed a correlation between unwashed gum levels and CCD.

On the other hand, several fuel and additive industry commenters stated that available data does not demonstrate a correlation between unwashed gum levels and CCD. They presented data which they stated indicates that no general correlation between unwashed

[7] Docket items VI–D–43 and VI–D–45.

gum levels and CCD exists. They also stated that unwashed gum levels are not necessarily a predictor of detergent additive concentrations.

EPA has concluded that no correlation of unwashed gum levels or additive concentrations with gasoline CCD-forming tendency has been established. EPA agrees with comments from fuel and additive producers that unwashed gum levels cannot be used as a reliable predictor of detergent concentration. EPA believes that available data indicates that detergent additives vary in their tendency to contribute to CCD, and that this tendency does not necessarily correlate with unwashed gum levels. Based on a review of all of the available data, EPA believes that implementing an unwashed gum limit on additized gasoline would not necessarily produce beneficial results and might actually produce a barrier to the development of CCD control additives.

E. Other Potential Adverse Side Effects of Detergent Overuse

Automobile industry commenters raised concerns about the effects detergent additive overuse might have on materials and components of automobiles. The comments stated that intake valve sticking and deterioration of the fuel system, oxygen sensor and catalyst could result from the use of overadditized fuel. API commented that negative impacts on vehicles of accidental overtreatment have been very rare.

EPA finds no compelling reason from an emissions control standpoint to implement specific regulatory measures to prevent occurrences of detergent overuse. To the extent that driveability problems may exist due to the failure of fuel marketers to institute adequate quality control measures, the industries involved are in a position to adequately resolve these problems without the imposition of a regulatory control. As noted above and discussed in the Summary and Analysis of Comments, EPA has sufficient reason to believe that its IVD and PFID control requirements will not increase the likelihood that detergent overuse, and any attendant side effects, will take place.

III. Basic Information Requirements

Pursuant to the fuel and fuel additive registration regulations in 40 CFR part 79, both additive manufacturers and fuel manufacturers are required to report specific identification, composition, and other basic product information to EPA. In the NPRM for the detergents program, EPA proposed additional information that would be required for detergent additive registration in order for a detergent product to be eligible for use by blenders in complying with the gasoline detergency requirements of the rule. EPA also proposed specific registration requirements for fuel manufacturers related to their detergent blending responsibilities under the program. This section briefly describes the originally proposed information requirements as well as those included in the interim detergent rule, and summarizes the changes to these requirements reflected in today's final rule.

A. Detergent Additive Information Requirements

Under the fuel additive registration requirements of § 79.21, an additive manufacturer must submit certain compositional and analytical information on each of the additive products it wishes to market. Among other requirements, these include the chemical identification and concentration of the components of the additive product; the chemical structure of each component; an analytical technique for detecting and/or measuring the additive as mixed in fuel; the identity of the fuels in which the use of the additive is recommended and the purpose-in-use and manufacturer's recommended range of concentration of the additive in each such fuel.

Consistent with these standard registration requirements, EPA proposed that, for a detergent additive to be eligible for fulfilling gasoline detergency requirements, detergent certifiers would be required to submit the following information on detergent additive composition: (1) A specific chemical description of each component of the detergent package, (2) the exact weight/volume percent of each component of the detergent package, (3) a fourier transform infrared spectroscopy (FTIR) test method to obtain a qualitative and quantitative spectrum of the detergent additive package both in its pure state and in finished gasoline, and (4) an actual infrared spectrum of the detergent additive package and each component of the detergent package. The detergent NPRM also proposed that, upon EPA's request, a sample of the detergent additive must be provided to the Agency for evaluation.

The information reporting requirements finalized in the interim detergent rule (at § 80.141(c)) maintains the proposed requirement that the exact amount of each component of the detergent additive package must be reported, and specifically prohibits the reporting of any detergent-active component as the product of other chemical reactants. In addition, the interim rule requires that, for each detergent-active component, the registration must indicate which of the following chemical categories applies: (1) Polyalkyl amine, (2) polyether amine, (3) polyalkylsuccinimide, (4) polyalkylaminophenol, (5) detergent-active carrier oil, (6) other detergent-active component. The interim regulations state that a single detergent additive registration may contain no variation in the identity or concentration of any detergent-active component.[8] The regulations require the availability of an analytic procedure, preferably based on FTIR, that is capable of both qualitative and quantitative identification of each component of the detergent additive package. The regulations do not require that the procedure be capable of identifying the additive when mixed in fuel.

Following publication of the interim rule, CMA proposed several alternatives to those requirements. CMA stated that the compositional reporting requirements in the interim rule failed to recognize the essential chemical nature of deposit control additives and the processes by which they are manufactured. CMA asserted that compliance with the requirements would be impossible, given the non-homogeneous nature of detergent polymers and carrier oils, and the inherent variability in detergent manufacturing, blending, and analytic sampling processes. CMA was also concerned about the compositional test results required to establish a defense to presumptive liability under § 80.156(c)(4)(ii) of the interim regulations.

CMA suggested that, rather than exact concentrations, only target concentrations of the various detergent-active components should be required to be reported for registration. CMA also stated that registrants should not be precluded from reporting detergent-active components as the product of other chemical reactants, provided that the registrant also provide a description of product parameters that are sufficient to effectively define the registered product.

As described fully in the Summary and Analysis of Comments and in a memorandum to the docket,[9] EPA has

[8] Subsequently, in Question and Answer Document #3 (Docket item IV–C–10), EPA clarified that only downward variation in the concentration of any detergent-active component was prohibited.

[9] ''Interactions Between the Environmental Protection Agency (EPA) and the Chemical Manufacturers Association (CMA)'', Jeff Herzog, OMS, Judy Lubow, OECA, Docket item IV–E–41.

considered the various issues raised by CMA, and has also reviewed its own experience with the interim program. Under the interim program, some manufacturers appear to have been able to comply with the requirement to specifically identify and quantify each component of the detergent package, while others have maintained that they are unable to comply. While this experience does not enable EPA to make a definitive judgment as to the general appropriateness of the interim reporting requirements, it does demonstrate an ongoing problem in at least some cases. Thus, EPA is adopting several provisions in today's rule that will provide alternative reporting requirements. EPA believes these alternative will accommodate industry's reasonable concerns about practical and technical limitations on the ability to define detergent additive composition, while also providing EPA with assurance that detergent composition variability will not adversely affect in-use deposit control effectiveness. The requirements finalized in today's rule are summarized below.

1. Compositional Data. The interim rule's requirement that all components of the detergent additive package be identified chemically and by concentration (weight or volume percent of the product, as applicable) will remain in effect. Within a single detergent additive registration, the identity of detergent-active components is still not permitted to vary. However, today's final rule accommodates manufacturing variability to a greater degree than previously allowed under the interim rule. Specifically, a range of concentrations is permitted to be reported for detergent-active components, provided that at the lower end of the range, the deposit control effectiveness of the additive package is not less than that demonstrated during certification testing.[10]

Recognizing the heterogeneous nature of the carrier oils and detergent-active polymers which frequently occur in detergent additive formulations, these final regulations provide two methods by which the chemical composition of detergent-active components may be reported. When it is reasonable to do so, detergent-active components are to be identified (as originally proposed) using standard chemical nomenclature or a description of the chemical structure, or both. However, when the manufacturer believes this requirement to be infeasible or impractical, detergent-active components (both detergent-active polymers and detergent-active (chiefly synthetic) carrier oils) may be reported as the product of specified reactants. In such cases, the reactant materials must be identified, together with the acceptance criteria normally used by the manufacturer for determining that these materials are suitable for use in synthesizing the detergent components. Upon EPA's request, documentation must be provided by the manufacturer that the reported acceptance criteria are in fact those normally required of its suppliers. In addition, the detergent-active components must be described by means of gel permeation chromatography (GPC), providing a quantitative distribution of the polymeric components by molecular size. The GPC requirements include a description of the test procedure, including the use of appropriate calibration standards, and the resulting chromatograms. EPA believes that, when combined with other reporting and sample requirements (described below), this alternative approach will provide adequate identifying information for detergent-active components.

For non-detergent-active carrier oils (usually petroleum-based), the additive manufacturer must provide the percentage by weight of oxygen, nitrogen and sulfur, when present in the carrier oil at greater than 0.5 percent by weight. In addition, the manufacturer must provide the T10, T50, T90, end boiling point, API gravity, and viscosity of the carrier oil mixture.

These registration requirements will provide some useful information for determining whether an in-use detergent additive conforms to the composition of the detergent additive package which was shown to be effective during certification testing. However, in light of the limited ability of detergent manufacturers to precisely define the chemical properties of their additive, EPA believes that additional means are needed by which conformity with the composition reported in the certification process can be confirmed. Therefore, today's rule requires a sample of the detergent product to be submitted to EPA at the time the certification letter is sent to the Agency, as well as an FTIR-based test procedure together with the actual infrared spectra produced by the procedure.

Under the interim rule and proposed certification rule, these items were to be submitted on a per-request basis only. Thus, to accomplish the Agency's objectives, EPA could have chosen to request the detergent sample and FTIR from each additive manufacturer individually at the time of detergent certification. However, this would be a time-consuming and inefficient procedure. In fact, EPA's past experience indicates that manufacturers may be reluctant to cooperate with such requests. Therefore, EPA has instead chosen to require the submission of these items with every certification letter. It should be noted, however, that submission of detergent samples to EPA at the time of certification does not mean that the Agency will confirm the validity of the compositional information submitted by the additive manufacturer. EPA reserves the right to request and analyze other samples. Some detergent samples (or portions of samples) may indeed be used to verify the registration information provided by the additive manufacturers; others may be kept as baseline samples for monitoring the conformity of future production batches. Detergent samples may also be used by EPA chemists in efforts to develop improved analytical methods for detergents and their components.

EPA is sensitive to manufacturer's concerns about the handling of the samples they submit. To ensure the proper treatment of samples claimed as confidential by the manufacturer, the regulations require the detergent samples to be sent to EPA's chemistry laboratory in Ann Arbor, which handles and stores such proprietary materials as part of its day-to-day operations.[11] Information claimed as confidential will be protected as required under EPA's regulations concerning confidential business information, at 40 CFR part 2. EPA also will take all reasonable steps to maximize the shelf life of detergent samples. To that end, today's rule requires that manufacturers inform EPA about any known sample shelf life limitations, if any, and to indicate what conditions (e.g.,temperature or light exposure) most affect shelf life. Such information should be readily available to additive manufacturers for their own quality control purposes.

The Agency anticipates that detergent shelf life (i.e. the length of time during which all of the pertinent properties that define a detergent's functionality remain unchanged) will nearly always exceed a year or more. In addition, certain basic properties (e.g., API gravity, and viscosity), tend to be less sensitive to the passage of time. Thus, a detergent sample may be useful for

[10] Detergent certification testing must be conducted with each detergent-active component present in the test fuel at a concentration that does not exceed the concentration reported as the lower bound in the range of concentrations.

[11] See Docket item IV–B–09 for a discussion of the procedures that will be observed in handling proprietary detergent additive samples.

certain limited testing purposes even after the normal shelf life has expired. After an additive sample is no longer suitable for any analytical testing purposes, it will be destroyed by the Agency.

Today's rule contains one additional compositional reporting requirement which detergent manufacturers must fulfill if they wish to be able to take advantage of relatively simple mechanisms which the rule provides for demonstrating an affirmative defense to presumptive liability (see Section VIII.B.2.a of this preamble). This provision requires the manufacturer to submit to EPA certain physical product parameters which will be monitored on each detergent production batch for quality control purposes. Generally, the parameters to be monitored for affirmative defense purposes include viscosity, density, and basic nitrogen content, although other parameters may be added or substituted upon the manufacturer's request and EPA's approval. For each such parameter, the target value and range of variability and a description of a standardized measurement test procedure are to be provided at the time of certification. The designated test methods must be consistent with the chemical and physical nature of the detergent product, and the documented ASTM repeatability [12] for the method must be specified. EPA will consider the parameter measurement to be an acceptable basis for establishing an affirmative defense to presumptive liability if the range of variability differs from the target value by no more than five times the ASTM repeatability value, or by no more than 10 percent of the target value, whichever is less. Due to the practical limitations associated with the measurement of small quantities of certain product parameters, this variability limit does not apply in the case of nitrogen analysis (or other procedures for measuring concentrations of specific chemical compounds or elements) when the target value is less than 10 parts per million. In such cases, the acceptable variability is instead limited to 50 percent of the target value.

EPA believes that establishing such limitations on the acceptable range of product parameter variability is necessary to a credible claim that a given batch of detergent is equivalent to the certified detergent product. This is especially important in view of the fact that deposit control performance testing is required only on a single detergent sample of a given composition. While acknowledging that some production variability is expected, EPA must still ensure that the functionality of the detergent actually produced is reasonably equivalent to that demonstrated during certification. EPA believes that, along with other affirmative defense elements, the required limits on manufacturing variability will provide adequate assurance on a routine basis that the composition and attendant deposit control efficacy of detergent production batches do not vary to such an extent that the minimum recommended treatment rate reported by the additive manufacturer is no longer representative of the detergent's actual performance. Outside of these limits, EPA is not sufficiently confident that the composition of detergent production batches would provide adequate deposit control. The affirmative defense provisions in today's rule provide additive manufacturers with practical and economical methods to demonstrate that the deposit control efficacy of detergent batches is maintained, while allowing a reasonable degree of production variability. The regulations also allow manufacturers who cannot meet these variability limits to request (and justify) other arrangements.

2. Minimum Effective Concentration. As specified in § 79.21(d), a fuel additive registration must report the minimum blending concentration which the manufacturer recommends for the additive in each type of fuel for which the additive's use is designated. In the case of detergent additives registered for use in gasoline, the minimum recommended concentration is required to be no less than the lowest amount which the additive manufacturer has determined to be effective for deposit control. Thus, the minimum recommended concentration is also the lowest additive concentration (LAC) which the detergent blender may use in gasoline to be in compliance with the detergency requirements of this program (subject to any use restrictions that may be applicable under a given certification option).

The interim detergent regulations require that the reported minimum effective concentration be supported by appropriate test data, which is to be supplied to EPA upon request. While rigorous test procedures and performance standards are not specified, the interim rule does contain general guidelines regarding the type(s) of tests and test fuels which EPA will regard as sufficient, during the interim period, for demonstrating an additive's deposit control effectiveness at the specified minimum concentration. These flexible testing requirements were appropriate, given the purpose and practical limitations of the interim program.

As described in subsequent sections, however, the detergent certification program requires that the minimum recommended concentration be determined on the basis of specific deposit control performance standards, as shown in the context of specific performance tests and test fuels. Moreover, this final rule offers a number of certification options (described in Section IV), such that a different minimum concentration may be determined for different gasoline pools (e.g., national, PADD, fuel-specific) or gasoline types (e.g., premium, oxygenated, nonoxygenated). Thus, in reporting the minimum recommended concentration(s) for gasoline detergent additives, the additive manufacturer must also specify the applicable certification option(s) for each minimum concentration. In addition, if the detergent is also registered separately for use in leaded gasoline, the applicable minimum concentration for deposit control in leaded gasoline must be specified. This amount may be the same as that needed for PFID control under any certification option (except fuel specific) or, optionally, the amount demonstrated to be needed for carburetor deposit control.

The information on minimum concentration, as reported in the detergent registration, must also be accurately communicated by the additive manufacturer to its customers, i.e., detergent blenders and secondary additive manufacturers. For protection of all parties involved in the transaction, this communication must be made in writing. For example, if a gasoline misadditization were to occur, such that detergent were added at a concentration less than the required minimum amount, the detergent manufacturer could potentially be held liable for the misadditization unless he could demonstrate that proper blending instructions were provided prior to the additization. These liability issues are discussed further in Section VIII of this preamble.

[12] Repeatability of a test method is defined by ASTM as the quantitative expression of the random error associated with a single operator in a given laboratory obtaining replicate results with the same apparatus under constant operating conditions on identical test material within a short period of time. It is further defined as that difference between two such single results as would be exceeded in the long run in only one case out of twenty in the normal and correct operation of the test method. (ASTM D 3244, Standard Practice for Utilization of Test Data to Determine Conformance with Specifications.)

3. Certification Letter. In addition to satisfying the above requirements concerning detergent additive composition and recommended concentration, the additive manufacturer (or other party wishing to certify the detergent [13]) must submit a certification letter to EPA. The certification letter must include a statement attesting that the additive has undergone the performance testing required by the regulations, using the specified test fuels, and has met the deposit control performance standards required for certification. The statement must also affirm that the performance tests were conducted in a manner consistent with sound engineering practices, and that complete documentation of the test fuel formulation, performance test procedures, and test results is available for EPA's inspection. In addition, the letter must provide summary information on the test fuel composition and source(s), the additive concentration(s) used in certification testing, the results of the testing, and the lowest additive concentration (minimum recommended concentration) which the certifier seeks to establish for each certification option under which the detergent is to be certified. This is a self-certification process, with the party providing EPA with information that indicates compliance with the various requirements. EPA will not issue a certificate, for example as done in the Federal motor vehicle emissions control program.

The Agency will acknowledge receipt of the certification letter. The certification date will be the earlier of either the certifier's receipt of EPA's acknowledgement, or 60 days after EPA's receipt of the certification letter, as documented by a certified mail receipt. EPA does not intend routinely to examine the full test documentation, and will in many cases rely on the certifier's attestations. Neither EPA's acknowledgement of receipt of the letter or the passage of time indicates that the certification letter has been reviewed by the Agency or that a determination has been made regarding whether the requirements of certification have been satisfied. This is consistent with the self certification approach adopted in this rule. On a case-by-case basis, EPA may require that an additive certifier provide the actual test data to EPA to substantiate the claim of deposit control effectiveness made in the certification letter. EPA believes that the declaration by the certifier that a detergent certification meets the program testing requirements, coupled with the occasional Agency review of certification test data, should provide reasonable assurance that the program requirements will in fact be met in the vast majority of cases.

EPA might request submission of supporting data for a variety of reasons. For example, the detergent treat rate recommended by an additive manufacturer under one certification option may seem anomalous relative to the treat rates recommended for the same additive under other certification options. Alternatively, the treat rates recommended by one additive manufacturer may not be consistent with the treat rates recommended by manufacturers of apparently similar additives. EPA may also learn from fuel or automobile manufacturers that a particular detergent product appears to be less effective than others. For these or other reasons, including random oversight of compliance, EPA may request that the additive certifier provide some or all of the test procedure and fuel data required under the regulations. In such a case, the detergent registrant must provide the supporting data to EPA within 30 days of receipt of the request for such data. If EPA judges the supporting data to be inadequate (or if it is not received), EPA may disqualify the subject detergent for use in compliance with the requirements of this rule (see § 80.161(e)). The detergent additive manufacturer will be required to provide EPA with a list of its customers who use the disqualified detergent. EPA shall inform all such fuel manufacturers and secondary additive manufacturers that the detergent is no longer eligible for use in complying with Federal gasoline detergency requirements. In addition, EPA may initiate the enforcement actions described in Section VIII.

Under the interim program, a disqualification order becomes legally effective for the additive manufacturer five days after its publication in the Federal Register. Today's rule provides that under the certification program a disqualification order will become effective for the certifier on the date the order is received by the certifier. The disqualification order will be published in the Federal Register as under the interim program. However, EPA believes there is no reason to delay the effective date of a disqualification for the certifier past the date when the notification is received from EPA. At this point in the disqualification process, the certifier will have been afforded ample notice of a disqualification and an opportunity to participate in the Agency's evaluation of whether the disqualification was appropriate. Thus, the certifier will have had sufficient opportunity to prepare to comply with the disqualification order upon its arrival. If the certifier is also a blender of the disqualified additive, the certifier must also stop using the ineligible detergent upon receipt of the disqualification order. As under the interim program, other blenders affected by the disqualification order will be afforded 45 days from their receipt of a notification from EPA that the detergent is no longer eligible for use to comply with gasoline detergency requirements, or 45 days from the publication of such notification in the Federal Register, which ever is sooner, to discontinue use of the disqualified detergent and substitute an eligible detergent additive.

B. Information Requirements for Fuel Manufacturers

The NPRM and the interim detergent program recognized that detergent blenders, as fuel manufacturers (under the existing definition of a fuel manufacturer in § 79.2(d)), are subject to standard fuel registration requirements under 40 CFR part 79. These standard requirements include the identification of any additive products intended to be used in the registered fuel and the range of concentration of each such additive in the fuel. The only additional feature proposed to meet the information requirements for fuel registration under the detergent program was that the lower boundary of the range of concentration of detergent additives could be no less than the minimum recommended concentration specified in the detergent additive's registration, unless otherwise approved by EPA under special circumstances.

For reasons not directly related to the detergents program, EPA is currently considering possible changes to the definition of ''fuel manufacturer'' in § 79.2(d). If this change is adopted, EPA realizes that many detergent blenders would no longer be required to submit the registration information envisioned in the NPRM. However, EPA experience under the interim program indicates that EPA's monitoring and enforcement activities regarding the proper use of certified detergents rely much more on the detergent blenders' additization accounting records (see Section VIII) than on the up-front registration information which they would be required to submit. Thus, while this final rule requires detergent blenders to maintain specific records concerning

[13] For example, in the case of a fuel-specific certification, the certifying party could be the fuel manufacturer or another party with title and access to the segregated fuel supply, rather than the detergent manufacturer. See Section IV.D.

their additization activities, it does not include any special registration requirements for detergent blenders, nor for fuel manufacturers in general.

IV. Certification Options

A. Background

The gasoline produced by the U.S. refining industry is not homogeneous with respect to the tendency to form deposits. Gasoline pools with different characteristics occur as a result of different crude oil sources, refining capabilities and fuel distribution networks, the octane rating of gasoline provided for different engine designs, and regulatory programs which control certain parameters in gasoline sold in polluted urban areas. A study of the relative deposit-forming severity of these gasoline pools showed that different pools of gasoline may vary in their deposit forming potential, as reflected by different distributions in the levels of specified ''severity factors'' (see Section VI). To provide industry the opportunity to optimize the detergent additization of these various pools while still ensuring the environmental benefits of the program, EPA proposed detergent certification options based on the deposit related characteristics of the various gasoline pools.

The proposed certification options included a nationwide program, geographical options based on the Petroleum Administration Districts for Defense (PADDs), oxygenate options because of the variety of oxygenates which may be blended into gasoline to meet regulatory requirements or octane specifications, an option for premium gasoline, and a fuel-specific option for segregated gasoline pools. These options are all being finalized in today's rule. EPA also proposed an option to certify detergent additives for use in reformulated gasoline. However, as discussed in more detail below, the deposit-forming severity of that pool of gasoline has not yet been sufficiently characterized. Another proposed option would have allowed detergent additives certified for California gasoline to be used in all PADD V gasoline, but for the reasons discussed below in Section V, EPA is not finalizing this option. Nevertheless, California certifications will be accepted for demonstrating compliance with the certification requirements of the Federal program in California (see Section V). A proposed second tier of detergent certification, to ensure sufficient additization of the most severe gasolines, is also not finalized today. All these options and the comments by the public on these options are discussed further below.

It is important to understand that the choice of a particular certification option actually represents a choice as to the test fuel in which a particular detergent will be mixed when it undergoes certification testing. (Test fuel composition [severity] is an important element in determining the challenge to a detergent's ability to control deposits represented by certification testing.) As a result of such testing, a required minimum treat rate (minimum recommended concentration or lowest additive concentration) will be established for the additive when used in the type of gasoline represented by the test fuel. In other words, the certification of a detergent under a particular certification option has the result of setting a treat rate for that detergent in the pool of gasoline covered by the certification option. To say a detergent has been certified under several options merely means that the detergent has undergone performance testing in the context of several different test fuels, each representing a different option, and that different treat rate requirements have thus been established for the additive when used in the different gasoline pools covered by these options. The relationship between certification options and test fuels is discussed further in Section VI of this preamble.

These options, when considered together, provide a great deal of flexibility to the fuel industry for additizing gasoline. Of course, in each situation, the industry must find the optimal balance between the costs of additional certification testing and the potential opportunity to use reduced additive amounts in particular gasoline pools. Based on the number of oxygenates listed in the discussion on the oxygenates suboption below, there are over 90 different combinations of certification options and suboptions. Table #IV–1 summarizes the categories of options and suboptions.

TABLE #IV–1.—OPTIONS AND SUBOPTIONS FOR CERTIFICATION OF DETERGENT ADDITIVES

Options	Suboptions
Nationwide Option	Generic Certification;* Oxygenated; Nonoxygenated; Oxygenate-Specific; Premium: Oxygenated; Nonoxygenated: Oxygenate-Specific.
PADD Option for PADDs I, II, III, IV, and V Outside California.	Generic Certification; Oxygenated; Nonoxygenated; Oxygenate-Specific; Premium: Oxygenated; Nonoxygenated: Oxygenate-Specific.
Fuel-specific Option	Parallels National and PADD Specific Certification.
California Equivalency	Per CARB Certification.

*Prescribed test fuel must contain 10% ethanol.

B. Single-Tier Certification System

In the NPRM, EPA proposed two detergent certification tiers. The first tier would target the deposit control requirements of ''typical'' gasoline, containing relatively moderate levels of specified fuel severity factors (sulfur, olefins, aromatics, and T–90). The second tier was proposed as a means for controlling deposit formation from the most severe gasolines. A gasoline would be identified as ''most severe'' when at least one of the identified severity factors in the gasoline was at or above the 95th percentile of the distribution of measured values for that parameter in gasoline survey data. EPA proposed the second tier certification because of the concern that these most severe gasolines might exceed the ability of the detergent additive, at the concentration required by the first tier, to control engine deposits at the required level. EPA was particularly concerned about the possibility that some motorists might consistently choose to use the same brand of gasoline, which might happen to be the most severe brand of gasoline available in an area. Used perennially, these most severe gasolines could exceed an additive's ability to control deposits and lead to much higher motor vehicle emissions and driveability problems for those motorists.

As proposed, the additive manufacturers would certify their additives to the second or more severe tier through the use of test fuels containing higher concentrations of the gasoline severity parameters. The expected results would be higher additive treat rate requirements for the high-severity gasolines. Detergent blenders would be responsible for testing their gasoline on a weekly or batch-by-batch basis to characterize the severity of their gasoline using specified

test methods. Then, if the gasoline exceeded the 95th percentile of the gasoline severity distribution created from survey data, the fuel blender would have to additize its gasoline at the concentration prescribed for the high-severity gasoline pool.

Comments submitted by both the oil and automobile industries were opposed to the two-tier scheme for additizing gasoline. These comments and other available information suggest that only rarely will particular service stations or localities continually be supplied with only the most severe additized gasoline. More often, the impact of severe gasolines will be moderated by the consumer's subsequent use of less severe gasoline. Furthermore, a review of PADD-specific gasoline survey data suggests that gasoline which may be labeled severe because of high levels of one or two severity factors may have relatively low levels of the other severity factors. Thus, the incremental testing, monitoring, and recordkeeping requirements that would be needed on a regular basis to address the relatively rare instances in which the impact of very severe gasoline might be significant and long-lasting do not seem warranted. EPA concludes that the potential benefits of a second tier of detergent additive certifications for severe gasolines are uncertain, and do not justify the incremental costs and burdens. This final rule, therefore, is based on a single-tier certification approach. A complete description of the public comments on this issue and EPA's associated analysis are contained in Section IV of the Summary and Analysis of Comments document.

C. Geographical Certification Options

1. National Certification. To obtain a national certification, the certifier must demonstrate a detergent additive's compliance with the performance standards through testing with specified test fuel(s) based on characteristics of the national gasoline supply (see Section VI). The LAC established under a generic national certification option will be valid for use of the detergent in any type of gasoline, oxygenated or nonoxygenated, unleaded or leaded, of any octane grade, that is sold in the United States, including imported gasoline. However, California fuel marketers should be aware that CARB requires detergents used in California gasoline to comply with CARB detergent certification requirements, and that a detergent certified under the Federal program may or may not also satisfy CARB's certification requirements. Therefore, parties additizing gasoline for sale in California must ensure that they are in compliance with both the Federal and CARB detergent programs (See Section V for the applicability of a CARB certification in meeting Federal detergent requirements).

The test fuel for the generic national certification option must contain four specified severity parameters at no less than the 65th percentile of the national survey data, and must be blended with ethanol to 10 percent of the final blended volume. As described in more detail in Section VI, ethanol was chosen for the generic test fuel because the available data shows that it tends to have a greater impact on deposit-forming tendency than the other oxygenates. Using different test fuels, national certification can also be obtained for a variety of subpools of the national gasoline supply (e.g., oxygenated versus nonoxygenated, premium, and combinations of these pools). These suboptions are further discussed below.

EPA proposed the national certification option and suboptions to provide a broadly applicable method to certify a detergent. EPA anticipates that many major gasoline marketers will use the national certification option because of the simplicity of blending one concentration of detergent additive in all the fuel manufacturers' gasoline across the nation. In their comments on the proposed rule, the refining industry supported the national option and stated that most of its member companies would probably use this option.

2. PADD Certification. As described above, the prescribed additive treatment levels under the national certification option are based on a spectrum of nationwide gasolines. As a result, for some pools of relatively low-severity gasoline distinguished by their geographical location, the national option may cause more additive to be used than necessary to maintain the required level of deposit control performance. Thus, additive costs might tend to be higher than necessary for those pools of gasoline. EPA's analysis of the distribution of gasoline severity factors showed that the composition of gasoline sold tends to differ between the various PADDs of the United States. This difference probably results from the varying sources of crude oil and the differences in crude processing capabilities among the refineries in each PADD, and the relatively consistent pattern of gasoline production and distribution within the PADDs.

Given these fuel compositional differences between the PADDs, EPA proposed, and is now finalizing, detergent additive certification options applicable to the gasoline sold within each PADD. A PADD certification can be obtained by demonstrating compliance with the performance standards through testing on a specified test fuel(s) based on the characteristics of the gasoline sold in the given PADD. As summarized in Table #IV–1 above, the PADD certification option parallels the national certification option in that there are opportunities for a generic PADD certification or certification under specified suboptions.

A PADD certification pertains to the additive treat rate requirements for the gasoline sold to retail outlets, wholesale purchaser consumers (WPC), or to the ultimate consumer within a PADD, no matter where the gasoline may have been refined or additized. This reflects the fact that the PADD certification test fuels are defined according to survey data of gasoline sold at retail outlets within the PADD, not gasoline produced or additized within the PADD. For a detergent blender who commonly distributes detergent-additized gasoline across PADD lines, and who wishes to have full flexibility as to the destination of each batch of additized gasoline, a detergent with a national certification would probably be more appropriate than a detergent subject to the use restrictions of a PADD certification. Use of a PADD-certified detergent will be most practical when the downstream distribution networks from a given blending facility terminate within a single PADD, or when a detergent blender is willing and able to implement control systems to ensure that gasoline blended with a PADD-certified detergent will end up at a retail outlet within the appropriate PADD.

A PADD V certification is applicable only to the PADD V states other than California. Accordingly, the required test fuel is based on gasoline survey data collected from PADD V excluding California. This is appropriate because California Phase II reformulated gasoline is expected to be much less severe than gasoline available elsewhere in PADD V (see Section V).

PADD certifications are likely to be sought only when the respective certification test fuel specifications will result in a lower minimum detergent treatment rate requirement than under a national certification, i.e. for PADDs with less severe gasoline. In the more severe PADDs, i.e., those in which the gasoline supply tends to have higher levels of deposit-forming characteristics than the national supply, the PADD certification test fuel specifications would result in higher treatment requirements. Thus the national certification option would likely be

chosen. This raises a potential concern that gasoline in relatively severe PADDs might receive inadequate amounts of additive.

For this reason, the generic national test fuels have been designed to represent greater than average deposit-forming conditions. For example, as explained in detail in Section VI, this final rule specifies that each test fuel must contain the fuel severity factors at no less than the 65th percentile in the respective fuel survey distribution. Only a very small proportion of the gasoline sold in the United States contains the combination of all four of the fuel severity parameters at levels this high or higher. Other approaches for assuring adequate deposit control in the more severe PADDs were also considered by EPA in the NPRM. As already discussed above, one option would be to apply a second level of additization based on severity for national or PADD certification, which would be triggered by a high level of one or more severity parameters. For the reasons discussed, this approach was not followed in this final rule. Under another alternative, the national certification would be abandoned and only PADD-based certifications would be allowed. This alternative was not pursued because EPA judged it would multiply the costs of certification and recordkeeping without sufficient additional benefit. In a third alternative, national certification would still be allowed, but the specifications on national test fuel severity would be increased to provide additional assurance of adequate stringency for all PADDs. Due to the wide support expressed for the proposed option in the comments, the lack of support for these other alternatives, and a desire to limit certification testing and additization costs to levels that are offset by concomitant benefits, EPA has decided to finalize the proposed methods of national and PADD certification, and to omit the alternatives considered.

EPA believes that the PADD option in conjunction with the national certification option will give the regulated industry a high degree of flexibility toward optimizing the amount of detergent additive used in fungible gasoline while ensuring adequate additization under either option. The choice for each certifier of what combination of PADD and national certifications to undertake will be made according to the characteristics of the certifier's particular refinery, distribution, or marketing network, weighing the additional cost of certification in multiple areas against the potential savings (or competitive advantage) of achieving a lower certified LAC.

3. U.S. Territories. This final rule requires gasoline sold in U.S. territories to be additized at the concentration required under the national certification option. In the NPRM, EPA acknowledged that its information on gasoline severity and distribution networks was insufficient to propose that a territory may be additized consistent with the requirements of a particular PADD. Comment was requested on whether it would be appropriate to include U.S. territories under a PADD certification option and how territories could be appropriately assigned to the various PADDs. EPA also requested comment on whether special circumstances affecting gasoline supply, distribution, or marketing might make compliance with these rules unreasonably burdensome in some or all of the territories and whether special provisions should apply or if these territories should be exempted.

EPA did not receive any response to the request for comments and has not obtained additional information which would help determine if the gasoline sold in any of the territories is consistent with any specific PADD. Thus, the final rule requires gasoline sold in U.S. territories to be additized with a nationally certified detergent at the appropriate level.[14] This will ensure a high level of deposit control protection in these territories. In the NPRM, EPA identified the following U.S. territories: Virgin Islands, Guam, the Commonwealth of the Northern Marianas Islands, and Puerto Rico. American Samoa was inadvertently omitted from this list, and is now properly noted as a U.S. territory and therefore subject to Federal gasoline detergency requirements.

4. Certification Sub-Options.

a. Nonoxygenated Gasoline Certification Option. The data presented in the NPRM on the fuel parameters that impact deposit-forming severity indicate that the addition of oxygenates such as ethanol and MTBE tends to increase the amount of additive required to maintain the desired level of deposit control protection. Thus, the generic certification approach, based on test fuels containing oxygenate at the maximum percentage, may lead to overadditization of nonoxygenated gasoline. Thus, EPA is permitting the separate certification of detergents for nonoxygenated gasolines, using appropriate nonoxygenated test fuels. This suboption can be used in conjunction with the national and PADD options, the fuel-specific option, and the premium fuel suboption.

b. Oxygenate-Specific Certification Option. A generic national or PADD certification option based on ethanol-blended test fuels may require higher additive blend concentrations and higher costs than necessary for gasolines blended with oxygenates other than ethanol. Thus, EPA is allowing specific certification of additives based on testing with fuels containing other oxygenates. Examples of such other oxygenates include ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), tertiary amyl ethyl ether (TAEE), tertiary hexyl methyl ether (THME), diisopropyl ether (DIPE), and tert-butyl alcohol (TBA). Like ethanol, the concentration of these oxygenates in the test fuels shall be at the maximum concentration allowable in commercial gasoline. However, while a detergent certified with a test fuel containing ethanol can be used in gasoline containing any other oxygenate or no oxygenate, oxygenate-specific certification will be a use-restricted certification option. For example, the minimum additive concentration determined through performance testing with MTBE-blended test gasoline will be applicable only to gasoline blended with MTBE, or without any oxygenates.

EPA requested comment on the potential benefits, problems, and costs of either providing for or requiring a separate certification for oxygenated and nonoxygenated fuels, and on the appropriate specificity regarding the oxygenate to be used in certification testing. In particular, EPA requested comment on the potential difficulties and costs associated with differentiating oxygenated and nonoxygenated gasolines for enforcement purposes. The oil industry supported the options to certify additives for use in gasoline containing specific oxygenates, or for use in gasoline without oxygenates. The ethanol industry disputed the notion that ethanol is more deposit-forming than the other oxygenates. In addition, they expressed concern that many

[14] However, this provision of the final rule does not affect the potential availability of a special exemption for certain territories under CAA section 325. Section 325 provides that, upon petition by the respective governor, the Administrator is authorized to exempt any person or class of persons in certain territories (Virgin Islands, Guam, Commonwealth of the Northern Marianas Islands, and American Samoa) from certain requirements under the CAA, including the gasoline detergency requirements. Such an exemption may be granted if the Administrator finds that compliance with a regulatory requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors within a given territory, or such other local factors as the Administrator deems significant. Puerto Rico is not included among the territories permitted to petition the Agency for an exemption under the provisions of Section 325.

deposit control additives are not soluble in ethanol, thus restricting ethanol blender choices for additizing ethanol blends. They further contended that fuel manufacturers and blenders may not be willing to continue using ethanol if they are placed at economic risk in case of disruption in the supply of the appropriate detergent additives available to them. EPA evaluated the available data on the solubility of detergent additives in ethanol-gasoline blends and determined that, even though some detergent additives may not be soluble in pure ethanol, most (if not all) are soluble in the 10 percent and lower ethanol blends currently being produced.

The ethanol industry also commented that fuel blenders who blend ethanol into gasoline would be precluded from doing so if the gasoline is already blended upstream with a detergent additive that is either not certified for, or not used in sufficient amount to account for, the addition of ethanol. This final rule requires incremental additization when ethanol is added to previously additized gasoline, as proposed, but to address the ethanol industry's concern, the rule permits a different detergent to be used than the one already present in the gasoline. The amount of incremental detergent must be sufficient to account for the increase in base fuel severity caused by the presence of ethanol, as well as the detergency requirements of the added ethanol volume itself. To allow the proper amount to be determined, the newly added detergent must be one which has been certified both for nonoxygenated gasoline and for ethanol-blended (generic use) gasoline. The proper incremental amount can then be computed based on the different rates required under the two certifications. Additional discussion of this issue and similar ''cures'' for other use restrictions can be found in Section VIII of this preamble.

c. Premium Grade Certification Option. An analysis of AAMA fuel survey data in the NPRM showed that premium gasolines, defined as having an octane rating of $91 (R+M)/2, tend to have lower olefin content, sulfur content, and T–90 than regular and intermediate grade gasolines. Of the four pertinent nonoxygenated fuel parameters, only aromatic content is higher in the premium grade. This suggests that premium fuels may require a lower concentration of detergent additive to maintain the same level of deposit control performance.

Based on these compositional differences, EPA expects that a separate detergent certification suboption for use in premium gasoline within the national and PADD certification options would allow the industry to reduce costs by reducing the amount of additive required. The oil industry supported the premium suboption in their comments on the NPRM. Thus, the final rule will allow certification of additives for use in premium gasoline.

d. Reformulated Gasoline Certification Option. The Federal RFG regulations (59 FR 7716, February 16, 1994, 40 CFR 80.40) require changes to gasoline in certain areas where the national ambient air quality standard for ozone is not being met, and these changes may potentially affect the deposit forming tendency of these gasolines. The first phase of the RFG requirements, which took effect January 1, 1995, is expected to cause a small reduction in some or all of the four deposit-forming severity factors, although the oxygenate that the program requires to be blended into RFG could counter the potential fuel severity benefits. However, the effect of oxygenates must be considered for all fuels under the detergents program and is therefore not a particular concern with respect to RFG. Beginning in the year 2000, more stringent RFG fuel reformulation requirements will take effect, and may result in more substantial reduction in deposit-formation severity (mainly, a large sulfur reduction).

Anticipating that RFG may cause changes in gasoline severity, EPA considered including a separate detergent certification option for use in RFG. In the NPRM, EPA proposed the adoption of either a required or optional RFG certification option and asked for comments on these potential options. The oil industry favored a separate RFG option as long as it was not required. However, EPA recognizes that sufficient RFG survey data is not yet available for differentiating the deposit-forming tendency of RFG from conventional gasoline, or from which to establish test fuel specifications for an RFG test fuel. When additional data becomes available, the Agency intends to review the RFG severity parameter levels and compare them to other pools of gasoline. If a review of the survey data shows that there is indeed a significant difference in the severity of RFG, EPA may propose an RFG option in a future rulemaking. In the meantime, additives may be certified with a separate treat rate for RFG based on a refinery's own segregated RFG pool using the procedures put into place for the fuel-specific certification option. Otherwise, additives which are certified under any geographic option may be used in RFG at the certified treat rate.

5. Recertification Requirements. In the NPRM, EPA discussed a possible mechanism whereby national or PADD recertification could be required if the composition of the gasoline pool in question changed sufficiently to bring the adequacy of deposit control into question. For this purpose, EPA would monitor trends in the composition of the respective gasoline pools, and would periodically recalculate the national and PADD percentile concentration values for the relevant parameters. A need for recertification would be indicated if the newly calculated 50th percentile level of any one of the monitored fuel parameters was greater than or equal to the 60th percentile level in the original fuel survey data.

However, to require recertification under the national and PADD certification options would entail the adoption of new test fuel specifications, which would most appropriately occur through a subsequent rulemaking. Thus, today's rule does not include any provisions that would automatically trigger national or PADD-based recertification requirements. If EPA should determine in the future that gasoline composition has shifted to such an extent to suggest that detergents certified pursuant to the test fuel specifications in today's final rule may no longer provide sufficient deposit control protection, then EPA will publish a public notice that explores potential recertification requirements and seeks public comment.

D. Fuel-Specific Certification Option

1. General Description. The fuel-specific certification option proposed in the NPRM is also being finalized in today's rule. This option provides fuel and additive manufacturers an opportunity to tailor certification test fuels and subsequent detergent additive treat rate requirements to the unique characteristics of segregated pools of low-severity gasoline. These special gasoline pools may be produced from inherently mild crude oil or, in other cases, from refinery practices that reduce the deposit-forming tendency of the gasoline. Such gasoline may require reduced concentrations of detergent additives to meet the detergency requirements. Reduced additive concentrations, when multiplied by the large volume of gasoline that is produced, could provide a refiner or other fuel manufacturer with a substantial savings in additive costs. To take advantage of this opportunity, however, the fuel manufacturer must be able to segregate its special gasoline pool(s) from the general fuel supply until the gasoline has been blended with

the detergent additive specifically certified for use in this fuel. Once properly additized, the gasoline need not be segregated from other additized gasoline.

The fuel-specific option requires demonstration of the deposit control performance standards through testing of a detergent additive in a test fuel that is representative of the subject segregated gasoline pool. To determine the composition and characteristics of the segregated pool, certifiers are required to measure the concentrations of aromatics, olefins, and sulfur in the gasoline, as well as the T–90 distillation point. These parameters are to be measured at least once per month over a twelve-month period at each refinery or other facility contributing to the defined gasoline pool, and a percentile distribution of these defining characteristics is to be constructed. A fuel sample, located from within the defined pool or blended from the refinery blendstocks normally used to manufacture this pool, and containing each of the parameters at a level no less than the 65th percentile value of the entire pool, is then required to serve as the test fuel (see Section VI.B., below, and § 80.164(c)(2)).

Fuel-specific certification is fundamentally different from all other certification options, in that the precise test fuel specifications are defined by the certifier (under prescribed procedures) rather than defined by EPA and codified in the regulations. Thus, the certifier under the fuel-specific option must be a person who has access to and control over the subject gasoline supply. Frequently, this will be the refiner or other fuel manufacturer. EPA anticipates cooperation between additive and fuel manufacturers in implementing the fuel-specific option. The additive manufacturer retains responsibility for (1) the registration of its detergent additive, and (2) proper labeling of the additive as use restricted. In this instance, however, it may be the fuel manufacturer, or another party with title to and access to the segregated fuel supply, who takes responsibility for certification instead of the detergent manufacturer.

Use of a detergent under the conditions of a fuel-specific certification is restricted only to the defined pools of gasoline produced by or distributed from the facilities included in the fuel composition survey. Furthermore, as described in detail below, the certification will become invalid if the composition of the subject gasoline pool changes beyond a prescribed amount.

2. Variants. The fuel-specific option, like all other certification options, gives registrants the flexibility to certify with non-oxygenated, oxygenated, and/or oxygenate-specific test fuels. Data indicates that non-oxygenated fuels have a lower deposit forming tendency than oxygenated fuels and thus require lower concentrations of detergent additives to provide deposit control. Furthermore, because the deposit-forming tendency of oxygenated fuels varies from one oxygenate to the next, some oxygenated fuels may require a lower additive concentration than others. As mentioned previously, substantial savings could result from tailoring the detergent concentration requirements to the deposit-forming characteristics of the fuel. Accordingly, fuel manufacturers using the fuel-specific option may further optimize their detergent use by certifying under one or more oxygenate-related suboptions. These suboptions are implemented for fuel-specific certification in the same manner as for national or PADD certifications.

EPA is also aware that some gasolines have such extremely low deposit-forming tendencies that they may require only a PFID control additive or, perhaps in some cases, no detergent additive at all. In these special situations, certifiers may provide EPA with PFID and IVD test results under the fuel-specific option to demonstrate that a deposit control additive is not necessary for deposit control.

3. Monitoring and Recertification Requirements. The certifier under the fuel-specific option is required to monitor fuel composition on a monthly basis, and must provide an annual report to the Agency on the composition of the gasoline covered by the certification and how the composition deviates from baseline data. Recertification will be required if the composition of the gasoline pool changes such that the new 50th percentile concentration of any non-oxygenate fuel parameter (i.e. aromatics, olefins, sulfur, or T–90) exceeds the 60th percentile concentration reported in the original certification letter. New percentiles are calculated on an annual basis using the last 12 months of data. If the baseline percentile level is exceeded, the detergent blender will be required to stop using the fuel-specific detergent until recertification is complete and, in the meantime, must substitute either a national or appropriate PADD-certified additive within 45 days of the certification renewal date on which the recertification became necessary to avoid a violation. The fuel-specific detergent may have also been certified under the national or PADD certification options. If so, the same detergent additive may be used at the appropriate national or PADD-certified treat rate.

V. CARB Certifications

A. Background

Section 211(c)(4)(A) of the Clean Air Act generally prohibits states from adopting their own state fuel programs to control motor vehicle emissions, once EPA has regulated a fuel characteristic or component under 211(c)(1). EPA's adoption of a Federal deposit control additive program would therefore preempt certain state fuel programs. However, section 211(c)(4)(B) clarifies that the state of California is not subject to this prohibition. CARB has in fact implemented a detergent additive certification program effective January 1, 1992 (Title 13, Section 2257 of the California Code of Regulations). EPA determined that a CARB detergent certification would provide adequate demonstration that a detergent could be used to meet Federal detergent performance requirements under the Federal interim program.[15]

To ensure that the CARB detergent program would continue to provide a level of deposit control protection equivalent to that of the Federal program, once the Federal certification program was implemented, the Agency proposed that the applicability of a CARB detergent certification would be limited to gasolines sold in PADD V. EPA's judgment that CARB-certified detergents would provide adequate deposit control performance in all PADD V gasolines was based on the similarities in the gasoline composition (and hence deposit forming tendency) between California and the rest of PADD V, and the similarities between CARB's and the proposed Federal deposit control performance requirements. EPA proposed that PADD V gasoline additized with CARB-certified detergents (CARB-based PADD V certification) would be subject to the same use restrictions as gasoline certified under the other PADD-specific options.

Public comment was in agreement with EPA that, for California gasoline, a CARB-certified detergent would provide at least as effective deposit control as a detergent meeting Federal detergent certification requirements. However, commenters disagreed with each other on the extent to which a CARB-certified additive could be used to satisfy Federal requirements for non-California gasoline. The automotive industry

[15] A detailed comparison of the CARB and Federal detergent programs is included in the Summary and Analysis of Comments.

stated that CARB-certified detergents would not provide adequate deposit control protection for non-California gasolines because of differences in fuel composition, particularly under CARB's Phase II reformulated gasoline requirements. Some commenters from the petroleum industry supported the applicability of a CARB certification within PADD V, while others stated that a CARB certification should be applicable nationwide provided that CARB certification fuel parameter levels meet EPA requirements. Other commenters stated that a CARB certification should be accepted nationwide in order to avoid the economic burden on small and independent refiners which would result from being required to meet two sets of certification requirements.

B. Applicability of CARB Equivalent Certification

To determine the appropriate applicability of the CARB certification program, EPA compared the level of deposit control protection which will be provided under the Federal detergent certification program finalized today to that provided under CARB's program (see the Summary and Analysis of Comments for an extensive discussion). In conducting this analysis, EPA compared the performance standards, test procedures, and test fuels of the two programs, and concluded that they were sufficiently similar to ensure that the use of a detergent certified under CARB's current detergent program in California gasoline will provide at least as effective deposit control as a detergent meeting Federal certification requirements. However, implementation of California Phase II RFG requirements has greatly widened the compositional differences between California and non-California gasolines. A detergent certified for the relatively low-severity conditions of California Phase II gasoline can no longer be expected to provide adequate deposit control in gasoline in the other PADD V states or elsewhere in the nation. Thus, EPA will accept data which supports a valid CARB detergent certification as sufficient demonstration that a detergent additive is capable of satisfying Federal gasoline detergency performance standards for CARB phase II RFG, but not for non-California gasolines.

Certain changes proposed by CARB for its detergent program would, if implemented, serve to make the two certification programs even more similar. However, if CARB should implement other, unanticipated changes, then EPA would evaluate whether such changes would reduce the acceptability of CARB-certified detergents in meeting Federal gasoline detergency requirements, and would propose changes to these applicability provisions through another rulemaking if warranted.

To ensure that a CARB-certified detergent is only used to meet Federal detergency requirements in California phase II RFG, the gasoline must be additized in California, or sold or dispensed to the ultimate consumer in California (or to parties who sell or dispense to the ultimate consumer in California), or both. Some commenters suggested that EPA should allow CARB-certified detergents to be used in gasoline sold in all PADDs, provided that the severity parameter levels in the gasoline did not exceed the severity limits in the CARB certification. EPA believes this approach is not feasible, since it would require a complex set of fuel composition monitoring requirements similar to those proposed under the two-tier certification scheme (see Section IV.B) which the Agency has determined would not be cost effective. EPA does not believe that requiring all gasoline sold outside of California to meet Federal detergent certification requirements would cause significant financial hardship to smaller gasoline marketers, as some commenters suggested. The costs to these marketers of using a CARB-certified detergent would be similar to the costs of using a Federally certified detergent, and the necessary infrastructure is likely to exist already in the fuel marketers' facilities outside of California due to their obligation to comply with the interim Federal program. EPA believes that use of CARB-certified detergent additives in non-California gasolines would not provide adequate deposit control protection. Thus, to allow small gasoline marketers to use CARB-certified detergents in non-California gasolines could significantly reduce the emissions control benefits of this program.

VI. Certification Test Fuels

A. National and PADD Certification Test Fuels

1. Proposed Test Fuel Requirements. Under the proposed certification test fuel requirements, testing to demonstrate detergent additive effectiveness would be conducted using test fuels containing specified levels of five parameters (olefins, sulfur, aromatics, T–90 distillation point, and oxygenate content) that have been shown to affect gasoline deposit-forming tendency. The minimum levels of these severity factors in the test fuels proposed for each certification option corresponded with values at the 55th to 65th percentiles of the 1989–1991 AAMA fuel survey data for the gasoline pool covered by the certification option in question (e.g., national, PADD, premium, etc.).

EPA also discussed in the NPRM its concerns that the specified level of these fuel severity factors may not completely define a gasoline's deposit-forming severity. If this were the case, detergent certifiers might blend certification test fuels that contained the required levels of the fuel severity factors, but nevertheless were not representative of in-use gasoline deposit forming tendency. To help account for unknown factors in gasoline composition that might affect fuel severity, EPA proposed that gasoline samples for certification testing must be drawn from normal production gasoline stock (finished commercial gasoline) taken from normally operating refinery and/or terminal facilities. In addition, the test fuels required for each certification were to be drawn from separate production/distribution facilities in different areas of the nation. This requirement would tend to increase the certainty that unknown severity factors would be represented by ensuring that various refinery stocks were tested, and would act as a screen to prevent the use of inappropriately mild (i.e., low deposit-forming severity) fuels. It would also serve to limit the opportunity to select test fuels from refineries that, for unidentified reasons, tend to produce gasoline with a relatively low deposit-forming tendency. To ensure that the certification process accounts for any interactive effects between detergent additives and non-detergent additives, EPA proposed that the type and concentration of non-detergent additives in the certification fuels must not differ in any way from the fuels that are dispensed to the ultimate consumer.

EPA recognized in the NPRM that it could be difficult for an additive certifier to locate a single finished gasoline which contained all four nonoxygenate severity factors at the required levels. To reduce this difficulty while ensuring adequate test fuel severity, EPA proposed that testing for each certification option be conducted using a matrix of four test fuels, each containing a different combination of two of the nonoxygenate severity factors at levels no less than the required 55th to 65th percentile values. Alternatively, additive certifiers could perform testing in as few as two fuels, as long as each of the severity parameters was present at the required levels in at least one such fuel.

The proposed minimum of two test fuels was believed to be necessary to account for the deposit-forming tendency of oxygenates. EPA proposed that one of the test fuels would be required to contain 10 volume percent ethanol, and another would be required to contain 15 volume percent MTBE. These oxygenates were selected for testing because they were expected to have the most significant impact on gasoline deposit-forming tendency of the oxygenates within their respective oxygenate classes (alcohols and ethers), and because they were expected to be the two most widely used oxygenates.

EPA also proposed that certification test fuels be contained in new, sealed containers during transportation and storage and that these fuels could be stored no longer than one full year from when they were drawn from the refinery before testing.

2. Final Test Fuel Requirements.

a. Test Fuel Source and Screening Requirements. In response to the NPRM, commenters stated that finding finished fuels that met the test fuel compositional specifications would be extremely burdensome and impractical, and that EPA should instead allow the use of refinery blendstocks to formulate certification fuels. To ensure that test fuels were not inappropriately mild, they stated, test fuel blenders could be required to provide EPA with documentation of the source and identification of all of the refinery blendstocks used, as well as the fuel parameter levels in the finished test fuel. Finally, they stated that the finished test fuel should be required to conform to ASTM D 4814, for commercial gasolines. In combination, the commenters felt that this information should alleviate EPA's concern about using blendstocks for formulating test fuels.

EPA acknowledges that the proposed requirement that test fuels be drawn from finished gasoline stock is a burdensome one. However, the ideas raised by the oil industry, while somewhat helpful, are not sufficient to prevent intentional manipulation of test results, or to ensure that test fuels will adequately represent the deposit-forming severity of in-use gasoline.

Thus, in the Reopening Notice, EPA asked for comment on other potential approaches to ensure the adequacy of test fuels if they were created from refinery blendstocks (see Summary and Analysis of Comments), and has finalized one of these approaches in today's rule. Specifically, the final rule requires that, to be eligible as a test fuel, a candidate nonoxygenated, unadditized fuel must be tested to demonstrate its severity by causing the formation of at least a specified level of IVD in a 10,000 mile BMW test.

In its comments, API stated that increasing the required number of expensive BMW tests just for this purpose would be cost-ineffective and unnecessary. However, most other commenters supported EPA's proposed demonstration test. Some commenters stated that, if a performance severity test were established, it should be the exclusive requirement for test fuel qualification, and that fuel parameter requirements should be dropped. Other commenters stated that if such a test were established, it should be allowed as an alternative to meeting fuel parameter requirements in qualifying test fuels for certification testing purposes.

EPA believes that the performance-based approach for qualifying test fuels provides a practical and effective way to screen out test fuels of inappropriately low deposit-forming severity that otherwise conform to compositional specifications. Thus, this final rule allows the use of refinery blendstocks for formulating test fuels, provided that the unadditized test fuel severity is demonstrated by IVD testing. If test fuels are drawn directly from finished gasolines, they do not have to undergo severity demonstration testing to qualify for use in certification tests.

EPA disagrees with the comment that a test fuel deposit demonstration criterion will not be cost-effective. In the absence of this assurance, EPA cannot be confident that test fuels created from refinery blendstocks will be adequate to assure proper additization of the in-use gasoline to achieve the emission reduction goals of the detergent certification program. In comparison with the original proposal, which would have required detergent certification testing to be conducted in up to four specified test fuels, each to be located from normal finished fuel supplies, the cost of a single demonstration test for a batch of test fuel is modest. Furthermore, the costs for test fuel blending and IVD demonstration testing can be shared. For example, a testing laboratory can qualify a large quantity of test fuel and then use it for certifying multiple detergent additives. In these and other ways, the costs associated with the test fuel IVD demonstration requirements can be spread over a large number of detergents or companies. Thus, EPA believes that the test fuel deposit demonstration requirement is reasonable and necessary, and that it can be met in a very cost-effective manner.

EPA also disagrees with the comment that certifiers should be given the option to qualify test fuels either by meeting the requirements of the IVD demonstration test or by meeting the test fuel compositional criteria, rather than being required to satisfy both. The fuel parameter specifications are necessary to set the overall stringency of the test fuel and to provide reasonable assurance that the composition of the deposits formed is representative of deposits that result from in-use gasoline. The deposit demonstration test is necessary to confirm that the level of stringency prescribed by the fuel parameter specification has been achieved. Thus, both types of test fuel criteria are necessary to assure the validity of subsequent detergent certification testing.

EPA received varied comments regarding an appropriate qualification standard, i.e., the minimum amount of IVD that the unadditized test fuel must generate during the demonstration test in order to qualify for use in detergent certification testing. Suggestions ranged from 175 mg of deposit formation per valve up to 500 mg per valve. To resolve this issue, EPA reviewed available BMW IVD test data on unadditized test fuels.[16] Tests on gasoline of ''typical'' deposit-forming tendency, i.e., containing fuel severity factors at generally lower levels than required in the detergent certification test fuels and more representative of average severity gasolines, were selected as the subject of this study. The results of this analysis showed that a typical unadditized nonoxygenated fuel can generally be expected to produce approximately 290 mg of deposits over the accumulation of 10,000 miles in a BMW test. Uncertainty in the 5,000 mile test data precluded EPA from considering a standard based on that shorter test.[17]

Based on this analysis, the final rule requires the accumulation of at least 290 mg of IVD using unadditized, nonoxygenated fuel, during the 10,000 mile BMW test, for qualifying base test fuels for the national certification option. The same standard will apply to PADD certifications in those PADDs where the IVD severity factor distributions tend to be similar to or higher than the national levels (PADDS I and III). For the other PADDs characterized by fuels which tend to

[16] Memorandum to the docket from David Swain, OMS, entitled ''Data Review of Intake Valve Deposit Weights for Detergent Certification Fuel Screening'', Docket item IV-B–07.

[17] It should be noted that the 5,000-mile deposit demonstration test, in addition to its technical shortcomings, would save only about 25 percent of the cost of a 10,000-mile test.

have lower levels of severity factors most related to IVD formation, the standard is adjusted downward by 10 percent. For the premium certification test fuels, the standards are reduced an additional 10 percent below the respective all-grade test fuels. Thus, to qualify for generic certification testing in PADDs II, IV, and V (excluding California), the unadditized, nonoxygenated test fuels must demonstrate a minimum accumulation of 260 mg of IVD (i.e., 90 percent of 290 mg) in a 10,000 mile BMW test. The 260 mg standard also applies to the premium option at the national level and in PADDs I and III. For the premium option within PADDs II, IV, and V (excluding California), test fuels meeting the applicable nonoxygenate fuel parameter levels must accumulate at least 235 mg of IVD (i.e., 90 percent of 260 mg). These IVD demonstration criteria are expected to achieve the goal of the IVD demonstration test while ensuring that the applicable fuel parameter specifications remain the primary contributor to test fuel severity. At the discretion of the certifier, the IVD severity demonstration test may be terminated at fewer than the 10,000 miles specified in the test procedure. However, the IVD demonstration criteria specified above (for the 10,000 mile test length) must be satisfied for the test to qualify for certification purposes. Once the engine has been disassembled to examine the IVD (other than by removing the fuel injectors for boroscope inspection) the test must be terminated.

The IVD demonstration is to be conducted on base test fuels, i.e., fuels which conform to the specified nonoxygenate severity factor requirements, but do not contain oxygenate (or detergent). Once qualified for use in certification testing, a base test fuel can be blended with ethanol for use as a generic test fuel, and/or with other oxygenates for use in oxygenate-specific certification testing options.

As suggested by a commenter, the final rule requires test fuels to conform to ASTM D 4814 specifications.[18] To further ensure the representativeness of test fuels and the composition of deposits, the rule also requires the certifier to provide to EPA documentation of the source and identification of all of the refinery blendstocks used, as well as the fuel parameter levels in the finished test fuel. Consistent with the proposal, test fuels for national and PADD certification may not be formulated using refinery blendstocks from a gasoline pool which has been certified as a fuel-specific pool.

b. Test Fuel Severity Factors. The weight of public comment supported the proposed five severity parameters (aromatics, sulfur, olefins, T–90, and oxygenates) identified by EPA to characterize the severity of gasoline for forming IVD and PFID. As stated above, some commenters encouraged EPA to include additional severity factors to these five; however, the information available on these potential factors was not sufficient to conclude that any other factor would be appropriate. Some commenters questioned whether these factors should be considered equal in their severity, especially with respect to their specific effect on PFID and IVD formation. However, EPA could not find sufficient information to justify giving more weight to one severity factor over another for either form of deposit. For these reasons, EPA is finalizing the detergent certification program based on the five severity factors weighted equally as proposed.

While the majority of commenters agreed that the impact of oxygenates should be accounted for in the definition of certification test fuels, the Renewable Fuels Association (RFA) commented that only limited test data is available to indicate that a higher detergent treatment rate may be necessary in oxygenate blends. EPA disagrees. Data from a number of sources indicates that the addition of oxygenates, in particular ethanol, has a substantial impact on gasoline deposit-forming tendency.[19] Also, most commenters stated that testing on fuel containing 10 volume percent ethanol provides a more difficult test of a detergent's deposit control efficacy than testing on a fuel that contains 15 volume percent MTBE, and hence EPA should allow testing on a single ethanol-containing certification fuel.

Consistent with the weight of available test data and public comment, ethanol is included in the test fuel specifications related to each of the generic certification options, i.e., those options which certify a detergent for use in any oxygenated or nonoxygenated gasoline in the related PADD-specific or national pool. To ensure representation of the maximum deposit-forming effects of ethanol (or other oxygenate, in the case of an oxygenate-specific certification option), additive certifiers must blend the oxygenate into the test fuel so that its final concentration is no less than the maximum concentration that the oxygenate can be used in commercial gasoline. For ethanol this corresponds to the addition of ethanol so that the final concentration in the certification test fuel after blending is no less than 10 percent by volume. In the case of MTBE, this corresponds to the addition of MTBE so that the final concentration in the certification test fuel after blending is no less than 15 percent by volume. Oxygenates used for certification testing purposes must be of fuel-grade quality. The use of oxygenates that are specially processed to remove impurities is not allowed.

c. Number and Severity of Test Fuels. As mentioned earlier, EPA proposed in the NPRM that a detergent additive be tested in at least two, and up to four test fuels, for each certification option selected. In commenting on the proposal, API, CMA, and others from the petroleum and detergent additive industries stated that this was unnecessary and that EPA should allow certification testing to be conducted using a single test fuel. On the other hand, AAMA stated that requiring more than one certification test fuel would allow for the inclusion of more refinery streams in the formulation of certification test fuels, thereby providing more representative results. Requiring multiple test fuels would also tend to help ensure that yet-to-be-identified fuel severity factors are represented in the certification test fuels.

As described above, EPA decided to allow use of test fuels formulated to the severity factor specifications from refinery blendstocks as an alternative to using test fuels drawn from finished commercial fuel supplies. This decision eliminates one of the most important reasons for which multiple test fuels were originally proposed, i.e. to ensure that detergents are tested in the presence of adequately high levels of fuel severity factors, without creating the impractical requirement that one finished fuel must be found which happens to contain the specified levels of all the requisite parameters. In addition, as described above in the section on severity factors, EPA has determined that testing on ethanol-containing fuel will suffice to demonstrate a detergent's effectiveness in other oxygenated fuels, obviating the need for separate tests to be conducted in the presence of ethanol and MTBE.

Reflecting these changes in the program's requirements, EPA has further simplified the certification

[18] ASTM D 4814–95c, ''Standard Specification for Automotive Spark-Ignition Engine Fuel'', 1995, is incorporated by reference in 40 CFR 80.164.

[19] See the extensive discussion in the NPRM, the memorandum to the docket entitled ''Data Review of Intake Valve Deposit (IVD) Weights for Detergents Certification Fuel Screening'', by David Swain, OMS (Docket item IV–B–07), and the Summary and Analysis of Comments.

testing program by requiring detergent performance testing in only one test fuel for each certification option selected. Of course, this does not preclude any additive certifier from performing multiple tests itself on a variety of test fuels derived from different sources. Such redundancy would help to ensure that the additive is as effective as claimed in all the gasolines in the gasoline pool.

Having decided to require one test fuel per certification option, EPA also reviewed the required levels of test fuel severity factors. For the NPRM, EPA originally derived the nonoxygenate fuel parameter specifications for each of the fuels in the proposed test fuel matrices through a complex process based on ensuring no less than a 1-in-5 chance that a randomly selected commercial fuel would meet the required fuel parameter levels. As mentioned previously, this process resulted in proposed fuel parameter levels corresponding to the 55th to 65th percentile range of concentrations relative to the national gasoline pool.

Although commenters generally opposed the 20 percent availability approach EPA used to determine test fuel specifications, there was broad support for the 65th/55th percentile fuel parameter levels derived from this approach. EPA believes it is appropriate to require that each nonoxygenate fuel parameter be represented at its respective 65th percentile level, in the applicable gasoline pool (national, PADD, premium, etc.). This decision is based on the facts that: (1) test fuels may now be specially blended so that fuel parameter specifications no longer need to be linked to fuel sample availability; (2) there is no conclusive data on which to weight any one fuel parameter's impact on fuel severity above another's, and (3) the 65th percentile levels predominated in the originally proposed test fuel matrix.

The required parameter levels are to be met in the certification test fuel before the addition of ethanol. EPA analyzed AAMA fuel survey data, comparing levels of the nonoxygenate fuel parameters in nonoxygenated fuels to those in oxygenated fuels (all oxygenates included in the analysis).[20] While the results of this study were not totally consistent, they indicated that the parameter levels in oxygenated fuels tended to be lower than those in nonoxygenated fuels. This result suggests a dilution effect when oxygenate is added. Thus, specifying that the prescribed 65th percentile levels be met in the test fuel before the addition of the oxygenate appears to conform to the real-world behavior of in-use fuels.

In its comments, API urged EPA to use test method reproducibility to establish enforcement tolerances, i.e., levels below the specifications which would still be considered to be in compliance with the specifications, for the measurement of test fuel parameters (per ASTM methods). EPA rejects this approach. As with the approach taken for the deposit control performance standards, EPA believes that the required test fuel parameter levels should be absolute minimums which must be satisfied. Allowing downward variability in meeting test fuel compositional requirements would compromise the program's emissions control benefits as would allowing downward variability in meeting deposit control testing standards.

d. Other Issues. EPA received a number of comments on its proposed requirement that the non-detergent additives present in certification fuels must be representative of those used in commercial gasoline. The petroleum and detergent additives industries stated that it is unlikely that non-detergent additives affect deposit-forming tendency because they are present in commercial fuels at very low concentrations. Hence, they stated that it was not necessary to require that non-detergent additives be present in certification test fuels.

EPA's chief concerns regarding the additive content of test fuels are (1) that no detergent-active substances be present in the test fuel other than those substances which are part of the detergent additive package being tested, and (2) that the deposit control performance demonstrated by the detergent package in the test fuel not be adversely affected by other additives encountered in use. In reviewing this subject, EPA concluded that it is not practical at this time, nor has a significant need yet been demonstrated, to require specific nondetergent additives to be present in certification test fuels. EPA has also concluded that requiring the identification of nondetergent additives in the test fuel would not very effectively address EPA's concerns; moreover, many certifiers would not be able to fully comply with such a requirement.

Thus, consistent with the views of the commenters, today's rule is generally not prescriptive with respect to nondetergent additive use in certification test fuels. Typical nondetergent additives may be, but are not required to be present in the test fuels. Also, the presence of such additives does not need to be reported. The addition of detergent-active substances other than the additive being tested is specifically prohibited. On the other hand, if EPA subjects a certified detergent to confirmatory testing, then EPA may include in its test fuel any nondetergent additive which can reasonably be expected to be encountered in use. If the performance of the certified detergent is adversely affected by the presence of such additive, to the extent that the detergent fails the confirmatory test, then the certification might be jeopardized (see § 80.161(e) regarding the disqualification of detergent additives).

The additive industry disagreed with EPA's proposed requirement that certification test fuels must be contained in new, sealed containers during storage and transportation, claiming that this requirement would be infeasible, unreasonable, and expensive, and would generate a lot of waste. Instead, it said, clean tank trucks should be adequate for the transport and storage of test fuels. EPA is persuaded that the use of clean tank trucks or other containers will ensure that test fuels are not contaminated or otherwise altered in a way that might bias certification test results, and that requiring the use of new sealed containers is unnecessary to maintain sample integrity. Therefore, the certification program requires that certification test fuels be transported and stored in clean tank trucks or other containers. In response to EPA's request for data on the affect of fuel storage on test fuel severity, comments from the additive industry suggested that the passage of time would tend to increase test fuel severity due to the effects of fuel oxidation. Therefore, the use of test fuel which has been stored would tend to make the performance test more stringent. EPA agrees with these comments. Furthermore, no data is available to indicate that gasolines may become less severe over time. Therefore, EPA will not limit the time a test fuel sample may be stored before certification testing is conducted.

The majority of commenters were in agreement with EPA's proposal to define test fuel parameter levels based on an analysis of the three most current years of AAMA fuel survey data. However, several commenters from the petroleum industry stated that EPA should use refinery baseline data collected under the Reformulated Gasoline Program. EPA disagrees with this comment. The RFG baseline data

[20] ''Analysis of Differences in Nonoxygenate Fuel Parameter Levels in Oxygenated and Nonoxygenated Gasolines: 1992–1994 American Automobile Manufacturers Association Data'', George Hoffman, DynCorp/DynTel, Docket item IV–B–08.

pertains to 1990 only. Therefore, it would not provide as current, nor as representative, a characterization of longer-term trends in fuel quality as the proposed use of the average of three years of AAMA data. The analysis presented in the NPRM was based on 1989 through 1991 AAMA fuel survey data. However, more recent AAMA data is available now. Thus, consistent with the proposal and the support expressed in the public comment, the fuel specifications for detergent certification testing have been updated to reflect the results of the 1992–1994 gasoline AAMA survey data.[21]

B. Fuel-Specific Certification Test Fuels

Unlike the test fuels described above for certification testing under the national and PADD options, which are designed to represent fungible gasolines, EPA proposed that the certification test fuels under the fuel-specific option would be tailored to represent the unique deposit-forming tendency of segregated gasoline pools. As proposed, the additive certifier would have to establish its own test fuels specific to its gasoline pool. To characterize the severity of the test fuel, the certifier would use the four nonoxygenate parameters specified under the national and PADD certification scheme for nonoxygenated fuels, and would include oxygenate as a severity parameter if oxygenate was used in the specified gasoline pool. (Otherwise, the detergent would be restricted to use in non-oxygenated fuel-specific gasoline.) EPA proposed that, subject to EPA's prior approval, other parameters could be used in addition to the standard four or five parameters. In order to use another parameter, EPA proposed that the certifier of a fuel-specific detergent would submit test data to EPA to demonstrate that the subject parameter affects the deposit-forming severity of the segregated gasoline pool for which the certification is sought. In addition, the applicant would submit a test method approved by the American Society for Testing and Materials (ASTM) to measure the additional fuel parameter in finished gasoline. EPA proposed that the Agency would respond to such requests within 90 days after receiving the test data to support the use of the additional parameters.

EPA received several comments expressing support for the proposal to require certifiers of fuel-specific detergent to characterize the composition of their segregated gasoline pool. Under this final rule, the certifier must create and maintain fuel survey data from each of the facilities that contribute to the subject gasoline pool for a complete year. At a minimum, this data must include monthly measurements of gasoline aromatics, olefin, and sulfur content, and T–90 distillation point. The certifier must also calculate and provide to EPA the percentile concentrations or levels for each of the fuel parameters studied for the segregated pool as a whole (see § 80.164(c)). The use of such additional parameters will not require prior approval by EPA since EPA judged that EPA's prior approval was not necessary to ensure their proper use. However, to be taken into account by EPA in case of confirmatory testing (see Section VII.D.), such additional parameters must be surveyed, analyzed, and reported according to the same requirements applicable to the four standard parameters.

Consistent with the certification program's approach for national and PADD certification test fuels, under this final rule, testing for generic fuel-specific certification must be conducted using a single test fuel that has nonoxygenate fuel parameter levels at or above their respective 65th percentile values for the subject segregated gasoline pool as determined by the fuel marketer's required fuel survey analysis. Also paralleling the national and PADD certification options, a nonoxygenated fuel-specific test fuel may be blended with ethanol (to a concentration of at least 10 volume percent ethanol in the finished fuel) to qualify as a test fuel for certifying a detergent for use with any oxygenate. The requirements for oxygenate-specific fuel-specific certification test fuels also parallel those under the national and PADD certification options. Certification fuels used in conducting testing to demonstrate that either a PFID-only detergent or no detergent additive are needed to satisfy EPA's IVD/PFID control requirements must meet the same compositional criteria described above.

No specific comments were received on whether EPA should apply an IVD demonstration fuel qualification criterion under the fuel-specific certification option. Gasoline within a given fuel-specific gasoline pool is likely to be much less variable in composition than fungible gasoline for several reasons. The sources contributing to a fuel-specific pool will likely be limited in number and belong to a single refiner. In addition, refining parameters would be more closely controlled to maintain the unique composition that defines the segregated fuel-specific gasoline pool. The fuel composition monitoring and associated detergent recertification requirements under the fuel-specific option will act to limit the variability in the composition (and thus the severity) of such gasoline pools. Thus, under this final rule, fuel-specific certification test fuels are not required to satisfy deposit demonstration test requirements.

C. Summary of Test Fuel Requirements

The following table summarizes test fuel compositional requirements under the different national, PADD, premium, and fuel-specific certification sub-options.[22]

[21] "Statistical Analysis Methodology: 1992–1994 American Automobile Manufacturers Association Data", George Hoffman, CSC, Docket item IV–B–06.

[22] See § 80.164 of the regulatory text for specific values under the different certification options and suboptions. 65th percentile nonoxygenate fuel parameter levels must be met prior to the addition of the required oxygenate.

TABLE VI–1—SUMMARY OF TEST FUEL REQUIREMENTS; GENERIC DETERGENT CERTIFICATION

[For use in any gasoline grade, with any oxygenate]

Gasoline pool	Nonoxygenate fuel parameters	IVD demonstration standard (mg)	Oxygenate/concentration
National	65th percentile in national survey	290	10% Ethanol.
PADDs I and III	.....do	290	Do.
PADDs II, IV, and V	.....do	260	Do.

PREMIUM DETERGENT CERTIFICATION

[For use in premium gasoline, with any oxygenate]

Gasoline pool	Nonoxygenate fuel parameters	IVD Demonstration Standard (mg)	Oxygenate/concentration
National	65th percentile in national/premium survey	260	10% Ethanol.
PADDs I and III	65th percentile (premium) in respective PADD	260	Do.
PADDs II, IV, and V	.....do	235	Do.

NONOXYGENATE OR OXYGENATE-SPECIFIC CERTIFICATION

Gasoline pool	Nonoxygenate fuel parameters	IVD Demonstration standard (mg)	Oxygenate/concentration
Any Grade:			
no oxygenate	Same as national or PADD generic certification shown above		None.
oxy specific			Max concentration.
Premium Only:			
no oxygenate	Same as national or PADD premium certification shown above		None.
oxy specific			Max concentration.

FUEL-SPECIFIC CERTIFICATION

Gasoline pool	Nonoxygenate fuel parameters	IVD demonstration standard (mg)	Oxygenate/concentration
No Oxygenate	65th percentile in the specified pool	none	None.
Any Oxygenate	.....do	.....do	10% Ethanol.
Specific Oxygenate	.....do	.....do	Specified oxygenate at maximum conc.

*Similar to the national and PADD certification case, fuel-specific certifications may be obtained for all gasoline grades or for premium gasoline.

Test fuel samples used in IVD and PFID performance testing for a given detergent must conform to identical qualification criteria, but need not be drawn from the same batch of gasoline. Likewise, the samples of the detergent additive package used in the required certification tests need not be from the same production batch, provided that both samples conform to the compositional information provided to EPA by the additive certifier.

D. Test Fuels for Leaded Gasoline Certification

The certification program retains the interim rule's specifications for leaded gasoline test fuels to allow use of existing test data to the greatest extent possible. Given the very low level of leaded gasoline use in the U.S., EPA believes that increasing the stringency of these test fuels would not result in an environmental benefit that would compensate for the cost incurred in conducting the additional testing which would be required.

E. Measurement of Gasoline Fuel Parameters

For the purposes of measuring the fuel parameters which define certification test fuels, EPA proposed to allow the use of specified ASTM procedures, as well as other procedures proposed for use under the RFG program (58 FR 11722, February 26, 1993). This proposal was expected to allow reasonable flexibility in test procedure selection while ensuring the needed measurement precision. EPA also wanted to coordinate testing and compliance requirements across the RFG and detergent additive rulemakings. To that end, the Agency proposed to incorporate into the final detergent additive program, as appropriate, any changes to the fuel parameter measurement procedures finalized in the RFG program.

Certifiers under the fuel-specific option may use additional fuel parameters to describe the composition of their segregated gasoline pools and to

define the required certification test fuels (see Section VI.B.). EPA proposed to require that ASTM-approved test procedures be used for measurement of such additional test fuel parameters under the fuel-specific certification option.

The RFG regulations, including final versions of the fuel parameter test requirements, were published by EPA on February 16, 1994 (59 FR 7716). In finalizing these test procedures under the RFG program, the Agency addressed some of the issues that were also raised in the context of the public comment on the detergent NPRM.[23] For the reasons discussed under the RFG program Federal Register notice, and in the interest of maintaining uniformity of fuel parameter testing requirements between regulatory programs, EPA is adopting the procedures finalized under the RFG program (40 CFR 80.46) for the required measurement of levels of sulfur, olefins, aromatics, T90, and oxygenate content under this final regulation. The use of alternate test procedures is not allowed except as provided for under the RFG program. As discussed in the final RFG rule, EPA believes that allowing the use of additional alternate procedures would result in uncertain quality and unacceptable variability of test results. EPA is currently considering modifying 40 CFR 80.46 to update the test procedure for the measurement of olefins. If such a change is adopted, and if other such revisions are implemented, they will naturally also apply to the fuel parameter measurement requirements under this rule.

Because EPA is not finalizing the proposed two-tier certification scheme with associated terminal fuel parameter monitoring requirements (see Section IV), the required measurement of fuel parameters will be limited to that necessary to formulate test fuels and to conduct fuel survey analysis under the fuel-specific certification option. EPA believes that restricting the procedures used to measure fuel parameter levels to those prescribed under the RFG program will not represent an undue hardship to the industry considering the limited fuel parameter measurement requirements.

No specific comment was received on EPA's proposal that additional test fuel parameters which may be used under the fuel-specific certification option must be measured according to ASTM procedures. Comment from the petroleum industry generally supported the use of ASTM-approved methods and any other test methods which may be specified for use under the reformulated gasoline program for use in measuring test fuel parameters. Since it is unclear what additional parameters might be used to define fuel-specific gasoline pools and the fuel parameters selected may not commonly be measured by industry, EPA now believes that it may be too restrictive to require to use of only ASTM-approved procedures. Given this concern, EPA will require that test procedures used to measure optional fuel parameters under the fuel-specific option must conform to reasonable and customary standards of repeatability and reproducibility, and reasonable and customary limits of detection and accuracy for the type of test procedure in question. ASTM-approved measurement procedures would conform to this requirement, as might others that have not received ASTM approval.

VII. Certification Tests and Performance Requirements

A. Certification Test Procedures

In the NPRM, EPA proposed test procedures to evaluate IVD and PFID control that were based on draft procedures under evaluation by ASTM. It was also proposed that, if these test procedures were finalized by ASTM, they would be incorporated by reference in this final rule. This proposal was supported in the public comment. ASTM has since finalized their IVD and PFID test procedures with minimal changes from the earlier drafts proposed by EPA, and the procedures are incorporated in this final rule.[24]

The IVD and PFID tests adopted by today's notice require an accumulation of 10,000 miles on a standard test vehicle. EPA proposed an alternative IVD test which could be conducted using an abbreviated 5,000 mile test cycle. However, EPA has determined that the use of such a shortened test cycle might result in a significant increase in test variability. Therefore, EPA will not accept results from this test for IVD certification testing purposes.[25]

The Agency is aware that ASTM is developing updated deposit control test procedures which might be finalized by ASTM shortly after this rule is published. Several commenters requested that EPA speed adoption of these procedures when they become available. EPA recognizes that, because these test procedures would use more current vehicle technology, they might provide an improved means of determining the IVD and PFID control requirements of modern vehicles. Therefore, the Agency is interested in expediting consideration of the adoption of these test procedures, particularly if they are finalized by ASTM in time to allow their potential use in meeting initial detergent certification testing needs. If EPA judges that the updated ASTM procedures are suitable for regulatory purposes, the Agency will either publish a proposal requesting comment on their adoption either as alternate or replacement procedures for the deposit control performance tests adopted by today's rule, or will publish a direct final rule for this purpose. A necessary criterion for the adoption of the updated procedures would be the determination of a correlation of test results from these procedures with the performance standards of the current procedures, or data that demonstrates that a specific performance standard for these procedures provides an appropriate level of deposit control performance.

B. Deposit Control Test Standards

1. PFID-Control Test Standard. For the PFID control test procedure finalized by today's notice, EPA proposed a performance standard of less than 5 percent flow loss in any injector over the accumulation of 10,000 miles. Public comment requested that EPA adopt the 10 percent standard which was widely used by industry to prevent driveability problems. Commenters stated that the 10 percent standard should be sufficient to prevent a PFID emissions increase given the stringency of the PFID test relative to typical in-use driving conditions.

EPA accepted the traditional industry PFID standard of 10 percent under the interim program to allow maximal use of existing test data. However, to ensure realization of the potential emission benefits to be provided by effective deposit control, the proposed 5 percent

[23] See the Regulatory Impact Analysis for the Reformulated Gasoline Final Rule, December 13, 1993, EPA Air Docket A–92–12, Docket item V–B–01.

[24] ASTM test method D 5598–94, ''Standard Test Method for Evaluating Unleaded Automotive Spark-Ignition Engine Fuel for Electronic Port Fuel Injector Fouling'', and ASTM test method D 5500–94, ''Standard Test Method for Evaluation of Unleaded Automotive Spark-Ignition Engine Fuel for Intake Valve Deposit Formation'' are incorporated by reference in 40 CFR 80.165(a) and (b) respectively. ASTM is currently considering revisions to the test validation criteria for these test procedures to provide more flexibility (See Docket item IV–E–58). When available from ASTM, EPA will evaluate the suitability of such revisions, and if appropriate, might undertake a rulemaking activity regarding their adoption.

[25] For similar reasons, EPA will not allow the use of the abbreviated 5,000 mile IVD test for demonstrating the deposit forming tendency of unadditized fuels. (See Section VI.A.4.)

standard is being adopted in the detergent certification program. The necessity of the more stringent performance standard follows logically from an understanding of the mechanism by which PFID cause exhaust emissions to increase. As was reviewed in the NPRM, the most significant factor appears to be the difference in PFID-related flow loss between one fuel injector and another.[26] Electronic fuel control equipment onboard the vehicle cannot adjust the air/fuel ratio for combustion efficiency in each cylinder; rather, it adjusts the air/fuel mixture in response to the average oxygen level in the exhaust. As a result, the fuel flow may be suboptimal for every cylinder. Some cylinders will be overfueled, causing HC and CO emissions to increase and fuel economy to decrease. In other cylinders, the combustion mixture will be overly lean, causing a NO_X emissions increase. Furthermore, as the disparity between cylinders rises, the combustion process in any cylinder will become less and less efficient.

The experience of auto manufacturers indicates that the average driver will tolerate some degradation in vehicle driveabiliy. When deposits increase to a level where the flow rate of one or more injectors is reduced by 10 percent or more, however, combustion efficiency and vehicle driveability will be impaired to the extent that driver complaints can be expected.[27] Thus, the 10 percent standard has been the traditional industry norm. However, it is clear that the efficiency of the combustion process may be significantly affected, and emission rates increased, well before this point. Because the main focus of the detergent certification program is the prevention of emission problems, not driveability problems, EPA believes the 10 percent standard to be inappropriate.

Although emission effects may begin as soon as any PFID begin to accumulate, a standard of zero percent would obviously not be reasonable. EPA has chosen instead to harmonize its PFID performance standard with that of CARB, which implemented the 5 percent standard under its regulation of detergent additives in January of 1992. Experience under CARB's program has shown that the 5 percent standard can be readily achieved using commonly available additive formulations. Furthermore, as discussed in the NPRM, the application of a 5 percent rather than a 10 percent PFID standard will usually not be the deciding factor in controlling the amount of detergent needed to pass the certification performance test requirements. Rather, in most cases, the treatment rate required for IVD control will be the controlling factor. Still, in those instances where PFID control requirements do affect the treatment rate, the 5 percent standard will offer adequate stringency to make the test meaningful from an emissions control standpoint.

2. IVD-Control Test Standard. For the IVD test, EPA proposed a performance standard deposit weight of less than 100 mg-per-valve on average over the accumulation of 10,000 miles. The public comment supported adoption of this standard. Also, this is the performance standard required by CARB. Based on the reasons discussed in the NPRM and the public's support, EPA is adopting the proposed 100 mg-per-valve IVD standard in this final rule.

C. Alternate Performance Requirements for Leaded Gasoline

The certification program, like the interim program, allows the use of either carburetor-type, PFID, or IVD/PFID detergents to comply with leaded gasoline detergency requirements. The responsibilities of fuel and detergent manufacturers regarding the requirements for leaded gasoline are otherwise the same as those described previously for unleaded gasoline.

D. Confirmatory Testing by EPA

EPA may conduct confirmatory testing on gasoline blended with a detergent additive to verify that the additive performs as well as or better than required by the deposit control standards finalized today. At its discretion, EPA may choose to conduct one or more of the prescribed vehicle tests on a detergent additive. For this testing, EPA would blend the additive in the designated test fuel at the minimum concentration specified by the manufacturer. The severity parameter levels in the test fuel would be equal to or less than that required for the respective test fuel. The test fuel may also contain any mixture of nondetergent gasoline additives found in commercial gasoline at the concentration normally used. For verification of a CARB-based certification, EPA would use the applicable CARB test procedures and standards. EPA would run the IVD and perhaps the PFID ASTM test and a carburetor test, and if the applicable performance standards were not met, the certification could be invalidated. (See Section III.A.3. and § 80.161(e) regarding the disqualification of detergent additives).

The final rule does not include tolerances to allow for test-to-test variability as requested by some commenters. EPA cannot establish test tolerances for the same reason ASTM was unable to specify precision parameters for their IVD and PFID test procedures. A sufficient amount of repeat tests using these tests is not available. Certifiers must therefore take into account a reasonable level of uncertainty in evaluating their test results and reporting the detergent's LAC. At its discretion, EPA may take such uncertainty into account when evaluating the results of any confirmatory tests it may conduct.

VIII. Enforcement Provisions

A. Overview

The enforcement provisions of the detergent certification program closely track those in effect under the interim detergent program promulgated on November 1, 1994. Following is a general outline of the enforcement provisions that will apply in the certification program. In general, these are the same enforcement provisions that apply under the current interim program, with certain revisions that make them more efficient and streamlined. (See section VIII(B) of this preamble for a discussion of the revisions to the interim rule's enforcement provisions.) Since the interim program is to continue in effect for non-certified detergents until the certification program becomes mandatory (on July 1, 1997 for detergent manufacturers, detergent blenders, and other upstream parties, and on August 1, 1997 for gasoline retailers and wholesale-purchaser consumers [WPCs]), revisions to the interim program's enforcement provisions will apply as of September 3, 1996. Enforcement provisions that are not revised by today's rule will continue to apply under both the interim and final certification programs.

For the convenience of the reader, many of the previously promulgated provisions that are not being revised in this rule (such as the core of the prohibited acts, liability, and product transfer document sections), are nonetheless repeated in the regulations issued today. It is important to note that this repetition is to make the Code of Federal Regulations more useable and to avoid confusion. The repetition of previously promulgated regulatory text is not intended to be a re-promulgation

[26] Tupa, R.C., Koehler, D.E., ''Gasoline Port Fuel Injectors—Keep Clean/Clean up With Additives,'' SAE Technical Series No. 861536.

[27] Tupa, R.C. and Dorer, C.J. ''Gasoline and Diesel Fuel Addditives for Performance/Distribution Quality—II,'' SAE Technical Series No. 861179.

of that text. The only regulatory provisions promulgated today are new provisions, and the revisions to previously promulgated provisions.

1. Certification Conformity. Effective August 1, 1997, all gasoline sold or transferred to the ultimate consumer, and effective July 1, 1997, all gasoline sold or transferred to those who sell or transfer to the ultimate consumer, must be additized with detergent that has been certified pursuant to the requirements of § 80.161. The detergent must be present in at least the lowest additive concentration (LAC) certified to EPA as effective, and in conformity with the use restrictions of the certification. Prior to July 1, 1997, detergent manufacturers may choose to certify their detergents in conformity with § 80.161. Gasoline/PRC additized with such certified detergents must be additized in compliance with the requirements of § 80.161.

Use restrictions pertain to the type of gasoline product to which the detergent may be added under a given certification. As previously described, detergents certified under the national option may be used with any gasoline (e.g., oxygenated or non-oxygenated, premium or regular) sold anywhere in the U.S. (subject to approved state programs). Detergents may also be certified at a different LAC for use with gasoline sold to the ultimate consumer in a particular PADD. Detergents certified under the fuel-specific option may only be used with the segregated gasoline specified in the certification. Furthermore, within a national, PADD-specific, or fuel-specific certification, a detergent may be separately certified at a different LAC for use only with non-oxygenated fuel, for leaded fuel (for nonroad use only), for fuel blended with a specific oxygenate, and/or for premium fuel. Finally, detergent certifications based on certification by the California Air Resources Board (CARB-based detergents), may only be used with gasoline additized and/or ultimately sold in California.

Under the certification program, detergent in its pure state, i.e., prior to its addition to gasoline, must meet the chemical composition and concentration specifications set forth in its 40 CFR part 79 registration (as is also the case under the interim program rule), and in its Federal certification.

2. Compliance With Volumetric Additive Reconciliation (VAR) Requirements. All parties who blend detergent into non-exempted gasoline, or into components added to gasoline after the refining process (post-refinery components, or PRC), must complete mandatory accounting reconciliations establishing that the product was additized at an actual detergent concentration that was at least equal to the LAC certified as effective to prevent deposit formation. All additized gasoline and PRC must be accounted for on VAR records.

Automated detergent blenders must complete these mandatory reconciliations in consecutive compliance periods, each no greater than 31 days in length. The reconciliation for automated blenders is based on averaging the additization concentrations over the compliance period. Today's final rule, like the interim program, does not require that a per-gallon minimum detergent concentration be attained by blenders within the averaging period. Hand-blending detergent blenders must complete the mandatory VAR on a per-batch basis.

VAR reconciliation records (VAR formula records) and VAR supporting documentation must be maintained by detergent blenders for a five year period from date of creation.

3. Equipment Calibration. To assure measurement accuracy, under this final rule, automated additization equipment must be calibrated on a semiannual basis, and every time the detergent in the storage tank is changed to one with a different viscosity.

4. Product Transfer Documents. (PTDs). All regulated parties transferring gasoline, detergent, or additized PRCs (except retailers and WPCs transferring gasoline to the ultimate consumer) must also transfer product transfer documents (PTDs) providing necessary information about additization status, identity of the product, and identity of the transferring parties. All regulated parties receiving such product, including retailers and WPCs, must likewise obtain these documents. Most regulated parties will be required to maintain these documents for five years. However, WPCs receiving such documentation for additized gasoline will not have any record maintenance requirement as to the received documents.

5. Liability and Defenses. As is typical in EPA fuels programs, presumptive liability will be the cornerstone of compliance assurance under the certification program. All parties in the relevant gasoline, detergent, and detergent-additized PRC distribution chain for a nonconforming product will be presumed liable for detergent program violations arising from that nonconformity, specifically, violations involving the sale, transfer, etc. of nonconforming detergent, nonconforming gasoline, and nonconforming additized PRC, as applicable. Two exceptions to this general rule exist, however. First, carriers are only presumptively liable for violations discovered at their own facilities. For downstream violations, carriers will be deemed liable only when EPA can prove that they caused the violations. Second, for VAR violations, expected to be the primary source of violations under the detergent program, only those parties meeting the definition of detergent blender for the nonconforming product will be presumptively liable.

In addition, any regulated parties that EPA can establish caused VAR violations will be deemed liable for these violations, and branded refiners will be vicariously liable for any violations, other than violations of the PTD provisions, found at facilities operating under the refiner's brand name. Presumptive liability for PTD violations is imposed under the certification program only on those parties owning, leasing, operating, controlling, or supervising facilities at which such violations are found.

All parties subject to presumptive and vicarious liability have the right to assert an affirmative defense to that liability.

6. Exemptions. As provided in the interim program, racing and aviation fuel, and detergent and gasoline used for research, development, and testing purposes, are exempt from the requirements of the detergent certification rule, provided certain safeguards are met to ensure the proper use of these exempted fuels. In addition, provided certain conditions are satisfied, gasoline additized in the state of California is exempt from the VAR requirements of today's certification rule, and gasoline sold within California is exempt from the rule's PTD requirements.

B. Enforcement Aspects of the Certification Program, Including Clarifications of, and Changes to, the Interim Program

While the enforcement provisions of the certification program closely track and continue those found in the current interim program, there are certain important aspects in which EPA is revising its enforcement provisions, for both the interim and certification program. The following description of the enforcement program includes modifications of the interim program. These changes primarily result from industry queries about the practical implication of certain provisions of the interim program rule. The Agency provided implementation guidance on some aspects of the interim rule in

response to these queries, through the issuance of four Detergent Rule Question and Answer Documents (Q&A Documents or Q&As). In addition, some of the statements found in the Q&A Documents were issued by EPA to address the Agency's implementation concerns that became apparent to EPA upon initiating its enforcement program. All four Q&A Documents are available in the docket (items IV–C–08 through IV–C–11). Also available in the docket is a summary of significant industry implementation questions that have not been incorporated in a Q&A document (item VI–D–57).

Since these Q&A Documents do not have the same legal force as a regulation, the Agency is incorporating these provisions in today's rule. All of these modifications adopted into today's rule are within the scope of the proposals found in the NPRM, and are logical outgrowths of the proposal, typically based on comments in the form of industry queries. The changes and clarifications mitigate industry burdens in comparison to the regulatory language found in the current interim program, while at the same time, maintain the effectiveness of the Agency's detergent additive enforcement program.

Other changes from the interim program are also discussed below. These changes were developed from ideas presented in the NPRM, or are based on proposals raised in the Reopening Notice. The discussion of these enforcement provisions includes EPA's response to comments received about the proposals.

1. VAR Requirements. Mandatory VAR procedures are the foundation of today's certification program, as they have been under the interim program. All detergent blenders are required to record their actual detergent concentration attained for a specified compliance period and compare it with the detergent's applicable certified LAC. If the actual detergent concentration for the compliance period is equal to or greater than the LAC, then the blender's detergent concentration rate is in compliance with the VAR requirements. To help prevent misadditization, automated detergent blenders are prohibited from setting their additization equipment at rates below the LAC rate. Hand blenders are required to calculate VAR compliance for every load of gasoline or PRC additized, for each detergent used in the load, and each certified LAC rate used.

a. Automated Detergent Blender Compliance Periods. The interim program final rule specified that VAR compliance periods for automated blenders may continue no more than a calendar month, and may not extend beyond the end of the calendar month in which they are started. The monthly time period was established because it was considered a reasonable compromise between industry's desire to average additization compliance over an extended period, and the Agency's need to ensure an effective additization level in the actual gasoline dispensed to consumers. The original proposal in the NPRM was for a weekly VAR compliance period. After reviewing industry comments to the NPRM universally requesting VAR periods longer than a week's duration, the Agency re-evaluated the matter and established the monthly period in the final interim rule.

It was subsequently brought to the Agency's attention that tying VAR compliance periods to calendar months was causing operational problems for some detergent blenders. Blenders claimed that varied operational procedures and needs made such rigid terminations difficult. In the Q&A Documents, therefore, EPA relaxed this requirement and permitted blenders to terminate their monthly VAR compliance periods on the last working day of the month, or on the first working day of the next month, etc. (See Q&A Document #2, Q.13, p.8; and Q&A Document #4, Q.3, p.4.)

One blender suggested a manner of resolving these operational concerns in a much simpler manner, by structuring the automated blender monthly compliance periods so that they could last no longer than 31 days, without being restricted to a calendar month. Thus, the problems involving calendar month terminations would be alleviated. (See Docket item IV–E–44.)

The Agency agrees that this is a reasonable method of ensuring that automated VAR compliance periods are no greater than a month, without forcing regulated parties to conform their operational practices to rigid calendar month time frames. Therefore, today's final rule adopts this flexible approach for both the interim and certification programs, specifying that the automated VAR compliance period must be less than or equal to 31 days, at the blender's option.

The interim program rule requires that the VAR record identify the dates of the compliance period, as was proposed in the NPRM. The Agency has also interpreted this requirement in the Q&A Documents. (See Q&A Document #2, Q.13, p.8 & 9; and Q&A Document #4, Q.3, p.4 & 5.) Under this interpretation, if the VAR formula record for a particular compliance period includes all the additizations occurring within a certain calendar month, then the VAR formula record need only identify the month. However, if the compliance period does not include the entire calendar month, then the blender must indicate on its VAR records the exact dates and times of the period's beginning and end. The point of recording such information is to ensure that the VAR time periods are inclusive of all additizations. Today's final rule includes these requirements and interpretations for both the interim and certification programs.

As in the interim program, the certification program requires termination of the VAR period when an automated blender's additization equipment concentration rate is increased more than 10 percent over the original rate. A new reconciliation period must be commenced at that point. The 10 percent limit was intended to provide industry with some flexibility in adjusting additization equipment while preventing large increases in additization rates as compensation for significant under-additizations. It was not intended to prohibit the use of a temporary rate change to correct a misadditized batch of gasoline, or to fix a temporary equipment problem. In Q&A Document #4 (q.5, p.6), EPA clarified its intent in promulgating this provision and stated that it would allow temporary rate changes beyond the 10 percent cutoff, provided that the purpose is to correct a temporary problem involving a batch misadditization and that documentation about the temporary correction is maintained.

Today's rule contains the rate change flexibility as introduced in the Q&A Documents. It also permits rate changes solely intended to correct an equipment malfunction, provided that any detergent used in this corrective procedure and not blended with gasoline is subtracted from the detergent volume totals. Similarly, today's rule provides that automated blenders may set their equipment's concentration rate lower than the LAC, provided such alteration is a documented temporary procedure performed solely to correct a batch misadditization. In the NPRM, EPA proposed that automated blenders could never set their equipment lower than the LAC, and the interim rule incorporated this proposal. However, based on experiences of blenders under the interim rule, and in the interest of encouraging correction of batch misadditizations within a VAR compliance period, EPA is including this exception to the LAC rate minimum in today's final rule.

b. VAR Formula Records per Detergent Storage System. As proposed in the NPRM, the interim program requires automated blenders to create a separate VAR formula record for each detergent storage tank. However, some blenders expressed concern to the Agency about the rigidity of this requirement, since their detergent additization systems were fed by more than one tank or container, and it would thus be difficult to create separate VAR records for the different tanks. (See Q&A Document #1, Q.9, p.6.) To address this concern and provide the necessary operational flexibility for such blenders, the Agency stated that it would allow VAR records to be based on detergent tank storage systems. (Q&A Document #1, supra.) Today's final rule formalizes this more flexible approach.

c. Brands and Grades of Gasoline on VAR Records. As proposed in the NPRM, the interim rule requires brands and grades of the gasoline product covered by a VAR formula record to be listed on that record to ensure identification of the product covered. Detergent blenders expressed concern about this requirement because brands of product were not always known and because product identification was available on supporting records and was thus not necessary on each formula record. (See Q&A Document #1, Q.17, p.7; and Docket item IV–E–44.)

These concerns prompted an Agency Q&A Document response, specifying that gasoline brands had to be identified only when known to the blender. Today's final rule adopts this Q&A provision, and provides further flexibility by permitting product identification as to brand and grade to be recorded on supporting documentation. As to gasoline identification on the VAR formula record itself, detergent blenders only have to identify, when relevant, that the product is additized under a customer-controlled proprietary system. This latter requirement is necessary to alert Agency auditors that a party in addition to the terminal operator might be liable for VAR violations for this product.

The additional flexibility in these provisions will facilitate VAR recordkeeping tasks without interfering with the Agency's need for proper identification of additized product.

d. Recording of Detergent LAC and the Actual Concentration. As proposed in the NPRM, the interim rule required that the LAC must appear on the VAR formula record and in detergent manufacturer blending instructions in units of gallons of detergent per gallons of gasoline. However, in implementing the detergent registration provisions, the Agency realized that such a figure would typically contain three zeros after the decimal point because the amount of detergent being used per gallon of gasoline is so small. The constant use of such a figure would be unwieldy and difficult to work with. Therefore, EPA advised blenders that the LAC would be permitted to be stated in terms of gallons of detergent per one thousand gallons of gasoline (Docket item IV–C–12). This more workable LAC identification system is contained in today's final rule. Further, today's rule requires the LAC to be reported in relation to the volume of PRC in which the detergent is blended, as well as gasoline volume, since the effective detergent concentration depends on the total volume of additized product.

Neither the NPRM nor the interim rule specified the number of figures to which the blender must express actual detergent concentration. Pursuant to a request for clarification of the Agency's intent on this issue (see Q&A Document #1, Q.22, p.9), today's final rule clarifies that the actual concentration must be expressed to four figures. This specification is appropriate, given the large volumes typically encountered.

Today's final rule also specifies that the LAC identified on the VAR records and in the manufacturers' blending instructions to their customers must also be expressed to four figures. Neither the NPRM nor the interim rule specifically addressed this point. Both concentrations now have to be recorded to the same arithmetic rounding standard. This will facilitate comparison of the LAC with the blender's actual detergent concentration, and it also ensures that this information is standardized on all VAR formula records.

e. VAR Recording of Use-Restricted LACs. Under the interim program, a detergent can be registered with multiple LACs for use of the detergent in different types of gasoline. For example, a detergent can have one LAC for generic product, and another, lower LAC for leaded gasoline. The generic/leaded distinction retains limited relevance under today's final rule, because the sale or dispensing of leaded gasoline for use in nonroad vehicles continues to be permitted even though the sale or dispensing of such product for use in highway vehicles was banned as of January 1, 1996.

As previously mentioned in this preamble, there are additional certification rule situations under which a detergent may be certified with multiple LACs. As proposed in the NPRM and codified in the interim program, under the certification program a VAR formula record may account for the use of only one such certified LAC. Additization based on a different certified LAC must be recorded on a different record. In addition, the VAR formula record for a detergent's use-restricted LAC must state the respective use restriction(s) for the LAC on the VAR record. This requirement will highlight for the regulated party, and for the Agency, the specific use for which the detergent is certified, and will help ensure that gasoline is additized at a proper rate.

f. Diluted Detergent. Under the interim rule, any change in detergent package composition which changes the LAC requires a new registration. Thus, a detergent blender could not dilute a detergent with the marketer's own gasoline in order to make the detergent less viscous for ease in use in the colder winter months.

Pursuant to a request to permit such detergent dilution, EPA has allowed such a practice, since it does not make the detergent less efficient in preventing deposit formation, and it facilitates winter use of the detergent (Q&A Document #4, Q.1, p.1.). Safeguards are established under the Q&A to ensure that the use of this procedure does not result in less effective additization. Blenders using this procedure are required to use the diluted detergent at an LAC rate that compensates for the dilution, and they are required to inform EPA of this usage in writing, prior to the dilution. Today's final rule codifies this provision allowing lenders to dilute their detergent for winter handling, thus modifying the strict prohibition against detergent package LAC variation originally proposed in the NPRM.

g. VAR Recording of Gasoline Which is Overadditized for the Anticipated Addition of Ethanol or Other PRC. Under the interim program, excess detergent can initially be added to gasoline to account for the anticipated later addition of unadditized ethanol or other PRC to that gasoline. The purpose of such initial overadditization of the gasoline portion is to ensure that the combined gasoline/PRC product contains the appropriate detergent concentration.

Neither the NPRM nor the interim program rule specified how this permitted practice was to be recorded on the VAR formula records. EPA clarified this matter by the issuance of Q&A Documents which stated that the Agency expects such a VAR formula record to identify the volume of gasoline being overadditized, and the anticipated volume of ethanol/PRC being accounted for. In addition, EPA expects that the volume of ethanol/PRC being accounted

for by the gasoline overadditization is to be included in the recorded final volume of product additized (Q&A Document #1, Attachment 1, p.24–25; and Q&A Document #2, Q.8, p.7). Such identification on the VAR record is necessary to highlight that the blender is over-additizing gasoline in this manner, as well as to ensure that the actual detergent concentration for the gasoline/PRC blend is sufficient to effectively control deposit formation.

Today's final rule codifies these VAR recording clarifications found in the Q&A Documents, so as to make the VAR records reflect the reality of this specialized overadditization practice. These clarifications should enable the regulated community and EPA to verify that this procedure, which was also permitted under the interim rule, is implemented in an accurate, effective manner.

Today's final rule also extends these PRC-related overadditization VAR procedures to the hand blender VAR requirements, for the same reasons they are necessary for automated blenders. This corrects the Agency's oversight to include them in the interim program's provisions for hand blenders.

h. VAR Recording of Transfers of Unadditized Gasoline. Under the interim program, automated detergent blending facilities and terminals at which hand blending occurs are required to create and maintain VAR supporting documentation for each transfer of unadditized gasoline from the facility in the compliance period (for automated blenders), or monthly (for the hand blending terminals). A record that unadditized product has left the detergent blending terminal is needed by the Agency so that the product can be traced, if necessary, to ensure that it was ultimately properly additized prior to use by the consumer.

Because terminals already are required under the interim program to maintain product transfer documents for each such transfer, the Agency stated in Q&A Document #1 (Attachment #1.) that detergent blenders could indicate on VAR records the total amount of such transfers occurring either in the VAR compliance period (for the automated blenders), or during the month (for hand blenders), without indicating the date, volume, or recipient of each transfer. These total volumes are to be recorded on the automated blender VAR formula record or the hand blender monthly record of unadditized transfers. This simplified approach is codified in today's rule. It streamlines the more exhaustive recording provision found in the interim rule, while providing useful notification to the Agency on VAR records of the transfer of unadditized product from detergent blending terminals.

In requiring detergent blenders to identify on their VAR records transfers of unadditized gasoline leaving their facilities, neither the NPRM nor the interim rule considered that this would require refineries which also happen to be detergent blending terminals to record routine bulk transfers of unadditized product to other detergent blending facilities. Such bulk transfers were not the target of this record requirement because they are not intended for immediate consumer use.

Consequently, pursuant to industry inquiry about this matter, the Agency stated in Q&A Document #4 (Q.4, p.5.) that it would excuse such refinery bulk transfers from inclusion in the VAR recording requirement for transfers of unadditized product. Today's final rule codifies this exception and extends it to pipelines which also happen to be detergent blenders and which also regularly make bulk upstream transfers of unadditized gasoline. The proposal as originally described in the NPRM has thus been modified to take into account the reality of upstream bulk transfers of unadditized gasoline which do not warrant the special VAR attention necessary for downstream transfers of such product.

i. Supporting Documentation of VAR Volumes for Hand Blending Facilities. As proposed in the NPRM, the interim rule required hand blending detergent facilities to retain VAR supporting documentation, specifically, PTDs and bills of lading for all product they receive or send out. However, the interim rule did not require hand detergent blenders to maintain documentation supporting their recorded VAR volumes for gasoline, PRC, and detergent.

Since such documents would obviously be important if the reported volumes were ever subject to question, EPA has issued guidance that such data, if available to the hand blender, should be maintained (Attachment 1 of Q&A Document #1, p.28.). Today's final rule codifies this requirement for hand blenders.

j. Electronic VAR Formula and Supporting Records. Neither the NPRM nor the interim program final rule addressed the use of electronic records to satisfy VAR formula or supporting record requirements. Pursuant to industry request for approval of electronic records (Docket VI–D–57.), in Q&A Document #1 (Q.4, p.11) the Agency clarified that the use of electronic VAR and PTDs complies with the rule, provided that these records are complete, easily readable, and accessible.

In written discussions with petroleum industry groups, EPA discussed permitting the use of computer identification codes in lieu of VAR formula signatures, provided that safeguards of authenticity would be met (Docket item IV–C–13). Blenders using such ID codes would be required to maintain a document signed by the VAR record's creator, acknowledging that the use of this identification code on the record is equivalent to his/her signature, and must take record security and access precautions.

Some regulated parties objected to the idea of the Agency placing conditions on the use of electronic records, asserting that these records are as reliable as paper records which are not subject to any additional conditions (Docket items VI–D–59 and VI–D–60).

The Agency disagrees with such comments, and believes that its enforcement needs justify the establishment of conditions on its approval of the use of electronic records. If electronic records are to be used by industry to satisfy detergent rule requirements, EPA needs to be assured that these electronically generated documents will be easy to read and easily accessible. If they are encoded or stored in a manner that makes them unusable by the Agency, the effectiveness of the detergent enforcement program would be compromised. Therefore, the Agency is choosing to establish readability and accessibility requirements for electronic records.

Further, since electronically generated documents can be easily altered without evidence of such alteration being visible, and because compliance with the detergent program is determined primarily through review of the VAR formula records, the Agency needs to ensure that electronic VAR formula records are stored with access and audit security. Consequently, the use of electronically created VAR formula records requires the existence of access and audit security precautions, including documentation verifying the true identity of parties identified on these documents only through the use of computer ID codes.

The final rule promulgated today includes a specific provision approving the use of electronic VAR records. It thus expands the range of permissible documents that will be acceptable to satisfy VAR requirements, while maintaining safeguards necessary for EPA's enforcement needs.

k. Detergent Tank Transitioning. The interim rule prohibited the commingling

of different detergents through provisions prohibiting the supply, storage, etc. of an unregistered detergent (which commingled different detergents would be), and the additization of gasoline with an unregistered detergent. During implementation of the interim program, the Agency was asked whether a detergent blender could transition from the use of one detergent to another by adding a new detergent into a tank that contains the residue of an old, different detergent, even though some commingling would result (See Q&A Document #1, and Docket item VI–D–57).

Such detergent tank transitioning process is a common industry practice and prohibiting it would greatly inconvenience many blenders. Therefore, EPA believes it is reasonable to permit this practice in spite of the limited commingling involved. At the same time, the Agency needs to ensure that protective procedures will be followed which limit the amount, or effect, of the commingling. EPA is concerned that the combined detergent may be used at a LAC that would not adequately additize the gasoline. Further, commingling of detergent would make it difficult or impossible to confirm the identity of the detergent by testing, if this should be necessary for enforcement purposes.

If a blender desires to use the same detergent, but at a different LAC certified for use restricted to a different product, this would not constitute an actual tank transitioning process. In this instance, the detergent in the storage tank remains the same and no commingling occurs. Therefore, in such a situation, the only requirement that today's rule imposes is that the blender must create separate VAR formula records for each certified LAC use, identifying the separate use restrictions, and must use measurement equipment able to accurately measure the detergent recorded for each record.

For the case of a tank transitioning situation, *i.e.*, where different detergents are being commingled, EPA issued a response in Q&A Document #1 (Q.5, p.4) which provided limited approval for such commingling. Associated procedures ensure proper VAR identification and usage the proper LAC for the combined detergent. They also encourage the maximum depletion of the prior detergent in the tank so as to limit the commingling involved.

Today's final rule follows this Q&A approach by permitting detergent commingling during legitimate tank transitioning periods, while requiring necessary procedural and recordkeeping safeguards to ensure proper VAR identification of the detergents and proper additization with the commingled detergent. It thus relaxes the total prohibition against detergent commingling proposed in the NPRM, to provide industry with the flexibility it needs to execute this standard tank transitioning procedure.

In addition, today's rule codifies the detergent transitioning policy, first outlined in Q&A Document #1, supra, under which the addition of new detergent into a detergent storage tank is specifically permitted and the combined detergent is treated as if only the new detergent were in the tank, provided that the tank is drained of the old detergent to a remaining level no greater than 10 percent of the tank's newly delivered, commingled volume. This volume includes the tank's remaining inventory of the residue detergent, plus the newly delivered detergent.

This 10 percent cutoff figure creates an incentive to detergent blenders to reduce the amount of actual commingling involved in their detergent transitioning. The Agency has chosen this figure because EPA judges this small amount of residual detergent to be inconsequential enough to minimize concern about the use of an inappropriate LAC for the combined mixture. At the same time, it is large enough to accommodate blender need for flexibility in tank drainage procedures. Furthermore, the drained detergent can be re-delivered into storage tanks containing the new detergent, provided that the re-delivered detergent comprises no greater than 10 percent of the tank's total commingled delivered volume. The Agency believes it is appropriate to allow this particular commingling procedure because it eliminates the need for blenders to dispose of the previous detergent.

If both detergents have the same LAC, today's final rule permits blenders to drain their detergent tanks (and/or redeliver old detergent) so that the old detergent makes up no greater than 20 percent of the total newly delivered volume without following additional procedures. In such situations, there is no risk of blender confusion as to what LAC applies, so greater flexibility is warranted than for those situations in which the detergent LACs are different.

Finally, today's rule establishes provisions that will apply when two detergents being commingled in tank transitioning situations have different certification use restrictions. Neither the NPRM nor the interim program specifically addressed this matter, and no comments on this topic were received by EPA. When two separately certified detergents are being commingled, the rule establishes that the original detergent's use restrictions no longer apply, while the use restrictions for the new detergent must be followed. The Agency believes that this procedure is appropriate, practical, and easy to follow, provided the transitioning steps discussed above are followed. Under these steps, a blender commingling 10 percent or less of the original detergent would essentially disregard the carry-over of the original detergent, and follow the LAC and use restrictions of the newly added detergent.

In situations where a blender commingles in the detergent tank a residue of more than 10 percent of the original detergent which has a different LAC than the new detergent, the blender is required by the transitioning procedures to use the higher LAC of the two detergents until an amount of detergent is used up which is equal to that of the original detergent remaining in the tank at the time of the new detergent's delivery. The use of the higher LAC should ensure that the commingled detergent will be effective in the fuel for which either detergent was certified. Therefore, the blender is allowed to use that higher LAC with the new detergent's use restrictions, and to disregard the original detergent's use restrictions.

Each of the permitted tank transitioning procedures described above must be documented, either on the VAR record or in supporting documentation. Documentation of the detergent commingling will be useful to EPA if enforcement testing of the detergent is contemplated by the Agency.

l. Automated Additization Equipment Calibration. The interim rule required automated detergent blenders to calibrate their additization equipment each time they change their detergent package and at the beginning of each calendar quarter. The purpose of this regulatory requirement was to ensure the accuracy of the volume numbers recorded on the VAR forms by confirming the measuring accuracy of the equipment generating those numbers. Today's certification rule somewhat eases these calibration requirements in response to comments from detergent blenders that these requirements were unnecessarily severe.

Industry's initial implementation concern was that it would be impossible to fulfill the requirement that every blender's quarterly calibration had to be performed in the first month of each quarter (See Docket item IV–E–45). To reduce this burden, the Agency issued a Q&A Document stating that blenders

could perform the required quarterly calibration in any month within a calendar quarter, provided that the quarterly calibrations occurred no later than three months from the previous calibration (Q&A Document #1, Q.12, p.6.).

As a further concern about quarterly calibration, API and NPRA commented, in response to Agency inquiry, that the quarterly requirement was, itself, too severe. API suggested that an annual calibration requirement would be more appropriate, while NPRA asserted that calibration information should only be asserted as an affirmative defense element. (Docket items IV–C–14, VI–D–58, VI–D–61, VI–D–62, VI–D–63, and VI–D–64.) API further asserted that parties performing additive reconciliations on a daily or weekly basis, *i.e.,* more frequently than the required monthly reconciliations, would be assuring the accuracy of their monthly VAR volumes as effectively as those parties performing quarterly calibrations. Therefore, for such parties, API believed an annual calibration requirement would be sufficient.

However, EPA received conflicting information from a representative of an additization equipment company (Docket items IV–E–46 and VI–D–65). This party asserted that merely performing reconciliations at a greater frequency, while not addressing the real issue of the equipment's measurement accuracy, would not result in improved accuracy of the VAR records. According to this commenter, if the amount of detergent being injected per recorded pulse happens to change while the equipment continues recording the same pulses as before, the mere fact that a blender increases the frequency of reviewing the recorded pulses will not ensure that the blender discovers the measurement accuracy problem. This commenter suggested that the only way to address this concern is to actually recalibrate the equipment.

The Agency agrees that merely increasing the frequency of VAR reconciliations does not necessarily ensure measurement accuracy, and that periodic additization equipment calibrations are thus essential. Under similar reasoning, the Agency rejects the suggestion that periodic calibrations should merely be asserted as part of an affirmative defense. If a blender does not calibrate its equipment regularly, the fact that its additizations are inaccurate may never be known.

However, it is also apparent that quarterly calibrations are burdensome to some facilities, without necessarily providing commensurate benefits. Therefore, today's final rule requires that automated detergent blenders perform at least two equipment calibrations per year. To ensure that the calibrations will be reasonably spaced throughout the year, the rule also specifies that these procedures are to be conducted within each calendar half year, but at least one hundred and twenty days apart. This modified approach will reduce the equipment calibration burden to industry, while also satisfying the Agency's need for regular verification of VAR volume accuracy.

As additional input on the calibration issue, API commented that it was not technically necessary or useful to recalibrate additization equipment every time a detergent package was changed. API stated that merely changing a detergent package, in itself, would not affect equipment measurement accuracy. On this point, the equipment manufacturer commenter indicated that if detergent viscosity changes due to a detergent package change, the amount of detergent being injected per recorded pulse would change. A new calibration of the recording equipment would thus be necessary to ensure that the recorded measurements were still accurate.

The Agency agrees that re-calibration is necessary only when the viscosity of the new package is different from that of the previous package. Thus, today's final rule requires that equipment recalibration must be performed each time the detergent package is changed, unless written documentation indicates that the new detergent package has the same viscosity as the previous detergent package. To provide additional flexibility, today's rule permits a calibration performed to fulfill the package change requirement to serve also as compliance with the semi-annual calibration requirement, provided that the package change calibration satisfies the associated spacing requirements. The Agency believes that these modifications to the proposed calibration requirements will assure VAR measurement accuracy while minimizing industry quality control burdens.

m. Detergent Blender Record Retention. The interim program rule requires detergent blenders to provide EPA with all VAR formula and supporting records upon request. EPA had proposed that the records be maintained at the place of creation, but the interim rule did not include this requirement. The interim program also did not specify the manner in which these records were to be provided.

Several detergent blending terminals requested clarification of EPA's expectations under the interim program concerning document provision at the time of inspection. (See Q&A Document #1, Q.24 and 25, p. 9 and 10 respectively; and Docket item VI–D–57.) The Agency responded that terminals were not expected to store all the required documentation on site (Q&A Document #1, supra.). The Agency also stated that detergent blenders were expected to provide EPA inspectors with six months of VAR formula and supporting records (including PTDs) within one hour of request, with the remaining requested documents to be provided by the next business day. The Agency believed that this time frame for record review would provide EPA with the ability to quickly review a moderate amount of records, but would not burden respondents with the need to provide immediately the full five years of documents which they are required to maintain.

However, EPA's experience in implementing the interim program has revealed that the Agency needs immediate access to VAR formula records for a time span greater than six months. Detergent program violations are not typically discovered through pre-arranged, exhaustive record audits like those conducted under the RFG baseline audit program. Instead, detergent program violations are primarily discovered through on-site inspection review of VAR formula records. These inspections typically occur during unannounced and expedited terminal inspections to determine compliance with a variety of EPA fuels programs. Such inspections are usually completed in several hours and typically do not extend beyond the day of the initial inspection contact.

Therefore, EPA needs the immediate availability at inspection sites of a long enough period of VAR formula records to give a clear picture of a facility's compliance performance. EPA considers one year of VAR formula records to be the minimum time frame within which EPA can determine the facility's compliance, so that immediate access to at least that period of VAR formula records is essential for effective detergent program enforcement. Since VAR formula records are typically only one or two pages in length per reconciliation, retention of this small amount of documentation should not be unduly burdensome.

Today's final rule requires automated detergent blenders and hand blending terminals to provide the preceding year's VAR formula records within one hour of a request by EPA personnel. The remainder must be supplied by the start of the next business day, or later if approved by EPA. In the case of VAR

supporting records, only the preceding two month's records need be immediately available.

For non-terminal hand blenders, only the prior two months VAR formula and supporting records must be made available within one hour of EPA's request. Since these blenders are required to create VAR formula records for each batch of fuel they blend, they typically create many more VAR formula records per month than automatic blenders, and thus more records will be available for EPA review. Further, since such blenders are typically small businesses with little storage space, EPA believes it would not be appropriate to impose on them the same record provision burdens as on the larger, terminal blenders.

Today's certification rule (at §§ 80.157(g) and 80.170(g)) also clarifies that ''immediate provision'' of the required records means that the records should be provided within an hour of request, or later with EPA approval. Such flexibility permits records to be stored on site, or to be transmitted, electronically or by other means, from any other location of the party's choice. Furthermore, if any blender can establish by documentation that its VAR supporting records are either centrally maintained at another location, or maintained at an alternative location by a terminal customer operating its own proprietary detergent system, then that blender does not have to provide VAR supporting records until the start of the following business day, instead of within an hour.

2. Affirmative Defense and Liability Issues. The affirmative defense and liability provisions of the certification program are a continuation of, and are substantially the same as, those promulgated by the interim rule. Immediately following is an analysis of the certification program's affirmative defense provisions. Significant differences from the interim program are discussed thereafter.

The certification program gives all parties which are subject to presumptive and vicarious liability the right to assert an affirmative defense to that liability. In general, such parties must establish that they did not cause the violation. In addition, they must provide applicable PTD(s) meeting the requirements of § 80.171 for the product in violation, documenting that the product satisfied all requirements of this program when it left their control.

Specific parties have additional requirements to establish an affirmative defense:

Branded refiners are subject to vicarious liability for product nonconformity violations involving gasoline, detergent, and detergent-additized PRC, as well as for VAR violations, that occur at branded facilities, *i.e.*, facilities which operate under the corporate, trade, or brand name of the refiner or any of its marketing subsidiaries. In addition to establishing the lack of causation and the PTD elements of a presumptive liability affirmative defense, branded refiners are also required to establish either of two additional elements to avoid vicarious liability for a violation. They must either establish that the violation was caused by sabotage or in violation of law, or that the violation occurred despite the existence of a contractual obligation designed to prevent it, where such obligation was monitored by an appropriate oversight program including periodic review of PTDs to ensure contractual compliance. These requirements are the same as those that currently apply under the interim program.

Detergent blenders, as the parties with the most control over proper additization, have to demonstrate additional affirmative defense elements to avoid presumptive liability for detergent rule violations. In addition to lack of causation and PTD compliance, detergent blenders must have a quality assurance program to ensure proper additization of the product they additize. The quality assurance program must include periodic review of their PTD and volume measurement records to ensure the accuracy of the blender's PTD and VAR records. Further, a detergent blender asserting an affirmative defense must establish the receipt (or provision, as appropriate) of accurate written blending instructions prior to the blending of the detergent into the nonconforming gasoline or PRC. These affirmative defense elements are essentially the same as, and are a continuation of, those found under the interim program.

Detergent manufacturers are subject to presumptive liability for non-VAR related detergent, gasoline, and detergent-additized PRC nonconformity violations. As the parties controlling the production of the detergent, the detergent manufacturers must make specific showings to establish an affirmative defense to such liability. (See the following subsection for an analysis of changes to detergent manufacturer affirmative defense requirements under today's rule.) Detergent manufacturers are also subject to liability for any detergent, gasoline or PRC nonconformity violations, or VAR violations, which EPA can establish they caused.

Carriers of gasoline or detergent are the last parties with different liability and affirmative defense elements under the detergent program. Since these parties do not take title to the product they transfer, carriers have less incentive (although not necessarily less ability) to cause violations. Therefore, like the interim detergent program and other EPA fuels programs, carriers are presumptively liable under the certification program only for the detergent program violations found at their facilities. They are, however, also subject to liability for non-PTD detergent program violations discovered downstream from them, provided that EPA can establish they caused the violations.

a. Detergent Manufacturer Affirmative Defense Modification. In the NPRM, EPA proposed that, in order to successfully establish an affirmative defense to presumptive liability, a detergent manufacturer would have to establish the two standard defense elements (*i.e.*, lack of causation and complying PTDs), as well as the existence of test results confirming that the detergent in question conformed to compositional specifications when it left the manufacturer's control.

Detergent manufacturers commented that these proposed additional requirements were unfair, because their actual ability to cause gasoline nonconformity violations was limited. The proposed requirements were thus modified in the interim rule. Under the interim rule, to successfully assert an affirmative defense to presumptive liability for non-VAR product nonconformity violations, a detergent manufacturer was required to establish that it did not cause the violation. Instead, it had to demonstrate or furnish: (1) That it provided timely and accurate written blending instructions to its customer, (2) a detergent PTD, meeting the requirements of § 80.158, showing product compliance when the detergent left the manufacturer's control, and (3) accurate test results establishing that the product was in compliance with its registration specifications at the time the manufacturer transferred the detergent.

In subsequent discussions with EPA, CMA objected to the interim rule's affirmative defense requirement that relatively sophisticated test results be available on each batch to establish its chemical conformity to registration specifications (see Docket item IV–E–41). CMA maintained that conducting such tests on each batch of detergent was unnecessary and prohibitively expensive. Instead, for quality control purposes, detergent manufacturers

typically monitor the quality of the reagents which are input to the production process, and then test each produced batch to ascertain that it meets relevant physical property specifications. CMA contended that these same measures would be adequate to show that a questioned batch of detergent did meet its registration specifications.

In establishing the interim rule requirement for relatively rigorous analytical test results as an affirmative defense element, EPA's intent was to ensure that the detergent manufacturer would be prepared to supply scientifically defensible, objective evidence that the detergent component of a product was consistent with its registered compositional specifications when it left the manufacturer's control. However, EPA is persuaded by its discussions with the industry that alternative approaches, more consistent with the industry's normal production practices, can also be used to fulfill these objectives adequately.

EPA acknowledges that a requirement to perform an FTIR [28] routinely on every production batch, in case it might be needed in the future for affirmative defense to presumptive liability, might be overly burdensome for some manufacturers. Thus, EPA is making alternative provisions available which manufacturers may choose to follow for affirmative defense purposes. If EPA informs the detergent manufacturer of the possible existence of a violation for which the manufacturer may be presumptively liable within one year of the production of the detergent batch involved, then FTIR results are required for that batch. However, the manufacturer need not have conducted the FTIR procedure on the batch at the time of production. Instead, the manufacturer may choose to retain a sample of each detergent batch when it is produced, and to store it for at least a year in case it becomes a component of a product thought to be in violation of this rule. In that instance, the manufacturer would conduct the FTIR analysis on the retained sample of the batch involved. Whether the FTIR analysis was done at the time the batch was produced, or performed as needed on a retained sample of the batch, EPA would compare the results with the FTIR submitted at time of certification, to determine whether, in its judgement, the composition of the production detergent batch was in reasonable conformity with the certified detergent product.

If the manufacturer receives notification from EPA of possible presumptive liability concerning a detergent batch that was produced more than a year previously, the manufacturer has additional choices for the affirmative defense showing. The manufacturer still has the option to provide an FTIR on the batch (either taken a time of production or on a retained sample), as would be required if the batch had been produced less than one year ago. However, EPA understands that shelf life restrictions may become a factor for some detergents after a year or more of sample storage time. Thus, in lieu of an FTIR, the manufacturer may choose to rely on the following two affirmative defense requirements: (1) Documentation that the reagents used to synthesize the batch were the same in identity and quality as those specified in the certification, and (2) documentation that relevant physical properties of the batch fell within the range established in the detergent's certification (see section III.A.1 of this preamble).

b. Extension of Liability for VAR Violations. Under the interim program, only detergent blenders are subject to presumptive liability for VAR violations. Because detergent blenders were the only parties required to perform VAR reconciliations, it appeared logical that they should be the only parties liable for violations involving such reconciliations.

The Agency has become convinced, however, that parties other than detergent blenders can cause VAR violations, even if such other parties do not conduct the VAR reconciliations. For example, such parties can provide erroneous instructions to the detergent blender about detergent concentration rates or use restrictions. Conceivably, parties could also conspire with the detergent blender to transfer competitively low-priced unadditized or misadditized gasoline.

Therefore, in the Reopening Notice, EPA proposed extending presumptive liability for VAR violations to other regulated parties in the gasoline and detergent distribution chains. In the alternative, EPA proposed maintaining presumptive liability for VAR violations solely for detergent blenders, but extending liability to any regulated party whom EPA could show actually caused a VAR violation. This option was proposed with a new requirement that parties in the detergent distribution system would have an affirmative duty to provide accurate, written blending instructions for the detergent (59 FR 66872).

Most commenters on this issue disagreed with the Agency's proposal to extend presumptive liability for VAR violations to additional parties, asserting that EPA should be able to effectively enforce the VAR requirements with the liability scheme currently in effect under the interim program rule. These commenters also argued that detergent blenders are the only parties who could reasonably be held responsible for their own VAR violations. However, two commenters stated that parties other than detergent blenders could cause VAR violations, and should therefore also be subject to presumptive liability for such violations.

Few parties commented specifically about the alternative proposal to impose an affirmative duty on parties to provide accurate detergent blending instructions. One commenter agreed with the idea, provided that this requirement would take the place of extending presumptive liability for VAR violations to additional parties. A second commenter opposed the proposal, basing its opposition on the idea that a new affirmative duty was not necessary in the detergent program. Other commenters asserted that, in general, no new enforcement provisions were warranted at this point in the detergent program.

EPA agrees with the majority of commenters that most VAR violations will be caused by detergent blenders. Therefore, the Agency agrees that extending presumptive liability to parties other than detergent blenders would be inappropriate. However, since other regulated parties in addition to detergent blenders clearly do have some capacity to cause VAR violations, today's rule does extend liability for VAR violations to those regulated parties that EPA shows caused such violations.

Today's final rule does not impose a new affirmative duty on parties in the detergent distribution system to provide their customers accurate detergent blending instructions. It is obviously important to the effectiveness of the detergent program that detergent blenders receive accurate blending instructions. However, EPA's experience enforcing the detergent program has shown the effectiveness of the existing affirmative defense requirements concerning blending instructions, i.e., the reciprocal affirmative defense requirements of the detergent manufacturer and the detergent blender, respectively, to provide and receive accurate, written

[28] Under the interim program, the test may be an FTIR-based analysis or other procedure which can qualitatively and quantitatively identify each component of the detergent additive package (§ 80.141(f)). Under the certification program, an FTIR analysis is required (§ 80.162(d)).

blending instructions. This experience indicates that the added imposition of an affirmative obligation (in addition to the affirmative defense element) to provide such instructions is not necessary.

c. Defense Against Liability Where More Than One Party May Be Liable for VAR Violations.

As proposed in the NPRM, both the interim program and the certification program provide that multiple parties may be subject to liability for the same VAR violations. This possibility exists for several reasons: Multiple parties may fit the definition of detergent blender; several regulated parties may have caused the VAR violations; and branded refiners may be vicariously liable for another party's violations if a VAR violation occurs at a branded facility, including a detergent storage system, operating under the corporate, trade, or brand name of that branded refiner.

Many commenters suggested that liability for VAR violations should be limited by the terms of contracts that the parties themselves have created concerning additization of gasoline. These commenters stated that detergent additization is often carried out pursuant to the terms of such contracts which dictate responsibilities between the parties, and which should be respected by the Agency.

As EPA stated in the preamble to the interim program rule, the Agency is not required to base its own determination of liability for violations on the consensual agreements created by potential violators. However, the Agency may consider the division of responsibilities contractually established between the parties when deciding whom it will prosecute for violations.

It is the Agency's policy that: if such division of responsibilities is established by a written contract; if the parties not assuming responsibility have implemented reasonable contractual oversight procedures to ensure that the assuming party has fulfilled its responsibilities; if the assuming party is fiscally sound and capable of paying the penalty for failure to comply with the VAR requirements; and if the non-assuming parties have not otherwise caused the VAR violation; then, it is appropriate for the non-assuming parties to avoid liability for a VAR violation.

The Agency believes that contractual arrangements meeting these criteria provide reasonable assurance that the assuming party is responsible for the VAR requirements and has the financial ability to pay penalties if it fails to adequately meet these requirements. Therefore, EPA does not believe that compliance with the detergent program will be compromised if parties are permitted to assert reliance on such contracts as a defense to the imposition of multiple liability for VAR violations.

Consequently, today's final rule provides that parties subject to liability for VAR violations may successfully assert an affirmative defense to such liability, provided that the elements described above are satisfied. This defense cannot be used, however, to avoid imposition of liability related to a detergent blender's failure to provide VAR records upon EPA request, as required pursuant to § 80.170(g). As previously mentioned, the Agency needs to review certain limited, but essential, VAR records during inspections at detergent blending terminals. EPA cannot allow parties to avoid this enforcement necessity through a privately created contract.

d. Defense to Liability for Gasoline Nonconformity Violations Based Solely on the Addition of Misadditized Ethanol or Other PRC to Gasoline. Under the interim and certification programs, gasoline which is properly additized at a detergent blending terminal can subsequently become a nonconforming product when a party downstream of the gasoline's additization terminal blends mis- or unadditized ethanol or other PRC into the gasoline. The reason for the nonconformity is that the combined product fails to attain the proper additization concentration through the addition of the misadditized PRC.

The sale, offering for sale, etc. of nonconforming gasoline is a violation of the detergent rule for which all parties in the relevant gasoline, detergent, and PRC distribution systems are presumed liable, although each such party has the right to assert an affirmative defense to liability. In addition, branded refiners are also subject to vicarious liability if the violation involves branded products. Neither the NPRM nor the interim rule addressed the appropriateness of a special affirmative defense specifically geared to violations caused by misadditized PRC.

In commenting on the Reopening Notice, representatives of the ethanol industry stated that the interim program is causing a chilling effect on the use of ethanol. According to one industry representative, this situation is brought about, in part, because parties in the distribution chain who do not add ethanol to the product are concerned about their potential liability if mis- or unadditized ethanol is subsequently added to the gasoline. This commenter asserted that such parties were avoiding or prohibiting the use of ethanol with their product because of their apprehension of potential liability.

As a response to this comment, today's final rule provides that the party not adding the ethanol or other PRC can avoid the imposition of liability (whether presumptive or vicarious) in this situation merely by establishing that it did not cause the violation, and that it has PTDs establishing that the product was in conformity with program specifications when it left the party's control. This provision relaxes the presumptive and vicarious liability affirmative defense requirements established for other violations in the interim program and proposed in the NPRM, and thus makes it easier for the party not adding the ethanol to avoid liability for nonconforming product. The Agency believes this is appropriate because such parties have little control over this type of violation, and because the environmental harm of the violation tends to be mitigated by the industry practice of slightly over-additizing gasoline to ensure that actual additization is above the required LAC.

e. Liability for the Sale of Nonconforming Gasoline or PRC When the Gasoline or PRC Also Violates VAR Requirements. This section articulates Agency policy about enforcement of detergent rule provisions when the same gasoline violates both the VAR standard requirement and the prohibition against the sale of nonconforming product. When gasoline or PRC is misadditized because it failed to attain the VAR standard, a VAR violation has occurred. Only the detergent blender and/or those whom EPA can establish caused the violation are responsible for that VAR violation. However, any party, including the detergent blender, who sells, transfers, etc. the nonconforming gasoline or PRC is also subject to liability for a different violation, *i.e.*, the sale, etc. of nonconforming gasoline or PRC. Any party subject to liability for any of these violations has the right to assert an affirmative defense to such liability.

In the preamble to the interim program final rule (59 FR 54700), the Agency made clear that it intended to treat fairly those parties who unknowingly sell such non-complying gasoline. EPA is reiterating that position. Specifically, when a VAR standard violation is found, the Agency does not intend, as a general practice, to take enforcement action against the detergent blending party for both the VAR violation and the violations stemming from the sale of the same nonconforming gasoline or PRC. However, if the circumstances of the

violation make the Agency believe that the imposition of liability for both violations is appropriate, then EPA will bring an enforcement action for both violations. Such unusual circumstances could include the party's deliberate attempt to profit from detergent program violations, or a pattern of significant and repetitive VAR standard violations.

In a similar manner, when a VAR standard violation is found, the Agency will not generally take an enforcement action against the non-blending parties for selling or transferring the nonconforming gasoline or PRC. The reason is that parties receiving the nonconforming product typically have no practical means of knowing that the product is misadditized, and, consequently, they should easily be able to establish their affirmative defense element. However, if unusual circumstances exist indicating that the non-detergent blending parties had responsibility for the nonconforming sale violations, EPA may take enforcement action against these parties for such sale violations.

f. Detergent Blender Affirmative Defense Clarification and Clarification of Presumptive Liability Arising from Detergent Blending. Under the interim program, for detergent blenders to avoid liability for VAR and product nonconformity violations, they must establish the standard detergent rule affirmative defense elements of lack of causation and PTD compliance. In addition, because of their unique status in the detergent program as the parties actually adding the detergent to the gasoline or PRC, they are also required to establish two additional affirmative defense elements. First, they must show that, prior to blending, they received (or provided) accurate, written blending instructions including the LAC and any applicable use restriction information for the detergent. Second, they must establish that they have a quality assurance (quality) program which includes periodic review of supporting transfer and measurement documents, confirming the correctness of the PTD's and VAR documents.

At an API detergent additives compliance task group meeting discussing implementation of the interim rule, and through an NPRA comment on the Reopening Notice (see Docket items #IV–E–44 & #VI–D–63), the Agency was advised of industry concern about this quality program element for an affirmative defense. The commenters were concerned that this quality program defense element might require detergent blenders to review records of downstream parties handling the gasoline, to ensure that these other parties were complying with detergent rule requirements. Since these other parties were not under the control of the detergent blenders, according to these commenters, the blenders feared that it would be difficult for them to fulfill this responsibility.

The Agency agrees that detergent blenders should not be required to review the records or other actions of parties over whom the blenders have no control. The Agency's primary intent in establishing this affirmative defense element was to ensure that detergent blenders properly control and assure the quality of their own additization process, not the operations of others over whom they have no control. Therefore, EPA is clarifying that the detergent blender quality program element applies to the blender's review of its own records and the supporting documents it possesses to confirm the correctness of its own additization activities.

Blenders wishing to assert an affirmative defense should be aware, however, that they may find it difficult to successfully establish their lack of causation if they knew of a customer's misadditization of their product, and they failed to prevent the continuance of that practice. In such situations, the blender can control future misadditizations by refusing to sell to the violating party. The Agency believes that, in this unusual situation, the blender does have some control over such a violation, and that blenders can, and should, be held accountable for reasonable steps to prevent it in order to establish an affirmative defense.

Today's rule also clarifies another point about detergent blending liability. As proposed in the NPRM and as codified in the interim rule, regulated parties are presumptively in violation if they own, control, etc. the facility where a gasoline or PRC nonconformity violation is found. In addition, applicable parties are presumptively in violation if they do actions (whether upstream or downstream of the place where the violation is found), such as selling or transferring the product or components of the product in violation, which could cause the nonconformity or other violation and which make it reasonable for such parties to be presumptively in violation.

For this latter liability, as was proposed in the NPRM, the interim rule specifies the acts giving rise to this presumptive liability, including such activities as manufacturing, refining, selling, dispensing, and transporting the products in question. While the interim rule does not specifically mention the act of detergent blending as one which would give rise to this liability, the act of detergent blending is typically associated with the other activities (such as selling, dispensing, or transferring the relevant product), which are specified in the rule. The act of detergent blending clearly could give rise to gasoline or PRC nonconformity violations. Therefore, today's certification rule clarifies that detergent blending is an activity that will trigger presumptive liability under both the interim and the certification programs. This clarification is within the scope of the NPRM proposal since it merely specifies another action that is related to the other—similar actions—which precipitate such liability.

g. Liability Clarification. The Agency received a comment from CMA requesting clarification as to what specific violations detergent manufacturers would be deemed liable for, and how the continuing days of penalties would relate to those violations. CMA stated that the regulations were unclear, because the section of the rule which designates the prohibited acts appeared to make manufacturers liable for a single event, such as the sale of non-conforming detergent, while the penalty provision appeared to impose liability for all the days that such non-conforming detergent remained anywhere in the gasoline distribution chain. CMA also claimed that it was unreasonable for EPA to impose such extended liability on detergent manufacturers, since their involvement with the detergent and its subsequent blending is typically limited to the initial sale or distribution of the detergent.

EPA is clarifying in today's rule that parties are responsible for causing the presence of nonconforming products in their distribution systems, in addition to their liability for their own sale, transfer, etc. of nonconforming products. This scheme for presumptive liability is similar to that adopted under several of EPA's fuel regulations in Part 80, and has been found in practice to efficiently provide a mechanism for EPA to identify the party or parties that have caused a violation, and to impose adequate potential liability for purposes of deterrence.

Under today's rule, if a detergent manufacturer makes a sale of a nonconforming detergent, the detergent manufacturer is liable for a violation of the prohibition against selling nonconforming detergent. The detergent manufacturer is also liable for a violation for each of the days that any of the nonconforming detergent from that sale remains in the detergent distribution system. In addition, if the

nonconforming detergent was used by its purchaser to create nonconforming additized gasoline or post refinery component (PRC), then each day that the nonconforming gasoline or PRC remains anywhere in the gasoline or PRC distribution systems, is also included (but not duplicated), in the total number of days that the detergent manufacturer is in violation.

In addition, if there were two original sales of nonconforming detergent by the detergent manufacturer, each of these sales would be a separate violation for that manufacturer, with additional separate violations for each day that the nonconforming detergent from each sale remains anywhere in the detergent, PRC, and gasoline distribution systems, *i.e.*, if detergent from each sale is in its detergent distribution system or is found in additized gasoline or PRC in their distribution systems on a specific day, then there are two violations for that day. However, the detergent manufacturer is not also responsible for additional violations committed by downstream parties who deal with the nonconforming product. The daily violation for causing the presence of nonconforming product in the relevant distribution systems does not change depending on the number of people who happen to store, transport, sell or otherwise deal with the nonconforming product.

Although the comment related specifically to detergent manufacturers, this principle is applicable to all parties' liability under the detergent program. Causing the presence of nonconforming product in the relevant distribution systems is the basis upon which EPA established in the interim program the provision under which penalties continue to accrue for each day that the nonconforming product remains in these distribution systems. Thus, in clarifying this point in today's final rule, EPA has added appropriate language to §§ 80.155, 80.156, 80.168, and 80.169. This clarification does not constitute a change in EPA's implementation or intent with respect to either the interim program or the certification program.

3. Inclusion of Importers of Additized Gasoline Within the Definition of Detergent Blender. The definition of detergent blender in the interim rule did not include importers of additized gasoline. It became apparent to the Agency that this omission interfered with EPA's ability to determine if imported additized product had been properly additized, since only detergent blenders are required to maintain VAR records. EPA thus had less oversight over importers of additized gasoline than it did over the domestic detergent blending parties marketing the same product, increasing the risk of importation of misadditized gasoline. This omission also put domestic detergent blenders of gasoline at a competitive disadvantage in relation to importers.

To correct this problem, EPA proposed in the Reopening Notice to amend the definition of detergent blender to include those parties who imported additized gasoline. All of the comments received on this issue supported the proposed change. Commenters stated that including importers of additized gasoline within the definition of detergent blenders is fair and closes a gap in EPA's ability to enforce the regulation.

EPA agrees with these comments. Accordingly, today's final rule includes importers of additized gasoline within the definition of detergent blender. This change applies to both the interim program and the certification program.

4. Certification Use Restrictions. Under the interim program, the only possible detergent use restriction applies to detergents which have a separate LAC specific to leaded gasoline. Such detergents cannot be used at the leaded-only LAC with unleaded gasoline. In all other circumstances, any properly registered detergent can be legally used with any gasoline or PRC under the interim program.

Under the certification program, however, a detergent may be certified for one or more restricted uses, thus taking advantage of lower LACs applicable to some restricted gasoline pools (see Section IV). These use restrictions require corresponding prohibitions to ensure compliance with the restrictions, as proposed in the NPRM. Those parties choosing to take advantage of the use-restricted certification options in today's program must fully abide by the certified use restrictions or they will be subject to liability for violations for the sale, transfer, etc. of the nonconforming gasoline or PRC that results from the noncompliance. The following is a description of the certification rule's use restrictions, followed by a discussion of a permissible method of removing the restrictions under appropriate circumstances.

Under the PADD-specific certification option, gasoline and/or PRC additized with a PADD-specific detergent must be sold, transferred, etc. to the ultimate consumer or to a retail outlet or WPC facility, only in that specified PADD.

Detergent certified under the fuel-specific option, may only be blended into gasoline or PRC that conforms with the fuel segregation and composition requirements of the fuel-specific certification.

Under the national, PADD-specific, and fuel-specific certification options, if a detergent is certified with an LAC which is effective for use only with non-oxygenated gasoline, or only with gasoline containing a specified oxygenate (or non-oxygenated product), then that detergent at that LAC may only be used with the appropriate base gasoline or PRC product. In addition, oxygenates cannot subsequently be added to gasoline previously additized at a lower LAC certified for use with non-oxygenated gasoline. Similarly, an oxygenate not included in a given detergent's certification cannot be added to gasoline which was previously additized according to that certification.

Properly additized gasoline may be commingled with another gasoline which was properly additized with a different detergent, even if the second detergent's certification includes different use restrictions from the first. However, this does not apply to PADD specific detergents. Gasoline or PRC additized with a detergent certified specifically to one PADD may not be commingled with gasoline or PRC additized with a detergent certified specifically to a different PADD since, by definition, each batch of gasoline, including any PRC, must be sold or transferred to the ultimate consumer, etc., in its own PADD in order to be considered properly additized.

If, prior to EPA inspection or sale to the ultimate consumer, a party discovers that it possesses product that is nonconforming because of failure to conform to use restrictions, or that party wants to use an additized product in a way that would be nonconforming to that product's use restrictions, it is possible under appropriate circumstances to cure such nonconformity. Such a situation may occur, for example, during mandated oxygenate seasons, if a terminal has gasoline which it previously additized with detergent restricted for use with non-oxygenated product. In order to comply with the oxygenate requirements, such a terminal would be permitted to add oxygenate to the gasoline in spite of its oxygenate restriction, provided the appropriate curing steps were followed.

The Agency proposed in the NPRM that violations of certification restrictions (specifically, PADD-specific restrictions), would be curable by full readditization of the product with the proper PADD-specific detergent. Commenters from the automotive industry objected to this approach,

claiming that such double additization could cause combustion chamber deposit formation.

While EPA agrees that double additization is not a desirable cure for use restriction misadditizations, today's rule does permit limited readditization as a curing procedure under appropriate circumstances. For example, prior to EPA inspection and discovery of the problem and prior to sale of the product to the consumer, readditization is clearly appropriate in the case of gasoline that is nonconforming solely because it contains detergent at a lower treat rate than required for that gasoline product. This could occur when a batch of regular unleaded gasoline is accidentally additized with detergent at the lower treat rate certified for use only with premium gasoline, or when a batch of oxygenated gasoline is accidentally additized at a detergent's lower, non-oxygenated product treat rate. If the detergent has also been certified at a higher treat rate for use with the gasoline product at issue, then the violation can be cured merely by adding enough of the detergent to attain the appropriate, certified treat rate, pursuant to the formula specified in the rule. In such cases, documentation in the form of a ''curing VAR'' for the added detergent must be maintained. In addition, any PTDs created for the cured product must not include any reference to the prior use restriction which no longer applies.

Today's final rule similarly permits such curing to enable downstream parties to add substances which would otherwise be precluded by the upstream addition of restricted-use detergent. For example, oxygenate can be added to gasoline which already contains a detergent at a treat rate certified only for unoxygenated gasoline, provided the marketer adds at least enough additional detergent to achieve a combined detergent concentration no less than the detergent's certified LAC for oxygenated gasoline. In such cases, not only must the oxygenate component be properly additized with detergent, but the previously additized gasoline portion must be further additized to attain the certified treat rate for the combined end-product, *i.e.*, oxygenated gasoline.

However, if a downstream party does not know which detergent has been used upstream or does not have access to it, or if the initial detergent has not been certified for the downstream party's desired use, then the above provision would not enable the use restriction to be cured. For this reason, today's rule also permits a party to cure a use restriction, prior to EPA inspection or knowledge of the problem and prior to sale to the ultimate consumer, by adding the proper amount of any detergent (according to the formula for such addition provided at § 80.169(g)), that has been certified both for the desired use and the initial use. For example, oxygenate can be added to gasoline which already contains a detergent certified only for nonoxygenated gasoline, provided an adequate amount of another detergent is added which has different LACs certified for use with nonoxygenated and oxygenated gasolines. The minimum amount of new detergent required is a function of the difference between its certified treat rates for the new (e.g., oxygenated) and the initial (e.g., nonoxygenated) uses.

In a similar manner, if a party has misadditized gasoline or PRC in violation of a PADD restriction, the error can be cured most easily, prior to EPA discovery of the violation and prior to sale to the ultimate consumer, by adding more of the same detergent, provided it has been certified for the desired use. However, the violation can also be cured by adding an appropriate amount of a different detergent, provided it has been certified both for the PADD and the desired use (*e.g.*, national). The amount of additional detergent must be based upon the difference between the LACs for the PADD and other certification, and must at least equal the amount determined by the regulatory formula. In all these instances, the party must create a readditization VAR to document the use restriction curing procedure. If the above procedures are fully complied with, then the use restriction is effectively negated, and any violation that would have resulted from the use restriction is also obviated.

5. PTD Changes. The core of the PTD requirements established under the interim program continue under the certification program. However, certain changes and additions to the PTD requirements have been incorporated into the final rule. The following is a discussion of these changes.

a. Elimination of PTD Retention Requirement for Additized Gasoline for Wholesale Purchaser-Consumers (WPCs). Under the interim program, gasoline WPCs, as regulated parties under this program, are required to retain their PTDs for five years. However, EPA has determined that retention of PTDs for additized gasoline by such parties is not necessary.

The Agency's enforcement of the interim program thus far has centered around auditing the VAR activities of detergent blenders and conducting paperwork reviews of other parties in the gasoline distribution system, all as part of general fuel regulation compliance inspections. Because inspections of WPC facilities have not been extensive, and because EPA does not expect an increase in such inspections, EPA will not require WPCs to retain PTDs for additized gasoline under today's final rule. In the unusual event that they receive any other regulated product (such as unadditized gasoline or additized PRC), today's rule does require these parties to retain the PTDs for such unusual transfers. Parties selling or transferring regulated products to WPCs are still required to transfer PTD's to those parties and to retain copies of all such PTDs (except as discussed in the following section).

As proposed under the NPRM and as is required under the interim program, the certification program requires WPCs to receive PTDs at the time gasoline is transferred to them, so that they can review these documents to determine proper additization compliance (with the one exception for small loads discussed below). In addition, if a WPC transfers gasoline to another regulated party which is not an ultimate consumer using it in a motor vehicle, then the WPC is a distributor of the gasoline, and must comply with all PTD requirements that apply to distributors.

b. Elimination of PTD Requirements for Transfer of Small Loads of Additized Gasoline to Ultimate Consumers. Under the interim program, all regulated parties who transfer gasoline or additized PRC, with the exception of WPCs or retail outlets transferring gasoline to the ultimate consumer, are required to transfer PTDs for that product to the transferee. Similarly, all regulated parties receiving the product must obtain the PTDs from their transferor. The interim program further requires that such documents be maintained for five years from date of transfer.

The Agency was advised by the Independent Petroleum Marketers Association (IPMA) that this PTD requirement was creating a hardship for distributors in rural areas who pick up additized gasoline from terminals, and then deliver small amounts of this product to farmers. (See Docket items VI–D–51, VI–D–52, VI–D–66, and VI–D–67.) IPMA suggested that such transfers be made exempt from the PTD requirements since such sales are analogous to sales to the ultimate consumer from retail outlets, which are exempt from PTD requirements. These loads are typically divided from the larger truckloads picked up at the terminals. New delivery tickets are created for each of the divided loads, typically hand written and containing

minimal information. Thus, the creation and storage of detailed PTDs for those small deliveries is unduly burdensome.

The Agency agrees that small sales by distributors of additized gasoline to ultimate consumers for their own use can be considered analogous to retail sales and should be exempt from PTD requirements. The PTD requirements were established to alert regulated parties and the Agency to the additization status of the transferred product. This notification was not intended to be extended to retail customers. Further, the small amount of product involved, and the fact that the gasoline is not intended for additional transfer, diminishes even further the notification value of the PTDs in this situation.

In light of the purported record creation and maintenance burdens associated with these documents, and because of the minimal notification value associated with them, today's final rule exempts from the PTD requirements certain transfers of small amounts of gasoline. Specifically, the rule exempts transfers of additized gasoline of no greater than 550 gallons made by distributors which are not the detergent blenders of the gasoline, to ultimate consumers for their own use or the use of their agents or employees. The 550 gallon maximum is established because that is the criteria for minimum tank size used in the fuels regulations (40 CFR 80.2(o)) to define a party as a wholesale-purchaser consumer.

The PTD exemption is further limited by the type of parties involved with the transfer. The exemption does not apply to those distributors actually doing the detergent blending, since such parties typically are terminals with equipment that automatically produces PTDs, and thus have no need for the exemption. Further, the exemption is restricted to small deliveries to ultimate consumers of gasoline, who are not in the business of distributing gasoline to other parties. Deliveries to parties which distribute gasoline are excluded from this exemption since such marketers are responsible for the further transfer of gasoline to their own customers. The Agency expects gasoline marketers to fulfill their regulatory responsibility of reviewing PTD receipts to ensure that the product received is properly additized.

c. Address of the Transferee/Transferor. The certification program continues the interim program requirement that the addresses of both the transferor and the transferee of the product are to be listed on the PTD. Today's rule also adopts the Q&A Document modification that allows the address of the transferee to be identified on a separate document which must be made available to EPA inspectors upon request (Q&A Document #1, Q.15, p.14). This change responds to industry's concern about lack of space on commercial transfer documents due to PTD requirements.

For the sake of conformity with the PTD requirements of the RFG rules (40 CFR part 80, subparts D & E), as implemented by that rule's Q&A Documents, and because of document space concerns, today's final rule expands this alternative procedure to the identification of addresses of transferrers also. However, as in the RFG program, today's final rule establishes the following additional requirements for those who would use this alternative procedure: (1) The normal business practice between the parties must not include listing addresses on their transfer documents, and (2) both parties to the transaction must know and have records of the required addresses.

d. PTD Identification of Oxygenates and PRC Added to Gasoline. In promulgating the interim program, it was not necessary to require regulated parties such as refiners to identify on a gasoline product's PTD whether the gasoline had been blended with a particular oxygenate, since a properly registered detergent could be used with any gasoline, including oxygenated gasoline, sold in the United States. Using the same reasoning, the Q&As for the interim program clarified that any PRC (including an oxygenate) which was added to gasoline prior to detergent additization was not required to be identified on the gasoline's PTD. (Q&A Document #2, Q.6, p.11.) If, however, a PRC was additized separately from the gasoline, the same Q&A reaffirmed the regulatory requirement that the gasoline's PTD does have to identify the component, because it is useful for the Agency and regulated parties to be aware of the separate additization of the components.

In contrast, the identification of a refinery-added oxygenate or a PRC is very important under today's final rule, since a specific detergent certification may not cover the use of a particular oxygenate or, under the fuel-specific certification option, a particular PRC. Therefore, as originally proposed, today's rule requires that all gasoline product transfer documents identify any PRC added to the gasoline. It further extends the identification requirement to any oxygenate, whether refinery-added or a PRC, added to gasoline. Without such identification, parties may inadvertently additize gasoline containing an oxygenate or PRC with detergent that has not been certified for use with that product.

e. Detergent Package Use Restriction Designations. Since today's final rule permits detergents to be certified for use with a specific fuel, or for a variety of restricted uses, it is important that the PTDs for detergent packages identify the existence of any special use restrictions. Without such identification, there would be greater possibility that a detergent blender would inadvertently use the detergent with inappropriate gasoline.

In the NPRM, the Agency proposed that PTDs for certified detergents with PADD, fuel-specific, CARB-based, or leaded gasoline use restrictions must specify the use restriction that applied to the detergent being transferred. Today's rule adopts the concept that a detergent's use restrictions must be highlighted on the detergent's PTD. However, because detergents under today's rule may be certified with a multitude of different LACs related to different use restrictions, today's final rule only requires PTDs for such products to include a general warning that use restrictions apply to the product. The Agency believes that requiring identification on a detergent package's PTD of all the options and corresponding use restrictions under which a detergent has been certified would result in a waste of space on PTDs for those detergents with numerous use-restricted LACs. Furthermore, identification of numerous LACs could be confusing and counter-productive to the recipient of the detergent, since many of the use restrictions may not be relevant to the particular party receiving the detergent.

Therefore, under today's rule, if a detergent has only one certified LAC for generic use with any fuel product, then the PTD for the detergent must not include any reference to use restrictions. However, if the detergent's only certified LAC is for use with a restricted product (*e.g.*, fuel-specific, leaded only, premium only, etc.), then the PTD for that detergent package must identify the detergent as use-restricted detergent. Similarly, if a detergent has been certified with two or more LACs, and thus has a variety of restricted use possibilities, the PTD for that detergent package must indicate that the detergent has special use options available. The Agency believes that such PTD identification will give adequate notice to detergent recipients of the use-restricted status of transferred detergents, while not presenting so much information that the recipient might be misled by it.

f. Fuel-Specific Gasoline Designations. As proposed in the NPRM, today's final rule requires that base gasoline which is segregated for use with a particular fuel specific-detergent must be identified as such on its PTD. This identification will help prevent the use of the specialized detergent with an inappropriate gasoline. The PTD for such gasoline must indicate that it is base gasoline for use with the designated detergent package.

Because fuel-specific certification is based on gasoline from a segregated fuel supply, oxygenates or PRCs may be added to the subject gasoline only if they were specifically included in the detergent's fuel-specific certification. Today's rule adopts the proposed provision that base gasoline with oxygenates or PRCs which were not included in the designated detergent's fuel-specific certification cannot be identified on its PTD as base gasoline for use with that fuel-specific detergent.

At the marketer's option, base gasoline which is designated for a fuel-specific detergent may be additized with a different detergent, or at a non-fuel-specific LAC treat rate. The fuel-specific designation does not require the use of the fuel-specific detergent, it merely permits it.

Today's certification rule also specifies the proper PTD identification for the fuel-specific gasoline designated in a fuel-specific detergent certification which establishes that such gasoline does not need to be additized. Because some unusual gasoline supplies may be able to pass the performance requirements of detergent certification testing without the use of detergents, today's rule provides that such gasoline may be legally sold and transported under the fuel-specific certification option. The rule further requires that a PTD for such product must identify it as ''detergent-equivalent gasoline''. This is appropriate nomenclature, since the fuel is equivalent to additized gasoline in its deposit prevention capability. The use of this PTD identification will provide notice to recipients of the actual additization status of the product.

g. PADD Designation on PTDs for Additized Gasoline or PRC. Today's rule adopts the proposal that the PTD for gasoline or PRC additized with a PADD-specific detergent must identify the product as restricted for ultimate sale or transfer in that PADD. For example, use of the phrase ''PADD I only'' would be considered acceptable identification of this restricted use. In a similar manner, the PTD for gasoline additized with a CARB-based certified detergent must identify the product as CARB-based, to alert recipients that the gasoline must either have been additized in California or sold to the ultimate consumer in that state. (See section VIII(B)(7)(c), below, for a discussion of specified detergent rule exemptions for gasoline additized and sold in California.) As discussed above, gasoline or PRC may be cured of PADD or other use restrictions through the approved readditization curing process.

h. Identification of Oxygenate and PRC Use Restrictions on PTDs for Additized Gasoline. As previously discussed, a misadditization violation would arise under today's rule if oxygenate or PRC were added to gasoline additized with a detergent restricted against that use. Therefore, successful implementation of the detergent program requires that gasoline additized with such detergent must have a PTD identifying the oxygenate or PRC restriction. Use of such phrases such as ''oxygenate use prohibited'' or ''MTBE use only'', would be acceptable identification. Such PTD identification for the additized gasoline will provide notice to downstream parties of the continuing oxygenate or PRC use restriction applying to the product. It will also alert these parties to the need to eliminate the restriction through the approved curing method if they desire to add the restricted component.

This PTD identification requirement for additized gasoline is a modification of the NPRM proposal, which would have required that PTDs for additized gasolines identify the EPA certification number of the detergent used to additize the gasoline. Under the proposal, the use of the specified certification number would have provided notice to recipients that the particular use restrictions certified with that specified detergent needed to be followed.

However, today's final rule does not provide certification numbers for detergents, since EPA does not believe that the informational benefits of such numbers would outweigh the administrative and recordkeeping burdens associated with them. As a more efficient substitute, today's rule merely requires that those gasolines actually additized at a use-restricted LAC rate must identify the applicable oxygenate or PRC use restrictions on their PTDs.

i. Base Gasoline Identification. Under the interim program rule, all regulated parties transferring unadditized gasoline are required to identify the product on its PTD as base gasoline. In addition, PTDs for such product are also required to state the warning that this gasoline is ''Not for sale to the ultimate consumer''. These base gasoline requirements originally proposed in the NPRM were considered necessary to highlight to the recipients the significant information that such unadditized product could not legally be sold or transferred for consumer use.

Although the Agency still believes it is important for unadditized gasoline to be highlighted as such within the gasoline distribution system, EPA no longer considers it necessary to mandate particular identification language (e.g. the phrase ''base gasoline'') for it. EPA experience in implementing the interim program has shown that permitting industry flexibility in complying with PTD identification requirements has not resulted in significant identification problems. Therefore, under today's final rule, PTDs for base gasoline may use any nomenclature which clearly states that the base gasoline is unadditized. However, today's rule does require that PTDs for most base gasolines must include the mandated language specifically warning against the sale of unadditized gasoline to the ultimate consumer.

An exception is base gasoline to be used for research and development purposes, as discussed below in section VIII.B.7. Another exception was initially articulated by EPA in Q&A Document #1, Q.13, p.13, in response to a refiner's suggestion that the consumer-sale prohibition language was unnecessary on certain specialized PTDs. Specifically, an industry party requested permission to delete this language on PTDs for contractually controlled bulk transfers of unadditized product from refiners to pipelines, when the parties have a written agreement which states that the pipeline will not sell or transfer the unadditized gasoline to ultimate consumers.

The Agency agreed in the Q&A Document that transfers between these parties under these circumstances should not require the PTD warning language, because the likelihood of such unadditized product being mistakenly delivered to a consumer is minimal. Today's final rule codifies this exception to the PTD warning language requirement in the limited circumstances outlined above. The Agency believes that this modification of the proposal will not result in the sale of unadditized product to consumers, but will reduce the paperwork burden on refiners and pipelines.

j. Use of Product Codes on PTDs. The NPRM and interim program did not address the use of product codes and other language not specified in the regulation, to satisfy the information requirements established for PTDs. However, both in comments on the

NPRM, and in implementation feedback to the Agency (See Q&A Document #1, Q.13, p.13), regulated parties requested permission to use product codes to satisfy PTD information requirements proposed in the NPRM and codified in the interim program. The rationale given by the parties supporting such substitution is that the use of product codes would greatly reduce the amount of space needed to convey the required information.

The Agency is sympathetic to industry's need to conserve space on commercial documents because transfer documents have to comply with several regulatory information requirements, not only those associated with the detergent rule. In response to this concern, the Agency issued a Q&A Document which permitted the use of product codes to comply with the interim program's PTD requirements, provided certain conditions were met (Q&A Document #1, supra.) The conditions are designed to ensure clear communication of the information required by the regulation.

Under the Q&A guidance, product codes or other alternative language must be clear, accurate, and not misleading. They must be standardized throughout the distribution system in which they are used, and downstream parties must be informed of their full meaning. However, parties may not use product codes or alternative language to substitute for the two required warnings found in the interim regulation. These are the prohibition against the sale of base gasoline to the ultimate consumer, and the statement that a detergent certified only for the control of carburetor deposits must be used with leaded gasoline only. The Agency believes that these warnings are so important that abbreviations or substitutions for them would not provide adequate notice to receiving parties.

Today's final rule codifies this approach. The rule's provision requires such codes to be clear and accurate, so that any parties transferring PTDs with product codes or alternative language which are confusing or not effectively explained to downstream parties, are not in compliance with the detergent rule's PTD requirements. Such parties are also liable for any product nonconformity violations caused by the non-complying PTDs.

Today's rule does not prohibit the use of product codes to convey the leaded gasoline only warning, since PTD notification requirements for all detergent package use restrictions, including the leaded gasoline restriction, are treated in the same way under today's final rule (See preamble section VIII.B.5.e.). Instead, compliance with the generic use-restriction language is required, to provide effective notice to recipients of the detergent package that the use of the detergent is subject to conditions.

As discussed in the previous section, today's rule does not permit, in most instances, substitution for the regulatory warning language against the sale of base gasoline to the ultimate consumer. However, electronic data transmissions cannot accommodate the PTD regulatory language for base gasoline transfers. Consequently, as under the RFG program, today's final rule permits the warning language on electronic PTDs to be reflected by product codes, provided that such documents are for title transfers only, and do not involve actual transfer or possession of the product. Under the specified conditions, the Agency does not believe that the absence of the exact regulatory warning language from the electronic PTDs will result in the improper transfer of unadditized product.

k. PTD Requirements for Gasoline Overadditized for the Later Addition of Ethanol or Other PRC. Under the interim rule, when gasoline is overadditized to account for the later addition of unadditized PRC, the PTD for the gasoline must indicate that the product has been overadditized to account for the later addition of a specified volume of PRC. The purpose of this requirement is to provide notice to the recipient that only the stated volume of PRC has been accounted for by the gasoline's overadditization.

At the 1994 API public seminar on the interim program, EPA received industry feedback that it would be difficult for marketers to identify on PTDs the actual amount of anticipated ethanol that the particular overadditization accounted for, and that it would be much more convenient and preferable to identify the standardized, maximum percentage of product volume that the anticipated ethanol could comprise (See Docket item IV–E–45). For example, most blenders using this procedure would over-additize a batch of gasoline in anticipation of the later addition of ethanol amounting to no greater than 10 percent of the fuel's finished volume.

The Agency believes that identification of the maximum percentage of total product volume that the blender anticipates will be PRC, and for which the blender has additized, will provide adequate notice of the maximum amount of such product that may be added to the additized gasoline. Therefore, EPA stated at the API seminar that blenders could identify on PTDs the amount of ethanol that could be added to overadditized gasoline either by this percentage, or by the volume of ethanol. Today's final rule codifies this change as to ethanol and other PRCs.

6. Extension of the Agency's Right of Entry into Facilities of Detergent Manufacturers, Distributors, and Carriers. Neither the NPRM nor the interim program addressed the Agency's authority to enter and inspect the premises of parties in the detergent distribution system. The EPA believes that such authority is included in its information gathering authority under section 114, as well as in its authority to regulate detergents under section 211(l) of the Clean Air Act, and in its general authority under section 301(a). Therefore, EPA proposed in the Reopening Notice to expand its right of entry provision located at 40 CFR 80.4.

Section 80.4 currently states that the Administrator or her authorized representative may enter the premises of parties in the gasoline distribution system to make inspections, take samples, and conduct tests to determine compliance with EPA fuels requirements under 40 CFR Part 80. In the Reopening Notice, the Agency proposed expanding this section to include entry into the facilities of the detergent manufacturers, distributors, and carriers now regulated under Part 80.

Only one commenter, the Chemical Manufacturers Association, opposed the proposal, and did so only in regard to detergent manufacturers. CMA stated that section 211(l) does not make it unlawful for detergent manufacturers to produce or store detergents out of conformity with EPA specifications. CMA argued that EPA's only legitimate concern under section 211(l) was to ensure that detergents met specifications when they were blended into gasoline. This commenter believed that the Agency could adequately address this concern by sampling detergents only at the premises of detergent blenders. Thus, argued CMA, EPA's right to enter and inspect the premises of a detergent manufacturer could not be considered necessary to carry out its functions under the Act and was, therefore, not authorized under section 301.

The Agency disagrees with CMA's argument. The Agency believes that it is necessary for EPA to inspect the premises of detergent manufacturers, both to enforce the detergent specifications mandated by section 211(l), as well as to prevent the creation of misadditized gasoline which would also be in violation of section 211(l).

Detergent manufacturers can clearly cause detergents to fail to conform to required specifications through their improper manufacture of the detergents. Their sale of such nonconforming detergent, which is a violation of the detergent program in itself, would then cause other violations of the program, namely, the sale of misadditized gasoline based on that detergent nonconformity.

To ensure that the regulatory detergent specifications are met and that detergent is not sold which would cause the sale of misadditized gasoline, it is necessary for the Agency to sample and test detergent at all points in its sale/distribution system, including at detergent manufacturer facilities. It would be counter-productive and impractical for the Agency to wait to sample and test nonconforming detergent until a detergent blender is actually in the process of using it, or has already used it, in violation of section 211(l) prohibitions. Thus, the Agency's ability to inspect the premises of detergent manufacturers is reasonable and necessary for EPA to effectively carry out its statutory mandates.

7. Exemptions. As proposed in the NPRM, the interim program includes an exemption from the requirements of the detergent rule for detergent used for research, development, and testing purposes. Also exempt under the interim program are aviation fuel and racing fuel. Several parties commenting on the interim program have requested modifications of these exemptions. (See Docket items #IV–E–41, VI–D–08 and VI–D–69.) The following is a discussion of the exemptions finalized today, including a discussion of the newly-included California gasoline exemptions.

a. Research, Development, and Testing Exemption. In the NPRM, EPA proposed that parties conducting research and development (R&D) testing of gasoline and detergent additives could apply to the Agency to obtain detergent rule exemption waivers for their products. Pursuant to industry comment that the proposed waiver procedures were burdensome and unnecessary, the interim program established an R&D-exemption which did not require a specific EPA waiver. Under this provision, detergents that are in a research, development, or test status, or are sold to petroleum, automobile, engine, or component manufacturers for such purposes, are exempt from the rule's requirements, provided that (1) the detergent or the fuel containing the detergent is kept segregated, (2) documentation identifies the product as R&D and states that it is only to be used for R&D purposes, (3) the product is not sold or transferred, or offered for sale or transfer, from a retail outlet, (4) if the detergent is transferred or offered for transfer from a WPC facility, that facility is R&D associated, and (5) the party using the product notifies EPA at least annually, and prior to usage, of the purposes of the R&D program and the volume of the product to be used.

A comment on the Reopening Notice pointed out that this R&D exemption did not appear to include base gasoline to be used for R&D purposes. This commenter suggested that EPA specifically add base gasoline to be used for R&D purposes to the products being exempted under the rule. The commenter also suggested amending the PTD warning requirements for base gasoline, so that a base gasoline PTD could say either that the product was not for sale to the ultimate consumer or, if appropriate, that it was to be used only for R&D purposes.

The Agency agrees with this comment about the R&D exemption. The omission of R&D base gasoline from the language of this exemption provision was unintentional. Today's final rule therefore corrects this omission and specifically includes within the exemption all R&D gasoline, both base and additized product. The rule requires, however, that for gasoline to be exempt under this provision, it must be used by an appropriate R&D institution, *i.e.*, a manufacturer of additives, gasoline, automotive parts, or automobiles, or it must be used under the control of such a party. This requirement will ensure that only parties legitimately connected with petroleum, additive, or automotive research and development will be able to use the exemption.

In response to the request that EPA allow PTDs for R&D base gasoline to identify the product as such, and to state ''For R&D purposes only'' instead of the general warning against sale to the ultimate consumer, today's final rule permits such information on PTDs for this fuel.

CMA commented that the R&D exemption requirement of prior and annual notification to EPA was unfair and burdensome. This commenter asserted that such notification was not required for the other detergent rule exemptions, and therefore should not be required for this one. Further, CMA argued that the actual volume of R&D product to be used in an upcoming year was not knowable at the beginning of the year, which would make it difficult to comply with the reporting requirement. Both CMA and a second industry commenter (Docket item #VI–D–57) believed that the notification requirement was confusing as to which parties had to report, because contract laboratories often perform research on behalf of the gasoline, additive, or automotive manufacturers.

While today's final rule retains the annual notification requirement for the R&D exemption, EPA has modified the requirement in response to these comments. The Agency believes that annual notification is necessary because it alerts the Agency to intended R&D product use. The Agency can then inspect the R&D facilities to ensure that the exempted product is actually being used for legitimate R&D purposes. In addition, the prior notification requirement is useful for enforcement purposes because any party attempting to assert R&D status as a rationale for noncompliance will first have to establish that it previously notified the Agency of its intended R&D use.

However, in response to commenter concern, the final rule does ease the R&D notification requirements. The rule permits either the party actually conducting the research or the party controlling the research to make the notification to EPA. Therefore, if they choose, manufacturers can submit one annual notification to cover all the R&D products that their contract laboratories are testing for them, obviating the need for contract laboratories to submit multiple notifications for their varied testing work. Moreover, the annual notification need only identify a reasonable estimate of the R&D product to be used in the coming year, rather than a certain amount.

b. Racing and Aviation Fuel Exemptions. As proposed in the NPRM, the interim program included an exemption from detergent rule requirements for fuel sold, transferred, etc. as automotive racing fuel and for fuel sold, etc. as airplane engine fuel. For such fuel to be exempt, it must be kept segregated and must be accompanied by documentation identifying it as racing or aviation fuel, not for street or highway use. The exemption provision also required that the product not be sold or transferred from a retail outlet.

Several comments on the NPRM protested the restriction that racing fuel sold or transferred from a retail outlet would not qualify for the exemption. These comments stated that prohibiting the sale of such fuel at retail outlets would be unfair to auto racing participants, since some racing facilities do not have fuel pumps available. Further, the comments alleged that this

requirement would discriminate unfairly against retail outlets.

The interim program's exemption for racing fuel included the retail outlet sale restriction because such fuel, which normally has a high lead content and lacks detergent additives, is not appropriate for street or highway use. Retail outlets, by their very nature, are facilities at which fuel is sold to consumers for street or highway use. Therefore, the Agency believed that permitting the sale of this product at facilities regularly selling gasoline to general consumers would be conducive to the illegal sale and use of this exempted product.

EPA remains concerned about this potential problem, but agrees with the commenters that completely prohibiting the sale of exempt racing fuel at retail outlets is an unnecessarily broad solution. Therefore, today's final rule places less restrictive requirements on the sale of exempt racing fuel to protect against the sale of this product to highway-use consumers.

The product segregation and documentation requirements promulgated in the interim program will continue under today's rule. Also, the rule affirms that the exemption is confined to fuel distributed to racing vehicles that are restricted for nonhighway use. This requirement is consistent with that of the RFG program. The consistency between the two fuels programs will make it easier for parties to comply with both programs. In addition, today's rule requires that pumps from which racing fuel is dispensed must be clearly labeled as such.

The Agency believes that these provisions will prevent the improper use of unadditized racing fuel in highway vehicles as effectively as the proposed retail outlet sale prohibition would. At the same time, these requirements do not unfairly discriminate against retail outlets but apply, instead, to all parties selling or transferring racing fuel.

It is a violation of today's rule to sell product claimed to be exempt racing fuel and not properly additized to a consumer for street or highway use. The Agency believes that parties who sell or transfer the product to inappropriate recipients may have difficulty establishing for an affirmative defense that they did not cause the violation if they cannot demonstrate that they complied with the exemption requirements and that they had taken reasonable steps to ensure the product would be used in the proper manner so that the exemption would apply.

Today's rule continues to exempt aviation gasoline. Similar to the exemption for racing fuel, today's rule requires dispensers of exempt aviation gasoline to properly label the aviation pumps, and to sell or transfer the product for aviation use only. The interim program's segregation and documentation requirements for this product are also continued in today's rule. The Agency believes that these requirements will ensure that the exempt product is used only in aviation engines.

c. California Gasoline Exemptions. The interim program requires that gasoline additized and sold or transferred to the ultimate consumer in California is subject to all the enforcement-related provisions of the Federal detergent program, including the VAR and paperwork requirements, in spite of the fact that CARB is also regulating this fuel under its own detergent program. At the time the interim rule was promulgated, EPA was concerned that CARB's detergent program might not be as effective as the Federal program in ensuring compliance with the Federal standards for proper additization. However, CARB's enforcement of its detergent regulation program has proven to be very vigorous, and its enforcement requirements have been shown to be effective.[29] Further, CARB has proposed changes to its detergent program which would make CARB's program even more rigorous in the future.[30]

Therefore, EPA now considers that CARB's VAR and paperwork requirements, even under the present CARB statutory language, will be as effective in ensuring compliance with the Federal standards as are their Federal program equivalents. Consequently, EPA has decided to create exemptions for California gasoline from the Federal VAR and PTD provisions. Since the equivalent CARB record keeping and reconciliation provisions are effective, these Federal enforcement requirements would be superfluous in California.

Today's rule merely exempts the specified California gasoline from certain Federal enforcement program requirements that are unnecessary in California. Specifically, gasoline additized in California is exempt from the Federal VAR requirements, and gasoline sold or transferred wholly within California is exempt from the Federal PTD requirements. Such gasoline is still subject under today's rule to the general requirements of additization and sale in conformity with Federal certification requirements, since Congress mandated the additization, pursuant to EPA specifications, of all gasoline sold to consumers in the United States. California detergent blenders can comply with both the state and Federal requirements by using detergents which have CARB-based Federal certifications, and following the CARB-mandated record keeping and VAR procedures. EPA will evaluate California blenders' compliance with the Federal LAC standards by examining the records of the same type mandated by CARB, plus the CARB-mandated type of records for gasoline additized in California for ultimate sale elsewhere. The Agency does not expect to regularly conduct detergent program inspections in California. EPA believes that CARB's enforcement of the California requirements will adequately assure compliance with Federal standards. However, if EPA believes it appropriate, the Agency will conduct detergent program inspections of California facilities.

To ensure that the Agency will have access to the same amount of compliance records for California detergent blenders as for blenders outside of California, today's final rule requires California-regulated parties who operate under the exemption from the Federal VAR requirements to maintain the detergent program records required by CARB (and the same type of records for gasoline to be sold outside of California), for the same five-year period that records are required to be maintained under the Federal program. The Federal VAR exemption is predicated on this record creation and maintenance. The Agency will thus be able to review these compliance records, if and when it chooses to inspect California facilities, covering the same time period that applies in other states.

The California gasoline exemptions from the specified VAR and PTD provisions of the Federal detergent enforcement program are also predicated on EPA's conclusion that the CARB program is as effective as the Federal program in ensuring compliance with the Federal detergent standards. EPA intends to monitor CARB's program to ensure that these exemptions continue to be justified. If EPA determines that changes in CARB's regulations or its enforcement practices, or other changed circumstances, would compromise the CARB program's ability to ensure compliance with Federal additization standards, then EPA may

[29] See Docket item VI–D–68 for a summary of CARB's detergent program enforcement actions.

[30] See Docket item VI–D–55 regarding the 9/29/95 Proposed Amendments to CARB's Detergent Additive Rule.

delete these exemptions through a future rulemaking.

C. Proposed Changes Not Incorporated in the Certification Rule

Several changes to enforcement provisions of the interim program were proposed in the Reopening Notice but are *not* incorporated in today's certification rule. The following is a summary of these proposed changes along with the reasons they were ultimately rejected by the Agency.

The first such nonfinalized proposal would have required the use of meters on all automated additization equipment injectors. EPA proposed this metering requirement to promote greater additization accuracy. However, comments on this proposal universally condemned it as being expensive, disruptive of industry's present operating procedures, and not necessarily effective in ensuring greater accuracy. The commenters believed that the detergent program should continue to permit blenders to use their existing equipment, unless enforcement experience established a need for greater accuracy.

These comments are persuasive. EPA enforcement experience of the first year of the detergent program has indicated minimal problems with non-metered records. Therefore, the extra expense of new metered additization equipment has not proven to be necessary.

The second nonfinalized proposal would have required VAR volumes to be recorded to the nearest tenth of a gallon, instead of the nearest gallon requirement established under the interim program. Commenters disputed the need for increasing the severity of the recording requirement, since some additization systems cannot measure volumes to that degree of precision and installing new equipment would be very costly. At the same time, commenters asserted that increasing the precision would not bring noticeable benefits in greater additization accuracy. In particular, it was pointed out that recording volume figures to one tenth of a gallon, for the large volumes of fuel typically being recorded, would be meaningless in improving additization compliance.

The Agency finds these comments persuasive, except as regards VAR reporting of detergent volumes of five gallons or less. Reporting such small amounts of detergent only to the nearest gallon would create a greater than 10 percent degree of inaccuracy in reporting the additization that actually occurred. The Agency believes that this is an unacceptable level of inaccuracy in VAR compliance reporting. Therefore, although the proposed change to a tenth of gallon reporting is not generally incorporated in today's final rule, detergent volumes of five gallons of less are required to be recorded on the VAR formula records to the nearest tenth of a gallon (or smaller unit), if the blender's equipment can measure to this level. If not, such volumes are to be reported down to the nearest gallon. This procedure will address EPA's concerns for accurate reporting of additization, while also meeting industry's objection to purchasing upgraded equipment merely to ensure this accuracy.

Another proposed change not incorporated in today's final rule was the imposition of a minimum detergent concentration for each gallon of gasoline additized, in addition to meeting the VAR averaging requirement. This was another proposal that industry commenters to the Reopening Notice consistently opposed, primarily because of the huge expenses they said would be entailed for installing additization equipment that could monitor per-gallon compliance. Commenters argued that little gain would result from this requirement, since deposit formation occurs over the long term. Therefore, according to these commenters, the compliance already required under the VAR averaging procedures should be adequate to prevent such buildups.

EPA concedes the points made, and has chosen to delete the proposed requirement of per-gallon minimum additization. This decision could be revisited in the future, however, if experience shows that such additional compliance requirements are necessary to effectively prevent deposit formation.

The fourth change not incorporated was the extension of presumptive liability for VAR violations to all parties, except upstream carriers, in the product's distribution system. See Section VIII.B.2.b. for a discussion of this issue.

The final proposed change from the Reopening Notice that was not included in today's rule was the prohibition against the use of multiple equipment set rates within one VAR formula record. The Agency was concerned that if gasoline additized under several detergent concentration set rates were included within the reported VAR volumes in the same formula record, then there would be inadequate assurance that the gasoline additized at the lower rates was in compliance with the LAC standard. Compliance at the higher rates could mask noncompliance in the lower rates. Therefore, the Agency proposed the prohibition against the use of multiple set rates within the same VAR record.

Detergent blender commenters to this proposal wanted to retain the ability to use multiple set rates in the same VAR record because it would minimize their VAR paperwork burdens and would allow the use of present equipment. They rejected the need for the proposed prohibition, arguing that the interim program's prohibition against setting any injector's set rate lower than the LAC and the additional prohibition against adjusting any injector's set rate higher than 10 percent of its initial setting, would effectively ensure that the gasoline additized at the lower treat rates also attains the LAC standard.

The Agency agrees with these comments that the interim program's set rate requirements do provide some insurance that the gasoline additized under the lower concentrations will be adequately additized. Therefore, EPA does not consider the added paperwork and equipment expenditures associated with the proposed multiple set rate prohibition to be warranted. However, the certification program maintains the interim program requirement that detergents being used at different LACs must be recorded and reconciled on separate VAR formula records (See section VIII.B.2.e.). Since VAR compliance is based on the comparison of the actual detergent concentration attained with the appropriate LAC certified for the fuel product being additized, each restricted LAC must be separately compared to the respective additized product.

To make this requirement meaningful, the certification program continues the interim program's requirement that blenders using a detergent at different LACs must have the ability to accurately measure the additization occurring under each LAC. Both the interim and certification programs provide flexibility to blenders in satisfying this requirement. For example, such blenders could measure usage from different tanks containing the detergent being used at different LACs, use a separate meter on an injector that is additizing under a separate LAC, or use a meter capable of distinguishing additizations under separate LACs.

In summary, for the reasons outlined above, EPA agrees with the overwhelming majority of commenters to the Reopening Notice that the above compliance provision modifications discussed in this section should not be adopted. To date, EPA's enforcement experience with the interim program has shown a high level of additization compliance. If future experience reveals that current enforcement provisions are

inadequate, then EPA may revise these provisions through another rulemaking.

IX. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as any regulatory action 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.

Pursuant to the terms of Executive Order 12866, EPA has determined that this final rule is a ''significant regulatory action''. EPA's regulatory impact analysis (RIA),[31] available in the public docket and summarized below, indicates that the annual costs to producers for compliance with the requirements of the certification program are expected to exceed $100 million. Therefore, EPA has treated this action as significant and has submitted a regulatory analysis to the Office of Management and Budget (OMB) for review.

The total cost of the detergent additive certification program includes costs associated with certification testing and additional registration and record-keeping requirements, as well as additization costs. Over 90 percent of the total estimated cost of the program is associated with the price of the additives needed to bring all gasoline up to the effective detergency levels which much of U.S. gasoline already contains. The average incremental cost to consumers is projected to be approximately 0.10 cents per gallon of gasoline. This amount will be partially compensated for by the increased fuel economy and decreased maintenance requirements which improved deposit control is expected to provide.

The gasoline detergent additive requirements are expected to result in reductions in motor vehicle emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen, totalling over one million tons during the 30-month interim program and about 600,000 tons per year under the detergent certification program. These emissions reductions will be achieved at relatively low cost, i.e., about $226 per ton. Fuel economy benefits are also expected as a result of the detergent program, amounting to nearly 450 million gallons during the 1995–2001 period. The savings associated with this fuel economy benefit are expected to partially offset the costs of the program, decreasing the cost per ton of emissions reduction to $120.

The program is not expected to be a significant cost burden to individual businesses, and adverse effects on competitive relationships are not expected. In fact, this rule should result in increased sales and business opportunities within the fuel additive industry. Any written comments from OMB and any EPA response to OMB's comments are available in the public docket for this rule.

B. Regulatory Flexibility Act

EPA's analysis of the impact of this rule on small entities is included as Chapter 5 in the Regulatory Impact Assessment (RIA) that was prepared in association with the interim program as described above.

The analysis shows that the regulatory responsibilities of the various types of businesses affected by this rule, along the chain from gasoline refiner to distributor to retailer, differ significantly. For each type of business, however, even for the small business entities in this chain, the costs of the regulation are estimated to be modest. The largest costs will be incurred by gasoline producers in the price of the additional detergent additive required to be added to gasoline. However, this basic cost is essential to the Clean Air Act mandate and for realization of the program's emission control objectives. Also, to some extent, additization costs are expected to be passed along the distribution chain to consumers. In the case of small additive manufacturers and additive injection equipment manufacturers, rather than being unduly burdensome, this regulation could result in significant economic opportunities through increased sales.

The addendum to the RIA, as noted in the previous section, was prepared to reflect minor changes in the regulatory program from the previous analysis. Relevant changes were primarily associated with the cost of detergent certification testing, especially in regard to test fuel qualification. For small additive manufacturers, which are likely to use the services of contract laboratories for certification testing, such costs can be largely defrayed by cost sharing, since ''proven'' test fuels can be used by an unlimited number of laboratory customers. Furthermore, the economic benefits to small additive manufacturers of the requirements for detergent use will more than compensate for the manufacturer's certification costs under this rule. Thus, as was found in the original analysis, the addendum to the RIA concluded that significant adverse economic impacts on small businesses are very unlikely to occur as a result of this rule. Consequently, EPA has determined that this rule will not have a significant adverse impact on a substantial number of small entities.

C. Paperwork Reduction Act

The changes to the detergent program's information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the requirements of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 1655.03) and a copy may be obtained from Sandy Farmer, Regulatory Information Division; EPA; 401 M Street, SW. (Mail Code 2137); Washington, DC 20460, or by calling (202) 260–2740. These new requirements are not effective until OMB approves them. The information collection requirements currently in force under the interim detergent program (ICR No. 1655–02) will continue to be effective until replaced by those contained in today's rule. In addition, many of the information collection requirements unique to the detergent certification program were anticipated in the NPRM and were previously approved by OMB (ICR No. 1655–01). These requirements will also be effective until the requirements contained in today's rule are approved by OMB.

The information to be collected is necessary for the Agency to ensure that detergent additives that are effective in controlling deposits are used and that the emissions control goals of this

[31] The RIA was prepared in conjunction with the interim detergent program based on costs and benefits projected for the detergent certification program (Docket item V–B–01). An addendum updating the RIA was prepared to reflect minor changes in program costs from those projected in the original analysis (Docket item V–B–03).

regulation are realized. The information will be used by the Agency to evaluate whether the deposit control performance standards in today's rule have been satisfied, that detergents are blended into gasoline at the required levels, and that the restrictions placed on the use of detergents certified under the different certification options are observed. The information collection requirements are mandatory apart from those associated with maintaining affirmative defenses. Section 114 of the Clean Air Act (CAA), 42 U.S.C. 7414 authorizes EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA, including the provisions related to this rule. Any information or detergent samples submitted to EPA for which a claim of confidentiality is made will be safeguarded according to EPA regulations at 40 CFR 2.201 *et seq.*

The following estimates of this collection requirements hourly and cost burden include the time to review instructions; 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 requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The desegregated hourly burden estimates for this collection are as follows:

(a) *Additive manufacturers:* (1) EPA estimate that two research exemptions will be reported each year per respondent at about 0.08 hr. per response, with 59 total respondents; (2) The certification testing recordkeeping burden is estimated at approximately 3.5 certifications per respondent in 1996 and 1997 with 59 total respondents. In 1998 and following years this is estimated to drop to approximately one certification per respondent. The burden initially includes about 382 certifications but is reduced dramatically to a turnover rate of about 15 percent of the initial number of certifications annually in future years. The burden per certification response is estimated to be less than 90 hours. The 1997 hours for all respondents is approximately 21,830. This is reduced to about 5,160 hours in 1998 and 1999; (3) Other yearly requirements are customary business practices or have no hourly burden except a 0.15 hr. burden to review the instruction for quality assurance provision;

(b) *Refiners and importers:* (1) Refiner/importer voluntary quality assurance for defense involves about 20 responses per respondent with about 0.01 hr. per response. One hundred parties are estimated to perform these voluntary quality assurance procedures; (2) Other requirements involve no hourly burden;

(c) *Terminals who blend detergent:* The monthly detergent use accounting records requirement is largely a customary business practice that was adapted to EPA format under the previous interim rule. It is estimated that there will be 12 responses per year per detergent for each terminal. The on-customary business practice hourly burden per terminal per month is about 0.01 hour. It is estimated that there might be as many as 1,246 respondents; (2) The required calibration of terminal equipment is already performed, however, the rule requires that it be performed at least twice per year. The associated non-customary business practice burden per response associated with this calibration requirement is estimated at 0.21 hours, with 1,200 automated terminals participating. The startup burden per terminal to read rule/instructions is estimated at 0.25 hr; (3) It is estimated that 1,246 terminals conduct recordkeeping quality assurance on 15 occasions per year at 0.02 hr. per review; (4) Other requirements require no hourly burden;

(d) *Truckers who hand blend detergent:* It is estimated that truckers who hand blend detergent might do so on as many as 875 occasions annually, with approximately 0.03 hour per response and 100 total respondents annually for this requirement; (2) Other trucker requirements are customary business practices;

(e) *Retailers and wholesale purchaser-consumers:* It is estimated that retailers and wholesale purchaser-consumers of gasoline who also dispense detergent-exempt aviation fuel or racing fuel will spend 0.55 hrs to label pumps. This is a one-time requirement for a total of 5,000 respondents.

The disaggregated cost estimates for this collection are as follows:

(a) *Additive manufacturers:* (1) It is estimated that the 59 respondents will spend a total of $559,967 in 1996 and $697,882 in 1997 for recordkeeping involving the approximately 382 certifications that will occur initially. This is reduced to $163,060/year in ensuing years since it is estimated that 15 percent of the number of initially certified additives will be certified annually after the program's first year. For certification testing itself, there are no capital costs; most of the additives tested will be tested in-house on existing equipment already used as a customary business practice by these manufacturers. Test costs for 1997 average $242,559 per party for 59 parties, and in 1996 average $210,921 per party for 59 parties. For 1998 and beyond, the cost is estimated to fall to $63,276 per party. These parties will also spend about $4.86 per year for exemption notices and will have a startup cost of about $4.80 in 1996 for a quality assurance program that is otherwise a customary business practice;

(b) *Refiners and importers:* It is estimated that 100 refiners and importers of gasoline will pay $2,564 per year per party for voluntary defense quality assurance;

(c) *Terminals:* The VAR records for terminals are expected to cost each of 1,246 terminals about $2.28 per year beyond customary business practice costs. Calibration requirements are expected to cost each of 1,200 terminals about $13 each beyond customary business practices with a startup cost of $8 per respondent in 1996 for reviewing the changed requirement. Record checks are expected to cost each terminal about $8.00 per year;

(d) *Truckers:* If any truckers hand blend a large number of loads per year, the cost per trucker could be as high as $691 per year. Other costs are customary business practices;

(e) *Retailers and wholesale purchaser-consumers:* It is estimated that retailers and wholesale purchaser-consumers of gasoline who also dispense exempt aviation gas or racing gas will pay about $12.60 in the first year for labelling their pumps and about $1 each year after for the capital cost of purchasing the label.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Ch. 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing the respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

Include the ICR number in any correspondence.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the program would significantly or uniquely affect small governments. EPA has determined that this rule contains Federal mandates that will result in expenditures of $100 million or more in any one year for the private sector. EPA believes that the program represents the least costly, most cost-effective approach to achieving the air quality goals of the proposed rule. EPA has performed the required analyses under Executive Order 12866 which contains identical analytical requirements. The reader is directed to Section IX.A., Administrative Designation and Regulatory Analysis, for further information regarding these analyses.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is a ''major rule'' as defined by section 804(2) of the APA as amended.

X. Electronic Copies of Rulemaking Documents

The preamble, the RIA, and regulatory language of this final rule are available in the public docket as described under ''**ADDRESSES**'' above and are also available electronically on the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer network Bulletin Board System (TTNBBS). Instructions for accessing TTNBBS and downloading the relevant files are described below.

A. Technology Transfer Network Bulletin Board System (TTNBBS)

TTNBBS can be accessed using a dial-in telephone line (919–541–5742) and a 1200, 2400, or 9600 bps modem (equipment up to 14.4 Kbps can be accommodated). The parity of the modem should be set to N or none, the data bits to 8, and the stop bits to 1. When first signing on to the bulletin board, the user will be required to answer some basic informational questions to register into the system. After registering, proceed through the following options from a series of menus:

(T) Gateway to TTN Technical Areas (Bulletin Boards)
(M) OMS—Mobile Sources Information
(K) Rulemaking and Reporting
(3) Fuels
(4) Detergent Additives

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. The following eight ''zip'' files are currently available:

DCA__CFP.ZIP (Preamble to the final rule on the Certification Requirements for Deposit Control Additives)
DCA__CFR.ZIP (Regulatory text for the final rule on the Certification Requirements for Deposit Control Additives)
DCA__RIAA.ZIP (Addendum to the Regulatory Impact Analysis)
DCA__RCN.ZIP (Notice to Reopen the Comment Period)
DCA__RIA.ZIP (Regulatory Impact Analysis)
DCA__1FP.ZIP (Preamble to the final rule on the Interim Requirements for Deposit Control Additives)
DCA__IFR.ZIP (Regulatory text for the final rule on the Interim Requirements for Deposit Control Additives)
DCA__PRE.ZIP (Preamble from the Notice of Proposed Rulemaking)

File information can be obtained from the ''READ.ME'' file. Choose from the following options when prompted:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, <H>elp or <ENTER> to exit.

To download a file, e.g., <D> filename.ZIP, the user needs to choose a file transfer protocol appropriate for the user's computer from the options listed on the terminal. The user's computer is then ready to receive the file by invoking the user's resident file transfer software. Programs and instructions for de-archiving compressed files can be found under <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. 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.

TTNBBS is available 24 hours a day, 7 days a week except Monday morning from 8–12 EST, when the system is down for maintenance and backup. For help in accessing the system, call the systems operator at 919–541–5384 in Research Triangle Park, North Carolina, during normal business hours EST.

B. Internet

Rulemaking documents may be found on the internet as follow:

World Wide Web
http://www.epa.gov/omswww

FTP
ftp://ftp.epa.gov Then CD to the /pub/gopher/OMS/ directory

Gopher
gopher://gopher.epa.gov:70/11/Offices/Air/OMS

Alternatively, go to the main EPA gopher, and follow the menus:
gopher.epa.gov
EPA Offices and Regions

Office of Air and Radiation
Office of Mobile Sources

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline detergent additives, Gasoline, Incorporation by reference, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: June 21, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.4 is revised to read as follows:

§ 80.4 Right of entry; tests and inspections.

The Administrator or his authorized representative, upon presentation of appropriate credentials, shall have a right to enter upon or through any refinery, retail outlet, wholesale purchaser-consumer facility, or detergent manufacturer facility; or the premises or property of any gasoline or detergent distributor, carrier, or importer; or any place where gasoline or detergent is stored; and shall have the right to make inspections, take samples, obtain information and records, and conduct tests to determine compliance with the requirements of this part.

3–4. Section 80.140 is amended by revising the definition of ''Detergent Blender'' and by adding definitions for ''Leaded Gasoline'' and ''Repeatability'', in alphabetical order, to read as follows:

§ 80.140 Definitions.

* * * * *

Detergent blender means any person who owns, leases, operates, controls or supervises the blending operation of a detergent blending facility, or imports detergent-additized gasoline or detergent-additized post-refinery component.

* * * * *

Leaded gasoline means gasoline which is produced with the use of any lead additive or which contains more than 0.05 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon.

* * * * *

Repeatability of a test method means the amount of random error which is expected to affect the results obtained for a given test substance, when the test is replicated by a single operator in a given laboratory within a short period of time, using the same apparatus under constant operating conditions. Quantitatively, it is the difference between two such single results that would be exceeded in the long run in only one out of twenty normal and correct replications of the test method.

* * * * *

5. Section 80.141 is amended as follows:

a. Paragraphs (a) and (b), the second sentence of paragraph (c)(1)(i), paragraphs (c)(1)(ii), (c)(2), (c)(3)(i), (d), and (e)(1), the first sentence of paragraph (e)(2)(ii)(B), and the last sentence of paragraph (g)(3) are revised.

b. Paragraph (c)(3)(iv) is added.

c. Paragraph (e)(2)(ii)(B)(*1*)(*iii*) is removed and reserved.

d. In paragraph (g)(1), the reference to paragraph (d)(2)(ii)(B) is revised to (d)(3)(ii).

§ 80.141 Interim detergent gasoline program.

(a) *Effective dates of requirements.* (1) Until June 30, 1997, the products listed in paragraphs (a)(1)(i) through (iii) of this section must comply with either the interim program requirements described in this section or the certification program requirements described in § 80.161. Beginning July 1, 1997, the listed products must comply with the requirements in § 80.161. These dates and requirements apply to:

(i) All gasoline sold or transferred to a party who sells or transfers gasoline to the ultimate consumer;

(ii) All additized post-refinery component (PRC); and

(iii) All detergent additives sold or transferred for use in gasoline or PRC for compliance with the requirements of this subpart.

(2) Until July 31, 1997, all gasoline sold or transferred to the ultimate consumer must contain detergent additive(s) meeting either the interim requirements of this § 80.141 or the certification program requirements of § 80.161. Beginning August 1, 1997, such gasoline must contain detergent additive(s) meeting the certification requirements of § 80.161.

(b) *Applicability of gasoline and PRC detergency requirement; responsible parties.* (1) Except as specifically exempted in § 80.160, the detergency requirements of this subpart apply to all gasoline, whether intended for on-highway or nonroad use, including conventional, reformulated, oxygenated, and leaded gasolines, as well as the gasoline component of fuel mixtures of gasoline and alcohol fuels, gasoline used as marine fuel, gasoline service accumulation fuel (as described in § 86.113–94(a)(1) of this chapter), the gasoline component of fuel mixtures of gasoline and methanol used for service accumulation in flexible fuel vehicles (as described in § 86.113–94(d) of this chapter), gasoline used for factory fill purposes, and all additized PRC.

(2) Pursuant to paragraphs (c) through (f) of this section, compliance with these requirements is the responsibility of parties who directly or indirectly sell or dispense gasoline to the ultimate consumer as well as parties who manufacture, supply, or transfer detergent additives or detergent-additized post-refinery components.

(c) * * *

(1) * * *

(i) * * * Polymeric components may be reported as the product of other chemical reactants, provided that the supporting data specified in § 80.162(b) is also reported for such components.

(ii) The weight and/or volume percent (as applicable) of each component of the package, with variability in these amounts restricted according to the provisions of paragraph (c)(2) of this section.

* * * * *

(2) *Allowable variation in compositional data.* (i) A single detergent additive registration may contain no variation in the identity of any of the detergent-active components identified pursuant to paragraph (c)(1)(iii) of this section.

(ii) A single detergent additive registration may specify a range of concentrations for identified detergent-active components, provided that, if each such component were present in the detergent additive package at the lower bound of its reported range of concentration, the minimum recommended concentration reported in accordance with the requirements of paragraph (c)(3) of this section would still provide the deposit control effectiveness claimed by the detergent registrant.

(iii) The identity or concentration of non-detergent-active components of the detergent additive package may vary under a single registration, provided that the range of such variation is specified in the registration, and that such variability does not reduce the deposit control effectiveness of the additive package as compared with the level of effectiveness claimed by the detergent registrant pursuant to the requirements of paragraph (c)(3) of this section.

(iv) Except as provided in paragraph (c)(2)(v) of this section, detergent additive packages which do not satisfy these restrictions must be separately registered. EPA may disqualify an additive for use in satisfying the requirements of this subpart if EPA determines that the variability included within a given detergent additive registration may reduce the deposit control effectiveness of the detergent package such that it could invalidate the minimum recommended concentration reported in accordance with the requirements of paragraph (c)(3) of this section.

(v) A change in minimum concentration requirements resulting from a modification of detergent additive composition shall not require a new detergent additive registration or a change in existing registration if:

(A) The modification is effected by a detergent blender only for its own use or for the use of parties which are subsidiaries of, or share common ownership with, the blender, and the modified detergent is not sold or transferred to other parties; and

(B) The modification is a dilution of the additive for the purpose of ensuring proper detergent flow in cold weather; and

(C) Gasoline is the only diluting agent used; and

(D) The diluted detergent is subsequently added to gasoline at a rate that attains the detergent's registered minimum recommended concentration, taking into account the dilution; and

(E) EPA is notified, either before or within seven days after the dilution action, of the identity of the detergent, the identity of the diluting material, the amount or percentage of the dilution, the change in treat rate necessitated by the dilution, and the locations and time period of diluted detergent usage. The notification shall be sent or faxed to the address in § 80.174(c).

(3) * * *

(i) The lower boundary of the recommended range of concentration for the detergent additive package in gasoline, which the additive manufacturer must report pursuant to the registration requirements in § 79.21(d) of this chapter, must equal or exceed the minimum concentration which the manufacturer has determined to be necessary for the control of deposits in the associated fuel type, pursuant to paragraph (e) of this section. The minimum recommended concentration shall be provided to EPA in units of gallons of detergent additive package per thousand gallons of gasoline or PRC, reported to four digits. This concentration is the lowest additive concentration (LAC) referred to elsewhere in this subpart.

* * * * *

(iv) Once included in the registration for a detergent additive package, the minimum concentration recommended by the detergent manufacturer to detergent blenders and other users of the detergent additive, pursuant to paragraph (c)(3)(ii) of this section, may not be changed without first notifying EPA. The notification must be sent by certified mail to the address specified in § 80.174(b). Changes to the minimum recommended concentration must be supported by available test data pursuant to paragraph (c)(3)(iii) of this section.

(d) The rate at which a detergent blender treats gasoline with a detergent additive package must be no less than the minimum recommended concentration reported for the subject detergent additive pursuant to paragraph (c)(3) of this section, except under the following conditions:

(1) If a detergent blender believes that the minimum treat rate recommended by the manufacturer of a detergent additive exceeds the amount of detergent actually required for effective deposit control, and possesses substantiating data consistent with the guidelines in paragraph (e) of this section, then, upon informing EPA in writing of these circumstances, the detergent blender may use the detergent at a lower concentration.

(2) The notification to EPA must clearly specify the name of the detergent product and its manufacturer, the concentration recommended by the detergent manufacturer, and the lower concentration which the detergent blender intends to use. The notification must also attest that data are available to substantiate the deposit control effectiveness of the detergent at the intended lower concentration. The notification must be sent by certified mail to the address specified in § 80.174(b).

(3) At its discretion, EPA may require that the detergent blender submit the test data purported to substantiate the claimed effectiveness of the lower concentration of the detergent additive. EPA may also require the manufacturer of the subject detergent additive to submit test data substantiating the minimum recommended concentration specified in the detergent additive registration. In either case, EPA will send a letter to the appropriate party, and the supporting data will be due to EPA within 30 days of receipt of EPA's letter.

(i) If the detergent blender fails to submit the required supporting data to EPA in the allotted time period, or if EPA judges the submitted data to be inadequate to support the detergent blender's claim that the lower concentration provides a level of deposit control consistent with the requirements of this section, then EPA will disapprove the use of the detergent at the lower concentration. Further, the detergent blender may be subject to applicable liabilities and penalties pursuant to §§ 80.156 and 80.159 for any gasoline or PRC it has additized at the lower concentration.

(ii) If the detergent manufacturer fails to submit the required test data to EPA within the allotted time period, EPA will proceed on the assumption that data are not available to substantiate the minimum recommended concentration specified in the detergent registration, and the subject additive may be disqualified for use in complying with the requirements of this subpart, pursuant to the procedures in paragraph (g) of this section. The detergent manufacturer may also be subject to applicable liabilities and penalties pursuant to §§ 80.156 and 80.159.

(iii) If both parties submit the required information, EPA will evaluate the quality and results of both sets of test data in relation to each other and to industry-consensus test practices and standards, in a manner consistent with the guidelines described in paragraph (e) of this section. EPA will approve or disapprove the use of the detergent at the lower concentration, and will inform both the detergent blender and the detergent manufacturer of the results of its analysis within 60 days of receipt of both sets of data.

(e) * * *

(1) *CARB-based supporting test data.* For detergent additives which are certified by the California Air Resources Board (CARB) for use in the state of California (pursuant to Title 13, section 2257 of the California Code of Regulations), the CARB certification data constitutes adequate support of the detergent's effectiveness under this section, with the exception that CARB detergent certification data specific to California Phase II reformulated gasoline (pursuant to Title 13, Chapter 5, Article 1, Subarticle 2, California Code of Regulations, Standards for Gasoline Sold Beginning March 1, 1996) will not be considered adequate support for detergent effectiveness in gasolines that do not conform to the compositional specifications for California's Phase II reformulated gasoline. For CARB-based supporting data to be used to demonstrate detergent performance, the minimum recommended concentration reported in

the detergent additive registration must be no less than the concentration of the detergent-active components reported in the subject CARB detergent certification.

(2) * * *

(ii) * * *

(B) For demonstration of fuel injector and intake valve deposit control performance, the tests specified in §§ 80.165, or other vehicle-based tests using generally accepted industry procedures and standards, are preferred.* * *

* * * * *

(g) * * *

(3) * * * All correspondence regarding a disqualification must be sent to the address specified in § 80.174(b).

* * * * *

6. Section 80.155 is revised to read as follows:

§ 80.155 Interim detergent program controls and prohibitions.

(a)(1) No person shall sell, offer for sale, dispense, supply, offer for supply, transport, or cause the transportation of gasoline to the ultimate consumer for use in motor vehicles or in any off-road engines (except as provided in § 80.160), or to a gasoline retailer or wholesale purchaser-consumer, and no person shall detergent-additize gasoline, unless such gasoline is additized in conformity with the requirements of § 80.141. No person shall cause the presence of any gasoline in the gasoline distribution system unless such gasoline is additized in conformity with the requirements of § 80.141.

(2) Gasoline has been additized in conformity with the requirements of § 80.141 when the detergent component satisfies the requirements of § 80.141 and when:

(i) The gasoline has been additized in conformity with the detergent composition and purpose-in-use specifications of an applicable detergent registered under 40 CFR part 79, and in accordance with at least the minimum concentration specifications of that detergent as registered under 40 CFR part 79 or as otherwise provided under § 80.141(d); or

(ii) The gasoline is composed of two or more commingled gasolines and each component gasoline has been additized in conformity with the detergent composition and purpose-in-use specifications of a detergent registered under 40 CFR part 79, and in accordance with at least the minimum concentration specifications of that detergent as registered under 40 CFR part 79 or as otherwise provided under § 80.141(d); or

(iii) The gasoline is composed of a gasoline commingled with a post-refinery component (PRC), and both of these components have been additized in conformity with the detergent composition and use specifications of a detergent registered under 40 CFR part 79, and in accordance with at least the minimum concentration specifications of that detergent as registered under 40 CFR part 79 or as otherwise provided under § 80.141(d).

(b) No person shall blend detergent into gasoline or PRC unless such person complies with the volumetric additive reconciliation requirements of § 80.157.

(c) No person shall sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline, detergent, or detergent-additized PRC unless the product transfer document for the gasoline, detergent or detergent-additized PRC complies with the requirements of § 80.158.

(d) No person shall refine, import, manufacture, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transportation of any detergent that is to be used as a component of detergent-additized gasoline or detergent-additized PRC, unless such detergent conforms with the composition specifications of a detergent registered under 40 CFR part 79 and the detergent otherwise complies with the requirements of § 80.141. No person shall cause the presence of any detergent in the detergent, PRC, or gasoline distribution systems unless such detergent complies with the requirements of § 80.141.

(e)(1) No person shall sell, offer for sale, dispense, supply, offer for supply, transport, or cause the transportation of detergent-additized PRC, unless the PRC has been additized in conformity with the requirements of § 80.141. No person shall cause the presence in the PRC or gasoline distribution systems of any detergent-additized PRC that fails to conform to the requirements of § 80.141.

(2) PRC has been additized in conformity with the requirements of § 80.141 when the detergent component satisfies the requirements of § 80.141 and:

(i) The PRC has been additized in accordance with the detergent composition and use specifications of a detergent registered under 40 CFR part 79, and in accordance with at least the minimum concentration specifications of that detergent as registered under 40 CFR part 79 or as otherwise provided under § 80.141(d); or

(ii) The PRC is composed of two or more commingled PRCs, and each component has been additized in accordance with the detergent composition and use specifications of a detergent registered under 49 CFR part 79, and in accordance with at least the minimum concentration specifications of that detergent as registered under 40 CFR part 79 or as otherwise provided under § 80.141(d).

7. Section 80.156 is amended by revising paragraphs (a)(1)(ii), (a)(2), introductory text, (a)(2)(ii), (a)(3), introductory text, (a)(3)(ii), (a)(4), (a)(5), introductory text, (c)(1), introductory text, (c)(1)(i), (c)(3), (c)(4), and by adding paragraphs (c)(5) through (c)(8) to read as follows:

§ 80.156 Liability for violations of the interim detergent program controls and prohibitions.

(a) * * *

(1) * * *

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who refined, imported, manufactured, sold, offered for sale, dispensed, supplied, offered for supply, stored, detergent additized, transported, or caused the transportation of the detergent-additized gasoline (or the base gasoline component, the detergent component, or the detergent-additized post-refinery component of the gasoline) that is in violation, and each such party that caused the gasoline that is in violation to be present in the gasoline distribution system; and

* * * * *

(2) *Post-refinery component non-conformity.* Where detergent-additized PRC contained in any storage tank at any facility owned, leased, operated, controlled or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, is found in violation of the prohibitions specified in § 80.155(e), the following persons shall be deemed in violation:

(i) * * *

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale-purchaser consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who sold, offered for sale, dispensed, supplied, offered for supply, stored, detergent additized, transported, or caused the transportation of the detergent-additized PRC (or the detergent component of the PRC) that is in violation, and each such party that caused the PRC that is in violation to be present in the PRC or gasoline distribution systems; and

* * * * *

(3) *Detergent non-conformity.* Where the detergent (prior to additization)

contained in any storage tank or container found at any facility owned, leased, operated, controlled or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, is found in violation of the prohibitions specified in § 80.155(d), the following persons shall be deemed in violation:

(i) * * *

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of the detergent that is in violation, and each such party that caused the detergent that is in violation to be present in the detergent, gasoline, or PRC distribution systems; and

* * * * *

(4) *Volumetric additive reconciliation.* Where a violation of the volumetric additive reconciliation requirements established by § 80.155(b) has occurred, the following persons shall be deemed in violation:

(i) Each detergent blender who owns, leases, operates, controls or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation has occurred; and

(ii) Each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, or oxygenate blender, and each detergent manufacturer, carrier, distributor, or blender, who refined, imported, manufactured, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of the detergent-additized gasoline, the base gasoline component, the detergent component, or the detergent-additized post-refinery component, of the gasoline that is in violation, provided that the EPA demonstrates, by reasonably specific showings by direct or circumstantial evidence, that such person caused the violation.

(5) *Product transfer document.* Where a violation of § 80.155(c) is found at a facility owned, leased, operated, controlled, or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, the following persons shall be deemed in violation:

* * * * *

(c) *Defenses.* (1) In any case in which a gasoline refiner, importer, distributor, carrier, reseller, retailer, wholesale-purchaser consumer, oxygenate blender, detergent distributor, carrier, or blender, is in violation of any of the prohibitions of § 80.155, pursuant to paragraphs (a) or (b) of this section as applicable, the regulated party shall be deemed not in violation if it can demonstrate:

(i) That the violation was not caused by the regulated party or its employee or agent (unless otherwise provided in this paragraph (c));

* * * * *

(3) *Detergent blender.* In any case in which a detergent blender is liable for violating any of the prohibitions of § 80.155, the detergent blender shall not be deemed in violation if it can demonstrate, in addition to the defense requirements stated in paragraph (c)(1) of this section, the following:

(i) That it obtained or supplied, as appropriate, prior to the detergent blending, accurate written instructions from the detergent manufacturer or other party with knowledge of such instructions, specifying the detergent's minimum recommended concentration (lowest additive concentration) pursuant to § 80.141(c)(3) and, if applicable, the limitations of this concentration for use in leaded product.

(ii) That it has implemented a quality assurance program that includes, but is not limited to, a periodic review of its supporting product transfer and volume measurement documents to confirm the correctness of its product transfer and volumetric additive reconciliation documents created for all products it additized.

(4) *Detergent manufacturer*—(i) *Presumptive liability affirmative defense.* Notwithstanding the provisions of paragraph (c)(1) of this section, in any case in which a detergent manufacturer is liable for violating any of the prohibitions of § 80.155, the detergent manufacturer shall be deemed not in violation if it can demonstrate each of the following:

(A) Product transfer documents which account for the detergent component of the product in violation and which indicate that such detergent satisfied all relevant requirements when it left the detergent manufacturer's control; and

(B) Written blending instructions which, pursuant to § 80.141(c)(3)(ii), were supplied by the detergent manufacturer to its customer who purchased or obtained from the manufacturer the detergent component of the product determined to be in violation. The written blending instructions must have been supplied by the manufacturer prior to the customer's use or sale of the detergent. The instructions must accurately identify the minimum recommended concentration (lowest additive concentration) specified in the detergent's 40 CFR part 79 registration, and must also accurately identify if the detergent, at that concentration, is only registered as effective for use in leaded gasoline.

(C) If the detergent batch used in the noncomplying product was produced less than one year before the manufacturer was notified by EPA of the possible violation, then the manufacturer must provide FTIR or other test results for the batch of detergent used in the noncomplying product, performed in accordance with the detergent testing procedure submitted by the manufacturer, or available for submission, pursuant to § 80.141(f).

(*1*) The analysis may have been conducted on the subject detergent batch at the time it was manufactured, or may be conducted on a sample of that batch which the manufacturer retained for such purpose at the time the batch was manufactured.

(*2*) The test results must accurately establish that, when it left the manufacturer's control, the detergent component of the product determined to be in violation was in conformity with the chemical composition and concentration specifications reported pursuant to § 80.141(c)(1);

(D) If the detergent batch used in the noncomplying product was produced more than one year prior to the manufacturer's notification by EPA of the possible violation, then the manufacturer must provide either:

(*1*) Test results for the batch in question as specified in the paragraph (c)(4)(i)(C) of this section; or

(*2*) The following materials:

(*i*) Documentation of the measured viscosity, density, and basic nitrogen content of the detergent batch in question, or any other such physical parameters which the manufacturer normally uses to ensure production quality control, which establishes conformity with the manufacturer's quality control standards for such parameters; and

(*ii*) If the detergent registration identifies polymeric component(s) of the detergent package as the product(s) of other chemical reactants, documentation that the reagents used to synthesize the detergent batch in question were the same as those specified in the registration and that they met the manufacturer's normal acceptance criteria for such reagents, reported pursuant to § 80.162(b)(1).

(ii) *Detergent manufacturer causation liability.* In any case in which a detergent manufacturer is liable for a violation of § 80.155, and the manufacturer establishes an affirmative defense to such liability pursuant to paragraph (c)(4)(i) of this section, the detergent manufacturer will nonetheless be deemed liable for the violation of § 80.155 if EPA can demonstrate, by reasonably specific showings by direct or circumstantial evidence, that the detergent manufacturer caused the violation.

(5) *Defense against liability where more than one party may be liable for VAR violations.* In any case in which a party is presumptively or vicariously liable for a violation of § 80.155 due to a failure to meet the VAR requirements § 80.157, except for the VAR record requirements pursuant to § 80.157(g), such party shall not be deemed liable if it can establish the following:

(i) Prior to the violation it had entered into a written contract with another potentially liable detergent blender party (''the assuming party''), under which that other party assumed legal responsibility for fulfilling the VAR requirement that had been violated;

(ii) The contract included reasonable oversight provisions to ensure that the assuming party fulfilled its VAR responsibilities (including, but not limited to, periodic review of VAR records) and the oversight provision was actually implemented by the party raising the defense;

(iii) The assuming party is fiscally sound and able to pay its penalty for the VAR violation; and

(iv) The employees or agents of the party raising the defense did not cause the violation.

(6) *Defense to liability for gasoline non-conformity violations caused solely by the addition of misadditized ethanol or other PRC to the gasoline.* In any case in which a party is presumptively or vicariously liable for a gasoline non-conformity violation of § 80.155(a) caused solely by another party's addition of misadditized ethanol or other PRC to the gasoline, the former party shall not be deemed liable for the violation provided that it can establish that is has fulfilled the requirements of paragraphs (c)(1)(i) and (ii) of this section.

(7) *Detergent tank transitioning defenses.* The commingling of two detergents in the same detergent storage tank will not be deemed to violate or cause violations of any of the provisions of this subpart, provided the following conditions are met:

(i) The commingling must occur during a legitimate detergent transitioning event, *i.e.*, a shift from the use of one detergent to another through the delivery of the new detergent into the same tank that contains the original detergent; and

(ii) If the new detergent is restricted to use in leaded gasoline, then such restriction must be applied to the combined detergents; and

(iii) The commingling event must be documented, either on the VAR formula record or on attached supporting records; and

(iv) Notwithstanding any contrary provisions in § 80.157, a VAR formula record must be created for the combined detergents. The VAR compliance period must begin no later than the time of the commingling event. However, at the blender's option, the compliance period may begin earlier, thus including use of the uncombined original detergent within the same period, provided that the 31-day limitation pursuant to § 80.157(a)(6) is not exceeded; and

(v) The VAR formula record must also satisfy the requirements in one of the following paragraphs (c)(7)(v)(A) through (C) of this section, whichever applies to the commingling event. If neither paragraph (c)(7)(v)(A) nor (B) of this section initially applies, then the blender may drain and subsequently redeliver the original detergent into the tank in restricted amounts, in order to meet the conditions of paragraph (c)(7)(v)(A) or (B) of this section. Otherwise, the blender must comply with paragraph (c)(7)(v)(C) of this section.

(A) If both detergents have the same LAC, and the original detergent accounts for no more than 20 percent of the tank's total delivered volume after addition of the new detergent, then the VAR formula record is required to identify only the use of the new detergent.

(B) If the two detergents have different LACs and the original detergent accounts for 10 percent or less of the tank's total delivered volume after addition of the new detergent, then the VAR formula record is required to identify only the use of the new detergent, and must attain the LAC of the new detergent. If the original detergent's LAC is greater than that of the new detergent, then the compliance period may begin earlier than the date of the commingling event (pursuant to paragraph (c)(7)(iv) of this section) only if the original detergent does not exceed 10 percent of the total detergent used during the compliance period.

(C) If neither of the preceding paragraphs (c)(7)(v)(A) or (B) of this section applies, then the VAR formula record must identify both of the commingled detergents, and must use and attain the higher LAC of the two detergents. Once the commingled detergent has been depleted by an amount equal to the volume of the original detergent in the tank at the time the new detergent was added, subsequent VAR formula records must identify and use the LAC of only the new detergent.

(8) *Defense to liability for noncompliance with leaded-only use restrictions.* A party shall not be deemed liable for violations of § 80.155(a) or (e) caused solely by the additization or use of gasoline or PRC in violation of leaded-only use restrictions, provided that the conditions specified in § 80.169(c)(9) are met.

8. Section 80.157 is amended by revising the introductory text and paragraphs (a) and (b), by revising paragraphs (d), (e), and (f) and redesignating them as paragraphs (e), (f), and (g), and by adding a new paragraph (d), to read as follows:

§ 80.157 Volumetric additive reconciliation (VAR), equipment calibration, and recordkeeping requirements under the interim detergent program.

This section contains requirements for automated detergent blending facilities and hand-blending detergent facilities. All gasolines and all PRC intended for use in gasoline must be additized, unless otherwise noted in supporting VAR records, and must be accounted for in VAR records. The VAR reconciliation standard is attained under this section when the actual concentration of detergent used per VAR formula record equals or exceeds the lowest additive concentration (LAC) specified for that detergent pursuant to § 80.141(c)(3), or, if appropriate, under § 80.141(d). A separate VAR formula record must be created for leaded gasoline additized with a detergent registered for use only with leaded gasoline, or used at a concentration that is registered as effective for leaded gasoline only. Detergent so used must be accurately and separately measured, either through the use of a separate storage tank, a separate meter, or some other measurement system that is able to accurately distinguish its use. Recorded volumes of gasoline, detergent, and PRC must be expressed to the nearest gallon (or smaller units), except that detergent volumes of five gallons or less must be expressed to the nearest tenth of a gallon (or smaller units). However, if the blender's equipment cannot accurately measure to the nearest tenth of a gallon, then such volumes must be rounded downward to the next lower gallon. PRC included in the reconciliation must be

identified. Each VAR formula record must also contain the following information:

(a) *Automated blending facilities.* In the case of an automated detergent blending facility, for each VAR period, for each detergent storage system and each detergent in that storage system, the following must be recorded:

(1) The manufacturer and commercial identifying name of the detergent additive package being reconciled, and the LAC specified in the detergent registration for use with the applicable type of gasoline (i.e., unleaded or leaded). The LAC must be expressed in terms of gallons of detergent per thousand gallons of gasoline or PRC, and expressed to four digits. If the specified LAC is only effective for use with leaded gasoline, the record must so indicate. If the detergent storage system which is the subject of the VAR formula record is a proprietary system under the control of a customer, this fact must be indicated on the record.

(2) The total volume of detergent blended into gasoline and PRC, in accordance with one of the following paragraphs, as applicable.

(i) For a facility which uses in-line meters to measure detergent usage, the total volume of detergent measured, together with supporting data which includes one of the following: the beginning and ending meter readings for each meter being measured, the metered batch volume measurements for each meter being measured, or other comparable metered measurements. The supporting data may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation.

(ii) For a facility which uses a gauge to measure the inventory of the detergent storage tank, the total volume of detergent shall be calculated from the following equation:

$$\text{Detergent Volume} = (A) - (B) + (C) - (D)$$

Where:

A=Initial detergent inventory of the tank
B=Final detergent inventory of the tank
C=Sum of any additions to detergent inventory
D=Sum of any withdrawals from detergent inventory for purposes other than the additization of gasoline or PRC.

The value of each variable in this equation must be separately recorded on the VAR formula record. In addition, a list of each detergent addition included in variable C and a list of each detergent withdrawal included in variable D must be provided, either on the formula record or as VAR supporting documentation.

(3) The total volume of gasoline plus PRC to which detergent has been added, together with supporting data which includes one of the following: The beginning and ending meter measurements for each meter being measured, the metered batch volume measurements for each meter being measured, or other comparable metered measurements. The supporting data may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation. If gasoline has intentionally been overadditized in anticipation of the later addition of unadditized PRC, then the total volume of gasoline plus PRC recorded must include the expected amount of unadditized PRC to be added later. In addition, the amount of gasoline which was overadditized for this purpose must be specified.

(4) The actual detergent concentration, calculated as the total volume of detergent added (pursuant to paragraph (a)(2) of this section), divided by the total volume of gasoline plus PRC (pursuant to paragraph (a)(3) of this section). The concentration must be calculated and recorded to four digits.

(5) A list of each detergent concentration rate initially set for the detergent that is the subject of the VAR record, together with the date and description of each adjustment to any initially set concentration. The concentration adjustment information may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation. No concentration setting is permitted below the applicable LAC, except as may be modified pursuant to § 80.141(d) or as described in paragraph (a)(7) of this section.

(6) The dates of the VAR period, which shall be no longer than thirty-one days. If the VAR period is contemporaneous with a calendar month, then specifying the month will fulfill this requirement; if not, then the beginning and ending dates and times of the VAR period must be listed. The times may be supplied on the VAR formula record or in supporting documentation. Any adjustment to any detergent concentration rate more than 10 percent over the concentration rate initially set in the VAR period shall terminate that VAR period and initiate a new VAR period, except as provided in paragraph (a)(7) of this section.

(7) The concentration setting for a detergent injector may be set below the applicable LAC, or it may be adjusted more than 10 percent above the concentration initially set in the VAR period without terminating that VAR period, provided that:

(i) The purpose of the change is to correct a batch misadditization prior to the end of the VAR period and prior to the transfer of the batch to another party, or to correct an equipment malfunction; and

(ii) The concentration is immediately returned after the correction to a concentration that fulfills the requirements of paragraphs (a)(5) and (6) of this section; and

(iii) The blender creates and maintains documentation establishing the date and adjustments of the correction; and

(iv) If the correction is initiated only to rectify an equipment malfunction, and the amount of detergent used in this procedure is not added to gasoline in the compliance period, then this amount is subtracted from the detergent volume listed on the VAR formula record.

(8) If unadditized gasoline has been transferred from the facility, other than bulk transfers from refineries or pipelines to non-retail outlets or non-WPC facilities, the total amount of such gasoline must be specified.

(b) *Non-automated facilities.* In the case of a facility in which hand blending or any other non-automated method is used to blend detergent, for each detergent and for each batch of gasoline and each batch of PRC to which the detergent is being added, the following shall be recorded:

(1) The manufacturer and commercial identifying name of the detergent additive package being reconciled, and the LAC specified in the detergent registration for use with the applicable type of gasoline (i.e., unleaded or leaded). The LAC must be expressed in terms of gallons of detergent per thousand gallons of gasoline or PRC, and expressed to four digits. If the specified LAC is only effective for use with leaded gasoline, the record must so indicate.

(2) The date of the additization that is the subject of the VAR formula record.

(3) The volume of added detergent.

(4) The volume of the gasoline and/or PRC to which the detergent has been added. If gasoline has intentionally been overadditized in anticipation of the later addition of unadditized PRC, then the total volume of gasoline plus PRC recorded must include the expected amount of unadditized PRC to be added later. In addition, the amount of gasoline which was overadditized for this purpose must be specified.

(5) The brand (if known), grade, and leaded/unleaded status of gasoline, and/or the type of PRC.

(6) The actual detergent concentration, calculated as the volume of added detergent (pursuant to paragraph (b)(3) of this section), divided by the volume of gasoline and/or PRC (pursuant to paragraph (b)(4) of this section). The concentration must be calculated and recorded to four digits.

* * * * *

(d) *Electronically-generated VAR formula and supporting records.* (1) Electronically-generated records are acceptable for VAR formula records and supporting documentation (including PTDs), provided that they are complete, accessible, and easily readable. VAR formula records must also be stored with access and audit security, which must restrict to a limited number of specified people those who have the ability to alter or delete the records. In addition, parties maintaining records electronically must make available for EPA use the hardware and software necessary to review the records.

(2) Electronically-generated VAR formula records may use an electronic user identification code to satisfy the signature requirements of paragraph (c)(1) of this section, provided that:

(i) The use of the ID is limited to the record creator; and

(ii) A paper record is maintained, which is signed and dated by the VAR formula record creator, acknowledging that the use of that particular user ID on a VAR formula record is equivalent to his/her signature on the document.

(e) Automated detergent blenders must calibrate their detergent equipment once in each calendar half year, with the acceptable calibrations being no less than one hundred twenty days apart. Equipment recalibration is also required each time the detergent package is changed, unless written documentation indicates that the new detergent package has the same viscosity as the previous detergent package. Detergent package change calibrations may be used to satisfy the semiannual requirement provided that the calibrations occur in the appropriate half calendar year and are no less than one hundred twenty days apart.

(f) The following VAR supporting documentation must also be created and maintained:

(1) For all automated detergent blending facilities, documentation reflecting performance of the calibrations required by paragraph (e) of this section, and any associated adjustments of the automated detergent equipment;

(2) For all hand-blending facilities which are terminals, a record specifying, for each calendar month, the total volume in gallons of transfers from the facility of unadditized base gasoline;

(3) For all detergent blending facilities, product transfer documents for all gasoline, detergent and detergent-additized PRC transferred into or out of the facility; in addition, bills of lading, transfer, or sale for all unadditized PRC transferred into the facility;

(4) For all automated detergent blending facilities, documentation establishing the brands (if known) and grades of the gasoline which is the subject of the VAR formula record;

(5) For all hand blending detergent blenders, the documentation, if in the party's possession, supporting the volumes of gasoline, PRC, and detergent reported on the VAR formula record; and

(6) For all detergent blending facilities, documentation establishing the curing of a batch or amount of misadditized gasoline or PRC, or the curing of a use restriction on the additized gasoline or PRC, and providing at least the following information: the date of the curing procedure; the problem that was corrected; the amount, name, and LAC of the original detergent used; the amount, name, and LAC of the added curing detergent; and the actual detergent concentration attained in, and the volume of, the total cured product.

(g) *Document retention and availability.* All detergent blenders shall retain the documents required under this section for a period of five years from the date the VAR formula records and supporting documentation were created, and shall deliver them upon request to the EPA Administrator or the Administrator's authorized representative.

(1) Except as provided in paragraph (g)(3) of this section, automated detergent blender facilities and hand-blender facilities which are terminals, which physically blend detergent into gasoline, must make immediately available to EPA, upon request, the preceding twelve months of VAR formula records plus the preceding two months of VAR supporting documentation.

(2) Except as provided in paragraph (g)(3) of this section, other hand-blending detergent facilities which physically blend detergent into gasoline must make immediately available to EPA, upon request, the preceding two months of VAR formula records and VAR supporting documentation.

(3) Facilities which have centrally maintained records at other locations, or have customers who maintain their own records at other locations for their proprietary detergent systems, and which can document this fact to the Agency, may have until the start of the next business day after the request to supply VAR supporting documentation, or longer if approved by the Agency.

(4) In this paragraph (g) of this section, the term immediately available means that the records must be provided, electronically or otherwise, within approximately one hour of EPA's request, or within a longer time frame as approved by EPA.

9. Section 80.158 is revised to read as follows:

§ 80.158 Product transfer documents (PTDs).

(a) *Contents.* For each occasion when any gasoline refiner, importer, reseller, distributor, carrier, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, carrier, or blender, transfers custody or title to any gasoline, detergent, or detergent-additized PRC other than when detergent-additized gasoline is sold or dispensed at a retail outlet or wholesale purchaser-consumer facility to the ultimate consumer, the transferor shall provide to the transferee, and the transferee shall acquire from the transferor, documents which accurately include the following information:

(1) The names and addresses of the transferee and transferor; the address requirement may be fulfilled, in the alternative, through separate documentation which establishes said addresses and is maintained by the parties and made available to EPA for the same length of time as required for the PTDs, provided that the normal business procedure of these parties is not to identify addresses on PTDs.

(2) The date of the transfer.

(3) The volume of product transferred.

(4)(i) The identity of the product being transferred (i.e., its identity as base gasoline, detergent, detergent-additized gasoline, or specified detergent-additized oxygenate or detergent-additized gasoline blending stock that comprises a detergent-additized PRC). PTDs for detergent-additized gasoline or PRC are not required to identify the particular detergent used to additize the product.

(ii) If the product being transferred consists of two or more different types of product subject to this regulation, i.e., base gasoline, detergent-additized gasoline, or specified detergent-additized PRC, then the PTD for the commingled product must identify each such type of component contained in the commingled product.

(5) If the product being transferred is gasoline to which an oxygenate or a PRC has been added, then the PTD for the

gasoline must identify the oxygenate or PRC. The PTDs for commingled, additized gasolines must identify all the oxygenates and PRCs added to either component.

(6) If the product being transferred is base gasoline, then in addition to the base gasoline identification, the following warning must be stated on the PTD: ''Not for sale to the ultimate consumer''. If, pursuant to § 80.160(a), the product being transferred is exempt base gasoline to be used for research, development, or test purposes only, the following warning must also be stated on the PTD: ''For use in research, development, and test programs only.''

(7) The name of the detergent additive as reported in its registration must be used to identify the detergent package on its PTD.

(8) If the product being transferred is leaded gasoline, then the PTD must disclose that the product contains lead and/or phosphorous, as applicable.

(9) If the product being transferred is detergent that is only authorized for the control of carburetor deposits, then the following must be stated on the detergent's transfer document: ''For use with leaded gasoline only.''

(10) If the product being transferred is detergent-additized gasoline that has been overadditized in anticipation of the later (or earlier) addition of PRC, then the PTD must include a statement that the product has been overadditized to account for a specified volume in gallons, or a specified percentage of the product's total volume, of additional, specified PRC.

(b) Gasoline may not be additized with a detergent authorized only for the control of carburetor deposits and whose product transfer document states ''For use with leaded gasoline only'', and gasoline may not be additized at the lower concentration specified for a detergent authorized at a lower concentration for the control of carburetor deposits only, unless the product transfer document for the gasoline to be additized identifies it as leaded gasoline.

(c) *Use of product codes and other non-regulatory language.* (1) Product codes and other non-regulatory language may not be used as a substitute for the specified PTD warning language specified in paragraph (a)(6) of this section for base gasoline, except that:

(i) The specified warning language may be omitted for bulk transfers of base gasoline from a refinery to a pipeline if there is a prior written agreement between the parties specifying that all such gasoline is unadditized and will not be transferred to the ultimate consumer;

(ii) Product codes may be used as a substitute for the specified warning language provided that the PTD is an electronic data interchange (EDI) document being used solely for the transfer of title to the base gasoline, and provided that the product codes otherwise comply with the requirements of this section.

(2) Product codes and other language not specified in this section may otherwise be used to comply with PTD information requirements, provided that they are clear, accurate, and not misleading.

(3) If product codes are used, they must be standardized throughout the distribution system in which they are used, and downstream parties must be informed of their full meaning.

(d) *PTD exemption for small transfers of additized gasoline.* Transfers of additized gasoline are exempt from the PTD requirements of this section provided all the following conditions are followed:

(1) The product is being transferred by a distributor who is not the product's detergent blender; and

(2) The recipient is a wholesale purchaser-consumer (WPC) or other ultimate consumer of gasoline, for its own use only or for that of its agents or employees; and

(3) The volume of additized gasoline being transferred is not greater than 550 gallons.

(e) *Recordkeeping period.* Any person creating, providing or acquiring product transfer documentation for gasoline, detergent, or detergent-additized PRC, except as provided in paragraph (d) of this section, shall retain the documents required by this section for a period of five years from the date the product transfer documentation was created, received or transferred, as applicable, and shall deliver such documents to EPA upon request. WPCs are not required to retain PTDs of additized gasoline received by them.

10. Section 80.160 is revised to read as follows:

§ 80.160 Exemptions.

(a) *Research, development, and testing exemptions.* Any detergent that is either in a research, development, or test status, or is sold to petroleum, automobile, engine, or component manufacturers for research, development, or test purposes, or any gasoline to be used by, or under the control of, petroleum, additive, automobile, engine, or component manufacturers for research, development, or test purposes, is exempted from the provisions of the interim detergent program, provided that:

(1) The detergent (or fuel containing the detergent), or the gasoline, is kept segregated from non-exempt product, and the party possessing the product maintains documentation identifying the product as research, development, or testing detergent or fuel, as applicable, and stating that it is to be used only for research, development, or testing purposes; and

(2) The detergent (or fuel containing the detergent), or the gasoline, is not sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a retail outlet. It shall also not be sold, dispensed, or transferred, or offered for sale, dispensing, or transfer from a wholesale purchaser-consumer facility, unless such facility is associated with detergent, fuel, automotive, or engine research, development or testing; and

(3) The party using the product for research, development, or testing purposes, or the party sponsoring this usage, notifies the EPA, on at least an annual basis and prior to the use of the product, of the purpose(s) of the program(s) in which the product will be used and the anticipated volume of the product to be used. The information must be submitted to the address or fax number provided in § 80.174(c).

(b) *Racing fuel and aviation fuel exemptions.* Any fuel that is refined, sold, dispensed, transferred, or offered for sale, dispensing, or transfer as automotive racing fuel or as aircraft engine fuel, is exempted from the provisions of this subpart, provided that:

(1) The fuel is kept segregated from non-exempt fuel, and the party possessing the fuel for the purposes of refining, selling, dispensing, transferring, or offering for sale, dispensing, or transfer as automotive racing fuel or as aircraft engine fuel, maintains documentation identifying the product as racing fuel, restricted for non-highway use in racing motor vehicles, or as aviation fuel, restricted for use in aircraft, as applicable;

(2) Each pump stand at a regulated party's facility, from which such fuel is dispensed, is labeled with the applicable fuel identification and use restrictions described in paragraph (b)(1) of this section; and

(3) The fuel is not sold, dispensed, transferred, or offered for sale, dispensing, or transfer for highway use in a motor vehicle.

(c) *California gasoline exemptions.* (1) Gasoline or PRC which is additized in the state of California is exempt from

the VAR provisions in §§ 80.155(b) and (e) and 80.157, provided that:

(i) For all such gasoline or PRC, whether intended for sale within or outside of California, records of the type required for California gasoline (specified in title 13, California Code of Regulations, section 2257) are maintained; and

(ii) Such records, with the exception of daily additization records, are maintained for a period of five years from the date they were created and are delivered to EPA upon request.

(2) Gasoline or PRC that is transferred and/or sold solely within the state of California is exempt from the PTD provisions of the interim detergent program, specified in §§ 80.155(c) and 80.158.

(3) Nothing in this paragraph (c) exempts such gasoline or PRC from the requirements of § 80.155(a) and (e), as applicable. EPA will base its determination of California gasoline's conformity with the detergent's LAC on the additization records required by CARB, or records of the same type.

11. Subpart G is further amended by adding new §§ 80.161 through 80.173, to read as follows:

§ 80.161 Detergent additive certification program.

(a) *Effective dates and applicability of requirements.* (1) As of July 1, 1997:

(i) Detergent additives for the control of port fuel injector deposits (PFID) and/or intake valve deposits (IVD) in gasoline engines may not be transferred or sold for use in compliance with this subpart unless such additives have been certified according to the requirements of this section.

(ii) Except as provided in § 80.169(c)(8), PFID and IVD control additives may not be added to gasoline or post-refinery component (PRC) for compliance with this subpart unless such additives have been certified according to the requirements of this section.

(iii) Gasoline may not be sold or transferred to a party who sells or transfers gasoline to the ultimate consumer unless such gasoline contains detergent additives which have been certified according to the requirements of this section.

(2) Beginning August 1, 1997, all gasoline sold or transferred to the ultimate consumer must contain detergent additive(s) which have been certified, according to the requirements of this section, to be effective for the control of PFID and IVD in gasoline engines.

(3) Except as specifically exempted in § 80.173, these detergency requirements apply to all gasoline, whether intended for on-highway or nonroad use, including conventional, oxygenated, reformulated, and leaded gasolines, as well as the gasoline component in mixtures of petroleum and alcohol fuels, gasoline used as marine fuel, gasoline service accumulation fuel (as described in § 86.113–94(a)(1) of this chapter), the gasoline component of fuel mixtures of petroleum and methanol used for service accumulation in flexible fuel vehicles (as described in § 86.113–94(d) of this chapter), the gasoline used for factory fill purposes, and all additized PRC.

(4) The specific controls and prohibitions applicable to persons subject to these regulations are set forth in § 80.168.

(b) *Detergent additive certification requirements.* For a detergent additive package to be certified as eligible for use by detergent blenders in complying with the gasoline detergency requirements of this subpart, the requirements listed in this paragraph (b) must be satisfied for such detergent. Subject to the provisions of paragraph (e) of this section, if the certifier fails to conduct the specified tests or to submit the specified materials, or if EPA judges the testing or materials to be inadequate, or if the detergent fails EPA confirmatory deposit control performance testing pursuant to § 80.167, the Administrator may deny or withdraw the detergent's eligibility to be used to satisfy the detergency requirements of this subpart.

(1) The detergent additive manufacturer must properly register the detergent additive under 40 CFR part 79. For this purpose:

(i) The compositional data required under § 79.21(a) of this chapter shall include the information specified in § 80.162.

(ii) The minimum recommended additive concentration required under § 79.21(d) of this chapter shall be reported to EPA in units of gallons of detergent additive package per 1000 gallons of gasoline or PRC, provided to four digits. This concentration is the lowest additive concentration (LAC) referred to in § 80.170, and shall be reported as follows:

(A) For a detergent additive registered for use in unleaded gasoline, the minimum concentration must be determined and reported for each certification option under which the manufacturer wishes to certify the additive pursuant to § 80.163.

(*1*) In the case of a detergent certified for use in California gasoline based on an existing certification granted by the California Air Resources Board (CARB), pursuant to § 80.163(d), the minimum recommended concentration must equal or exceed the amount specified in the CARB certification.

(*2*) In the case of any other detergent certification option, the minimum recommended concentration must equal or exceed the amount mixed into the associated test fuel specified in § 80.164, which was shown to satisfy the PFID and IVD deposit control performance tests and standards specified in § 80.165.

(B) For a detergent registered for use in leaded gasoline, the minimum recommended concentration must be no less than the amount shown to be needed for control of carburetor deposits, pursuant to the test procedure and test fuel guidelines in § 80.166.

(C) Once it has been registered by EPA, the minimum recommended concentration specified by a detergent manufacturer to detergent blenders and other users of the additive, pursuant to paragraph (c) of this section, may not be changed without first notifying EPA. Such notification should be sent by certified mail to the address specified in § 80.174(b). The change in minimum concentration must be supported by existing certification data or else the notification to EPA must be accompanied by new certification information which demonstrates that the modification is consistent with the requirements of paragraphs (b)(1)(ii)(A) and (B) of this section.

(2) The detergent additive manufacturer (or other certifying party) must submit to EPA a sample of the actual detergent additive package which was used in the certification testing specified in § 80.164 or, if such sample is not available, then a sample which has the same composition as the package used in certification testing.

(i) The sample volume shall be between 250 ml and 500 ml.

(ii) The sample shall be packaged in a container which has a resealable closure and which will maintain sample integrity for at least one year. The container shall be labeled with the name and address of the manufacturer and the name of the detergent additive package.

(iii) Any known shelf life limitations, and any available information on optimal temperature, light exposure, or other conditions to prolong sample shelf life, shall be provided.

(iv) If the certifying party wishes to claim that the sample or any accompanying documents are entitled to special handling for reasons of business confidentiality, the party must clearly identify the sample or documents as such. EPA will handle any samples or documents with such claims according to the regulations at 40 CFR part 2.

(v) The sample shall be submitted to EPA, at the address provided in § 80.174(a), within seven days of the date on which the certification letter for the detergent package is sent to EPA as required by paragraph (b)(3) of this section.

(3) The detergent additive manufacturer (or other certifying party) shall submit a certification letter for the detergent additive package to the address in § 80.174(b). The party must use certified or express mail with return receipt service. The letter shall be signed by a person legally authorized to represent the certifying party and shall contain the following information:

(i) Identifying information.

(A) The name and address of the detergent additive manufacturer.

(B) In any case where the certifier is not the detergent additive manufacturer, such as in the case of a fuel-specific certification pursuant to § 80.163(c), the name and address of the certifier.

(C) The commercial identifying name of the detergent additive product as registered under the requirements of § 79.21 of this chapter.

(ii) A statement attesting that:

(A) The detergent package which is the subject of this certification has been tested according to applicable procedural and test fuel requirements in this subpart and has met the applicable performance standards; and

(B) The testing was conducted in a manner consistent with good engineering practices; and

(C) Complete documentation of the test fuel formulation and IVD demonstration procedures, detergent performance test procedures, and test results are available for EPA's inspection upon request.

(iii) The name and location of the laboratory(ies) at which the certification testing was conducted and the dates during which the testing was conducted.

(iv) For each option under which certification is sought pursuant to § 80.163, specifications of the test fuel(s) in which the detergent underwent performance testing. These fuel specifications must include:

(A) The sulfur content in weight percent.

(B) The T–90 distillation point in degrees Fahrenheit.

(C) The olefin content in volume percent.

(D) The aromatic content in volume percent.

(E) The identity and volume percent of any oxygenate compound.

(F) The source of the test fuel(s) and/or fuel blend stocks used to formulate the test fuel(s).

(v) In the case of a national or PADD certification (pursuant to § 80.163 (a) or (b)) for which the test fuel was specially formulated from refinery blend stocks, the results of the IVD demonstration test, pursuant to § 80.164(b)(3).

(vi) In the case of a fuel-specific detergent certification, pursuant to § 80.163(c), the definition of the segregated gasoline pool, including any permitted PRC, for which the certification is sought, and the fuel parameter percentile distributions determined for the subject gasoline pool, as specified in § 80.164(c). The percentile distributions must include all of the fuel parameters listed in paragraph (b)(3)(iv) (A) through (D) of this section, along with any other fuel parameter(s) which the certifier wishes to use to define the certification fuel. As specified in § 80.164(c)(1)(iv), the procedures used to measure the additional parameters must be identified, as well as the levels of these additional parameters present in the test fuel(s).

(vii) In the case of a certification for California gasoline based on an existing certification granted by CARB, pursuant to § 80.163(d), a copy of the CARB certificate.

(viii) The test concentration(s) of the subject detergent additive in each test fuel, and the corresponding test results (percent flow restriction demonstrated in the PFID test and milligrams of deposit per valve demonstrated in the IVD test).

(ix) For each option under which certification of the detergent is sought, the minimum recommended concentration which the certifying party seeks to establish for the detergent additive package, pursuant to paragraph (b)(1)(ii) of this section.

(4) EPA will acknowledge receipt of the detergent certification letter. The effective date of certification will be the sooner of 60 days from the date on which EPA receives the certification letter, or the certifier's receipt of EPA's acknowledgement of the certification letter. However, neither the passage of 60 days nor EPA's acknowledgement will signify acceptance by EPA of the validity of the information in the certification letter or the adequacy or potency of the detergent sample submitted pursuant to paragraph (b)(2) of this section. EPA may elect at any time to review the detergent certification data, analyze the submitted detergent additive sample, or subject the detergent additive package to confirmatory testing as described in § 80.167 and, where appropriate, may disqualify a detergent certification according to the provisions in paragraph (e) of this section.

(c) The minimum concentration reported in the detergent registration according to the provisions of paragraph (b)(1)(ii) of this section, plus any restrictions in use associated with that concentration, must be accurately communicated in writing by the additive manufacturer to each fuel manufacturer or detergent blender who purchases the subject detergent for purpose of compliance with the gasoline detergency requirements of this subpart, and to any additive manufacturer who purchases the subject additive with the intent of reselling it to a fuel manufacturer for this purpose.

(d) The rate at which a detergent blender treats gasoline with a detergent additive package must be no less than the minimum recommended concentration reported for the subject detergent additive pursuant to paragraph (b)(1)(ii) of this section, except under the following conditions:

(1) If a detergent blender possesses deposit control performance test results as specified in § 80.165 or § 80.166 which show that the minimum treat rate recommended by the manufacturer of a detergent additive product exceeds the amount of that detergent actually required for effective deposit control, then, upon informing EPA in writing of these circumstances, the detergent blender may use the detergent at the lower concentration substantiated by these test results.

(2) The notification to EPA must clearly specify the name of the detergent product and its manufacturer, the concentration recommended by the detergent manufacturer, and the lower concentration which the detergent blender intends to use. The notification must also attest that the required data are available to substantiate the deposit control effectiveness of the detergent at the intended lower concentration. The notification must be sent by certified mail to the address specified in § 80.174(b).

(3) At its discretion, EPA may require that the detergent blender submit the test data purported to substantiate the claimed effectiveness of the lower concentration of the detergent additive. In addition, EPA may require the manufacturer of the subject detergent additive to submit test data substantiating the minimum recommended concentration specified in the detergent additive registration. In either case, EPA will send a letter to the appropriate party; the supporting data will be due to EPA within 30 days of receipt of EPA's letter.

(i) If the detergent blender fails to submit the required supporting data to EPA in the allotted time period, or if EPA judges the submitted data to be inadequate to support the detergent blender's claim that the lower concentration provides a level of deposit control consistent with the requirements of this section, then EPA will disapprove the use of the detergent at the lower concentration. Further, the detergent blender may be subject to applicable liabilities and penalties pursuant to §§ 80.169 and 80.172 for any gasoline or PRC it has additized at the lower concentration.

(ii) If the detergent manufacturer fails to submit the required test data to EPA within the allotted time period, EPA will proceed on the assumption that data are not available to substantiate the minimum recommended concentration specified in the detergent registration, and the subject additive may be disqualified for use in complying with the requirements of this subpart, pursuant to the procedures in paragraph (e) of this section. The detergent manufacturer may also be subject to applicable liabilities and penalties in §§ 80.169 and 80.172.

(iii) If both parties submit the required information, EPA will evaluate the quality and results of both sets of test data, and will either approve or disapprove the use of the lower treat rate submitted by the detergent blender. EPA will inform both parties of the results of its analysis.

(e) *Disqualification of a detergent additive package.* (1) When EPA makes a preliminary determination that a detergent additive certifier has failed to comply with the detergent certification requirements of this section, including a failure to submit required materials for a detergent additive or submission of materials which EPA deems inadequate, or if a detergent additive fails confirmatory testing conducted pursuant to § 80.167, EPA shall notify the additive certifier by certified mail, return receipt requested, setting forth the basis for that determination and informing the certifier that the detergent may lose its eligibility to be used to comply with the detergency requirements of this section.

(2) If EPA determines that the detergent certification was created by fraud or other misconduct, such as a negligent disregard for the truthfulness or accuracy of the required information, the detergent certification will be considered void *ab initio* and the disqualification will be retroactive to July 1, 1997 or the date on which the additive product was first certified, whichever is later.

(3) The certifier will be afforded 60 days from the date of receipt of the notice of intent of detergent disqualification to submit written comments concerning the notice, and to demonstrate or achieve compliance with the specific requirements which provide the basis for the proposed disqualification. If the certifier does not respond in writing within 60 days from the date of receipt of the notice of intent of disqualification, the detergent disqualification shall become final and the Administrator shall notify the certifier of such final disqualification order. If the certifier responds in writing within 60 days from the date of receipt of the notice of intent to disqualify, the Administrator shall review and consider all comments submitted by the certifier before taking final action concerning the proposed disqualification. All correspondence regarding a disqualification must be sent to the address provided in § 80.174(b).

(4) As part of a written response to a notice of intent to disqualify, a certifier may request an informal hearing concerning the notice. Any such request shall state with specificity the information the certifier wishes to present at such a hearing. If an informal hearing is requested, EPA shall schedule such a hearing within 90 days from the date of receipt of the request. If an informal hearing is held, the subject matter of the hearing shall be confined solely to whether or not the certifier has complied with the specific requirements which provide the basis for the proposed disqualification. If an informal hearing is held, the designated presiding officer may be any EPA employee, the hearing procedures shall be informal, and the hearing shall not be subject to or governed by 40 CFR part 22 or by 5 U.S.C. 554, 556, or 557. A verbatim transcript of each informal hearing shall be kept and the Administrator (or designee) shall consider all relevant evidence and arguments presented at the hearing in making a final decision concerning a proposed disqualification.

(5) If a certifier who has received a notice of intent to disqualify submits a timely written response, and the Administrator (or designee) decides after reviewing the response and the transcript of any informal hearing to disqualify the detergent for use in complying with the requirements of this subpart, the Administrator (or designee) shall issue a final disqualification order and forward a copy of the disqualification order to the certifier by certified mail. Notice of the disqualification order will also be published in the Federal Register. The disqualification will become effective as of the date on which the copy of the order is received by the certifier. If the certifier is also a blender of the disqualified additive, then the certifier must stop using the ineligible detergent upon receipt of the disqualification order.

(6) Within 10 days of receipt of EPA's notification of the final decision to disqualify a detergent additive package pursuant to this paragraph (e), the detergent certifier must submit to EPA, at the address specified in § 80.174(b), a list of its customers who use the disqualified detergent. Failure to do so may subject the certifier to liabilities for violations of § 80.168 that result from the use of the uncertified detergent. EPA shall inform the certifier's customers by certified mail that the detergent is no longer eligible for compliance with the requirements of this subpart. These parties must stop using the ineligible detergent additive package and substitute an eligible detergent additive within 45 days of receiving the notification, or within 45 days of publication of the disqualification notice in the Federal Register, whichever occurs sooner.

§ 80.162 Additive compositional data.

For a detergent additive product to be eligible for use by detergent blenders in complying with the gasoline detergency requirements of this subpart, the compositional data to be supplied to EPA by the additive manufacturer for the purpose of registering a detergent additive package under § 79.21(a) of this chapter must include the items listed in this section. In the case of items requiring measurement or other technical analysis, and for which a specific test procedure is not stipulated herein, the procedure must conform to reasonable and customary standards of repeatability and reproducibility, and reasonable and customary limits of detection and accuracy for the type of test procedure or analytic procedure in question. At EPA's request, detailed documentation of any such test procedure must be submitted within 10 days of the registrant's receipt of EPA's request.

(a) A complete listing of the components of the detergent additive package and the weight and/or volume percent (as applicable) of each component of the package.

(1) When possible, standard chemical nomenclature shall be used or the chemical structure of the component shall be given. Polymeric components may be reported as the product of other chemical reactants, provided that the supporting data specified in paragraph (b) of this section is also reported.

(2) Each detergent-active component of the package shall be classified into one of the following designations:

(i) Polyalkyl amine;

(ii) Polyether amine;

(iii) Polyalkylsuccinimide;

(iv) Polyalkylaminophenol;

(v) Detergent-active petroleum-based carrier oil;

(vi) Detergent-active synthetic carrier oil; and

(vii) Other detergent-active component (identify category, if feasible.)

(3) Composition variability.

(i) The composition of a detergent additive reported in a single additive registration (and the detergent additive product sold under a single additive registration) may not:

(A) Include detergent-active components which differ in identity from those contained in the detergent additive package at the time of certification testing; or

(B) Include a range of concentration for any detergent-active component such that, if the component were present in the detergent additive package at the lower bound of the reported range, the deposit control effectiveness of the additive package would be reduced as compared with the level of effectiveness demonstrated during certification testing.

(ii) The identity or concentration of non-detergent-active components of the detergent additive package may vary under a single registration, provided that the range of such variation is specified in the registration and that such variability does not reduce the deposit control effectiveness of the additive package as compared with the level of effectiveness demonstrated during certification testing.

(iii) Except as provided in paragraph (a)(3)(iv) of this section, detergent additive packages which do not satisfy the restrictions in this paragraph (a)(3) must be separately registered. EPA may disqualify an additive for use in satisfying the requirements of this subpart if EPA determines that the variability included within a given detergent additive registration may reduce the deposit control effectiveness of the detergent package such that it may invalidate the minimum recommended concentration reported in accordance with the applicable requirements of § 80.161(b)(1)(ii).

(iv) A change in minimum concentration requirements resulting from a modification of detergent additive composition shall not require a new detergent additive registration or a change in existing registration if:

(A) The modification is effected by a detergent blender only for its own use or for the use of parties which are subsidiaries of, or share common ownership with, the blender, and the modified detergent is not sold or transferred to other parties; and

(B) The modification is a dilution of the additive for the purpose of ensuring proper detergent flow in cold weather; and

(C) Gasoline is the only diluting agent used; and

(D) The diluted detergent is subsequently added to gasoline at a rate that attains the detergent's registered minimum recommended concentration, taking into account the dilution; and

(E) EPA is notified, either before or within seven days after the dilution action, of the identity of the detergent, the identity of the diluting material, the amount or percentage of the dilution, the change in treat rate necessitated by the dilution, and the locations and time period of diluted detergent usage. The notification shall be sent or faxed to the address in § 80.174(c).

(b) For detergent-active polymers and detergent-active carrier oils which are reported as the product of other chemical reactants:

(1) Identification of the reactant materials and the manufacturer's acceptance criteria for determining that these materials are suitable for use in synthesizing detergent components. The manufacturer must maintain documentation, and submit it to EPA upon request, demonstrating that the acceptance criteria reported to EPA are the same criteria which the manufacturer specifies to the suppliers of the reactant materials.

(2) A Gel Permeation Chromatograph (GPC), providing the molecular weight distribution of the polymer or detergent-active carrier oil components and the concentration of each chromatographic peak representing more than one percent of the total mass. For these results to be acceptable, the GPC test procedure must include equipment calibration with a polystyrene standard or other readily attainable and generally accepted calibration standard. The identity of the calibration standard must be provided, together with the GPC characterization of the standard.

(c) For non-detergent-active carrier oils, the following parameters:

(1) T10, T50, and T90 distillation points, and end boiling point, measured according to applicable test procedures cited in § 80.46.

(2) API gravity and viscosity

(3) Concentration of oxygen, sulfur, and nitrogen, if greater than or equal to 0.5 percent (by weight) of the carrier oil

(d) Description of an FTIR-based method appropriate for identifying the detergent additive package and its detergent-active components (polymers, carrier oils, and others) both qualitatively and quantitatively, together with the actual infrared spectra of the detergent additive package and each detergent-active component obtained by this test method.

(e) To provide a basis for establishing an affirmative defense to presumptive liability pursuant to § 80.169(c)(4)(i)(D)(*2*)(*i*), specific physical parameters must be identified which the manufacturer considers adequate and appropriate, in combination with other information and sampling requirements under this subpart, for identifying the detergent additive package and monitoring its production quality control.

(1) Such parameters shall include (but need not be limited to) viscosity, density, and basic nitrogen content, unless the additive manufacturer specifically requests, and EPA approves, the substitution of other parameter(s) which the manufacturer considers to be more appropriate for a particular additive package. The request must be made in writing and must include an explanation of how the requested physical parameter(s) are helpful as indicator(s) of detergent production quality control. EPA will respond to such requests in writing; the additional parameters are not approved until the certifier receives EPA's written approval.

(2) The manufacturer shall identify a standardized measurement method, consistent with the chemical and physical nature of the detergent product, which will be used to measure each parameter. The documented ASTM repeatability for the method shall also be cited. The manufacturer's target value for each parameter in the detergent package, and the expected range of production values for each parameter, shall be specified.

(3) EPA will consider the parameter measurements to be an acceptable basis for establishing an affirmative defense to presumptive liability, if the expected range of variability differs from the target value by an amount no greater than five times the standard repeatability of the test procedure, or by no more than 10 percent of the target value, whichever is less. However, in the case of nitrogen analysis or other procedures for measuring concentrations of specific chemical compounds or elements, when the target value is less than 10 parts per million, a range of variability up to 50 percent

of the target value will be considered acceptable.

(4) If a manufacturer wishes to rely on measurement methods or production variability ranges which do not conform to the above limitations, then the manufacturer must receive prior written approval from EPA in order to be assured that any related parameter measurements will be considered an acceptable basis for establishing an affirmative defense. A request for such allowance must be made in writing. It must fully justify the adequacy of the test procedure, explain why a broader range of variability is required, and provide evidence that the production detergent will perform adequately throughout the requested range of variability.

§ 80.163 Detergent certification options.

To be used to satisfy the detergency requirements under § 80.161(a), a detergent additive must be certified in accordance with the requirements of one or more of the options and suboptions described in this section. Where a certification option makes an additive eligible for use in a particular gasoline, that additive is also eligible for use in PRC which will be added to the particular gasoline. Under each option, the lowest additive concentration (LAC) or minimum recommended concentration registered for a detergent additive package, pursuant to § 80.161(b)(1)(ii), must equal or exceed the lowest detergent treat rate shown to be needed in the designated test fuel in order to meet the deposit control performance requirements specified in § 80.165.

(a) *National certification.* A detergent certified under a national certification option is eligible for use in gasoline which can be sold or dispensed anywhere within the United States or its territories (subject to approved state programs).

(1) *National generic certification option.* To be certified under this option, a candidate detergent must meet the deposit control performance test requirements and standards specified in § 80.165 using test fuels that conform to the requirements in § 80.164(b)(1), Table 1, Line 1. A detergent certified under this option is eligible to be used at a conforming LAC in any grade of gasoline, with or without an oxygenate component.

(i) *National nonoxygenate suboption.* The requirements for certification under this suboption are the same as those in paragraph (a)(1) of this section, except that, pursuant to § 80.164(a)(2)(ii), the certification test fuel shall contain no ethanol or other oxygenate. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that does not contain an oxygenate component.

(ii) *National oxygenate-specific suboption.* The requirements for certification under this suboption are the same as those in paragraph (a)(1) of this section, except that, pursuant to § 80.164(a)(2)(iii), the certification test fuel shall contain an oxygenate compound other than ethanol. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that contains no oxygenate component other than the one present in the test fuel.

(2) *National premium certification option.* To be certified under this option, a candidate detergent must meet the deposit control performance test requirements and standards specified in § 80.165 using test fuels that conform to the requirements in § 80.164(b)(1), Table 1, Line 2. A detergent certified under this option is eligible to be used at a conforming LAC only in premium grade gasoline, with or without an oxygenate component.

(i) *National premium nonoxygenate suboption.* The requirements for certification under this suboption are the same as those in paragraph (a)(2) of this section, except that, pursuant to § 80.164(a)(2)(ii), the certification test fuel shall contain no ethanol or other oxygenate. A detergent certified under this suboption is eligible to be used at a conforming LAC only in premium grade gasoline that does not contain an oxygenate component.

(ii) *National premium oxygenate-specific suboption.* The requirements for certification under this suboption are the same as those in paragraph (a)(2) of this section, except that, pursuant to § 80.164(a)(2)(iii), the certification test fuel shall contain an oxygenate compound other than ethanol. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that is premium grade and contains no oxygenate component other than the one present in the test fuel.

(b) *Petroleum Administrative Defense District (PADD) Certification.* A detergent certified under a PADD certification option is eligible for use in gasoline which can be sold or dispensed to the ultimate purchaser, or to those parties who sell or dispense to the ultimate consumer, only within the PADD for which the certification was granted. The states and jurisdictions included within each PADD are specified in § 79.59(b)(3)(i) through (v), except that, for purposes of PADD certification, the state of California is excluded from PADD V.

(1) *PADD generic certification option.* To be certified under this option, a candidate detergent must meet the deposit control performance test requirements and standards specified in § 80.165 using test fuels that conform to the requirements in § 80.164(b)(1), Table 2, for a selected PADD. A detergent certified under this option is eligible to be used at a conforming LAC in any grade of gasoline, with or without an oxygenate component, provided that the gasoline is ultimately dispensed in the selected PADD.

(i) *PADD nonoxygenate suboption.* The requirements for certification under this suboption are the same as those in paragraph (b)(1) of this section, except that, pursuant to § 80.164(a)(2)(ii), the certification test fuel shall contain no ethanol or other oxygenate. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that is nonoxygenated and is ultimately dispensed in the selected PADD.

(ii) *PADD oxygenate-specific suboption.* The requirements for certification under this suboption are the same as those in paragraph (b)(1) of this section, except that, pursuant to § 80.164(a)(2)(iii), the certification test fuel shall contain an oxygenate compound other than ethanol. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that contains no oxygenate component other than the one present in the test fuel and is ultimately dispensed in the selected PADD.

(2) *PADD premium certification option.* To be certified under this option, a candidate detergent must meet the deposit control performance test requirements and standards specified in § 80.165 using test fuels that conform to the requirements in § 80.164(b)(1), Table 2, for a selected PADD. A detergent certified under this option is eligible to be used at a conforming LAC only in gasoline that is premium grade (with or without an oxygenate component) and is ultimately dispensed in the selected PADD.

(i) *PADD premium nonoxygenate suboption.* The requirements for certification under this suboption are the same as those in paragraph (b)(2) of this section, except that, pursuant to § 80.164(a)(2)(ii), the certification test fuel shall contain no ethanol or other oxygenate. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that is premium grade, contains no

oxygenate component, and is ultimately dispensed in the selected PADD.

(ii) *PADD premium oxygenate-specific suboption.* The requirements for certification under this suboption are the same as those in paragraph (b)(2) of this section, except that, pursuant to § 80.164(a)(2)(iii), the certification test fuel shall contain an oxygenate compound other than ethanol. A detergent certified under this suboption is eligible to be used at a conforming LAC only in gasoline that is premium grade, contains no oxygenate component other than the one present in the test fuel, and is ultimately dispensed in the selected PADD.

(c) *Fuel-specific certification.* Except as provided in paragraph (c)(3) of this section, to be certified under the fuel-specific certification option, a candidate detergent must meet the deposit control performance test requirements and standards specified in § 80.165 using test fuels that conform to the requirements of § 80.164(c).

(1) A detergent certified under this option is eligible to be used at a conforming LAC only in the defined gasoline pool reported in the certification letter pursuant to § 80.161(b)(3).

(i) The gasoline pool may only include gasoline produced or distributed from the facilities covered by the fuel survey which was used to define the fuel-specific certification test fuels, pursuant to § 80.164(c)(1).

(ii) The gasoline pool must be kept segregated from any other gasoline prior to blending with the detergent additive.

(iii) Depending on the oxygenate components added to the test fuel pursuant to § 80.164(a)(2), the gasoline pool may be inclusive of all grades and all oxygenate blending characteristics (i.e., generic), or may be restricted to non-oxygenated gasoline, or to gasoline containing a specific oxygenate compound. The certification may also be restricted to premium grade gasoline. Any such use restrictions must be specified in the certification letter. Provisions in §§ 80.168 and 80.171(a)(9) through (12) related to such use restrictions also apply.

(2) Detergent certification under this option entails special initial and annual reporting requirements, specified under §§ 80.161(b)(3)(vi) and 80.164(c)(3), which necessitate that the responsible party have control over and access to the segregated gasoline pool for which the detergent is certified. For this reason, the certifying party under this option is likely to be (but is not required to be) a fuel manufacturer or detergent blender, rather than the additive manufacturer.

(3) If a certifier demonstrates that the required test fuel representing a segregated pool of gasoline meets the deposit control performance standards specified in § 80.165 in the absence of a detergent additive, or using a detergent additive which has only PFID-control activity, then this gasoline pool (and PFID detergent, if applicable) can be certified accordingly under the fuel-specific option.

(4) Gasoline properly additized with a detergent certified under the fuel-specific option may be transferred or sold anywhere within the United States and its territories (subject to approved state programs).

(d) *CARB-Based Certification.* A valid certification under section 2257 of Title 13, California Code of Regulations (CARB certification) may be the basis for a certification under the following restrictions and conditions:

(1) A detergent certified under this option may be used at the LAC specified in the CARB certification only in gasoline that meets the requirements of California Phase II reformulated gasoline (pursuant to Title 13, Chapter 5, Article 1, Subarticle 2, California Code of Regulations, Standards for Gasoline Sold Beginning March 1, 1996). The grade(s) of California gasoline which may be so additized, and the oxygenate(s) which may be present, are as specified in the CARB certification for the detergent in question.

(2) The gasoline must be either: Additized in California; or sold or dispensed to the ultimate consumer in California (or to parties who sell or dispense to the ultimate consumer in California); or both additized and ultimately dispensed in California.

(3) A certification under this option will continue to be valid only as long as the CARB certification remains valid. The certifier must cease selling or using a detergent immediately upon being notified by CARB that the CARB certification for this detergent has been invalidated, and must notify EPA within 7 days of receipt of this notification.

§ 80.164 Certification test fuels.

(a) *General requirements.* This section provides specifications for the test fuels required in conjunction with the certification options described in § 80.163. For each such certification option, the associated test fuel must meet or exceed the levels of four basic fuel parameters (aromatics, fuel sulfur, olefins, and T–90) prescribed here and may also contain specified oxygenate compounds. In addition, pursuant to paragraph (b)(3) of this section, some fuels must undergo an IVD demonstration test before they are eligible to be used as test fuels under this certification program. Test fuel characteristics must be reported to EPA in the detergent certification letter required pursuant to § 80.161(b)(3).

(1) Quantitative specifications for the four basic fuel parameters, provided in paragraphs (b) and (c) of this section, refer to the levels of these parameters in the base gasoline prior to the addition of any oxygenate. The levels of the basic fuel parameters must be measured in accordance with applicable procedures in § 80.46.

(2) Oxygenate components of certification test fuels must be of fuel grade quality. The type and amount of oxygenate to be blended into the test fuel (if any) shall be as follows:

(i) To certify a detergent for generic use (i.e., for use in gasoline containing any oxygenate compound, as well as for use in nonoxygenated gasoline), the finished test fuel shall contain ethanol at 10 volume percent.

(ii) To certify a detergent specifically for use in nonoxygenated gasoline, no oxygenate compounds shall be added to the test fuel.

(iii) To certify a detergent specifically for use in gasoline blended with a specified oxygenate compound other than ethanol, the specified oxygenate must be added to the test fuel in an amount such that the finished fuel contains the oxygenate at the highest concentration at which the specific oxygenate may be used in in-use gasoline.

(3) No detergent-active substance other than the detergent additive package undergoing testing may be added to a certification test fuel. Typical nondetergent additives, such as antioxidants, corrosion inhibitors, and metal deactivators, may be present in the test fuel at the discretion of the additive certifier. In addition, any nondetergent additives (other than oxygenate compounds) which are commonly blended into gasoline and which are known or suspected to affect IVD or PFID formation, or to reduce the ability of the detergent in question to control such deposits, should be added to the test fuel for certification testing.

(4) Certification test requirements may be satisfied for a detergent additive using more than one batch of test fuel, provided that each batch satisfies all applicable test fuel requirements under this section.

(5) Unless otherwise required by this section, finished test fuels must conform to the requirements for commercial gasoline described in ASTM D 4814–95c, ''Standard Specification for Automotive Spark-Ignition Engine

Fuel'', which is incorporated by reference. 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 inspected at U.S. EPA, OAR, 401 M Street, Southwest, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies of this material may be obtained from ASTM, 1916 Race St., Philadelphia, PA 19103.

(b) National and PADD certification test fuels.

(1) Test fuels for the national generic and premium certification options must contain levels of the designated fuel parameters which meet or exceed the applicable values in Table 1. Test fuels for the PADD generic certification options must contain levels of the designated fuel parameters which meet or exceed the applicable values in Table 2. Test fuels for the PADD premium certification options must contain levels of the designated fuel parameters which meet or exceed the applicable values in Table 3. Oxygenate requirements for the respective nonoxygenate and oxygenate-specific suboptions are specified in paragraph (a)(2) of this section.

TABLE 1.—NATIONAL CERTIFICATION TEST FUELS

Certification option	Required minimum fuel parameter values				
	Sulfur (weight %)	T–90 (F)	Olefins (volume %)	Aromatics (volume %)	Oxygenate (volume %)
1. National Generic	0.034	339	11.4	31.1	10% Ethanol.
2. National Premium	0.016	332	6.5	35.9	

TABLE 2.—PADD-SPECIFIC GENERIC CERTIFICATION TEST FUELS

Certification option	Required minimum fuel parameter values				
	Sulfur (weight %)	T–90 (F)	Olefins (volume %)	Aromatics (volume %)	Oxygenate (volume %)
PADD 1 Generic	0.039	343	15.4	32.1	
PADD 2 Generic	0.034	338	10.3	29.3	
PADD 3 Generic	0.032	343	12.9	29.8	10% Ethanol.
PADD 4 Generic	0.050	326	10.0	27.1	
PADD 5 Generic	0.021	337	7.6	34.5	

TABLE 3.—PADD-SPECIFIC PREMIUM-GRADE CERTIFICATION TEST FUELS

Certification option	Required minimum fuel parameter values				
	Sulfur (weight %)	T–90 (F)	Olefins (volume %)	Aromatics (volume %)	Oxygenate (volume %)
PADD 1 Premium	0.018	332	9.2	38.6	
PADD 2 Premium	0.014	333	6.0	34.3	
PADD 3 Premium	0.015	334	6.0	34.6	10% Ethanol.
PADD 4 Premium	0.040	319	6.0	22.3	
PADD 5 Premium	0.011	332	4.3	36.7	

(2) National and PADD certification test fuels must either be formulated to specification from normal refinery blend stocks, or drawn from finished gasoline supplies. The source of such samples must be normally-operating gasoline production or distribution facilities located in the U.S. Samples must not be drawn from a segregated gasoline pool that is or will be covered by a fuel-specific certification under § 80.163(c) on the date when the certification information under this option is submitted to EPA.

(3) To be eligible for use in detergent additive certification testing, in addition to the specifications above, national and PADD test fuels which are specially formulated from refinery blend stocks must themselves undergo testing to demonstrate their deposit-forming tendency. For this purpose, the unadditized, nonoxygenated test fuel must be subjected to the IVD control test procedure described in § 80.165(b). At the discretion of the tester, the duration of the demonstration test may be less than 10,000 miles, provided the results satisfy the standard of this paragraph. In order to qualify for use in certification testing, the formulated fuel's test results must meet or exceed the values shown in Table 4 for the relevant certification option. If the demonstration test results do not meet these criteria, then the formulated fuel may not be used for detergent certification testing.

TABLE 4.—IVD DEMONSTRATION TEST CRITERIA

Certification option	Minimum required deposit level in IVD demonstration test (mg/valve, average)					
	National	PADD 1	PADD 2	PADD 3	PADD 4	PADD 5
Generic	290	290	260	290	260	260

TABLE 4.—IVD DEMONSTRATION TEST CRITERIA—Continued

Certification option	Minimum required deposit level in IVD demonstration test (mg/valve, average)					
	National	PADD 1	PADD 2	PADD 3	PADD 4	PADD 5
Premium	260	260	235	260	235	235

(c) *Fuel-specific certification test fuels.* (1) Test fuels required for fuel-specific certification must contain levels of each of the four basic fuel parameters (aromatics, olefins, T–90, and fuel sulfur) at no less than their respective 65th percentile values in the segregated gasoline pool for which the detergent certification is sought in accordance with § 80.163(c). These values must be determined by the certifier as follows:

(i) At least once monthly for at least one complete year prior to the certification, the certifier must measure the levels of the required parameters in representative fuel samples contributed to the segregated gasoline pool by each participating refinery, terminal, or other fuel production or distribution facility. The fuel parameters must be measured in accordance with the test procedures in § 80.46. If the applicability of the fuel-specific certification is to be limited to premium gasoline, then the required fuel compositional data must be collected only from samples of premium gasoline.

(ii) The fuel composition survey results, weighted according to the percentage of gasoline contributed to the segregated gasoline pool from each participating facility, shall be used to construct a percentile distribution of the measured values for each of the fuel parameters.

(iii) Data from more than one year may be used to construct the required statistical distribution provided that only the total data from complete consecutive years is used and that all survey data must have been collected within three years of the date the certification information is submitted to EPA.

(iv) At the discretion of the certifier, other fuel parameters may be used to define the certification test fuels in addition to the four required parameters. To be taken into account by EPA in case of confirmatory testing pursuant to § 80.167, such additional parameters must be surveyed and analyzed according to the same requirements applicable to the four standard parameters. In addition, any optional parameters must be measured using test procedures which conform to reasonable and customary standards of repeatability and reproducibility, and reasonable and customary limits of detection and accuracy for the type of test procedure or analytic procedure in question.

(v) Using the percentile distributions calculated from the survey data for the four required parameters and any additional discretionary parameters, the 65th percentile value for each such parameter shall be determined. Prior to the addition of any oxygenate compound, the fuel-specific certification test fuel shall contain each specified parameter at a level or concentration no less than this 65th percentile value. Test fuel oxygenate requirements for generic, nonoxygenate, and oxygenate-specific certification suboptions are specified in paragraph (a)(2) of this section.

(2) Fuel-specific certification test fuels must either be formulated to specification from the same refinery blend stocks which are normally used to blend the gasolines included in the subject gasoline pool, or drawn from the finished fuel supplies which contribute to this pool of gasoline. Fuel-specific certification test fuels need not undergo an IVD demonstration test prior to use in certification testing.

(3) The certifier must submit an annual report to EPA within 30 days of the anniversary of the initial certification effective date. Failure to submit the annual report by the required date will invalidate the fuel-specific certification and may subject the certifier to liability and penalties under §§ 80.169 and 80.172. The purpose of the annual report is to update the information on the composition of the segregated gasoline pool that was characterized by the initial fuel survey.

(i) For this purpose, the same fuel survey and statistical analysis requirements that were conducted pursuant to paragraphs (c)(1)(i),(ii), and (iv) of this section must be repeated, using data for the most current twelve-month period from each of the production/distribution facilities that contributed to the original fuel survey.

(ii) The annual report must present the percentile distributions for each fuel parameter as determined from the new survey data and, for each measured fuel parameter, must compare the newly determined 50th percentile value with the 60th percentile value for that parameter as determined in the original fuel survey.

(iii) If the new 50th percentile level for any fuel parameter is greater than or equal to the 60th percentile level reported in the initial certification, then the fuel-specific certification is no longer valid. In such instance, the certifier must immediately discontinue the sale and use of the subject detergent under the conditions of the fuel-specific certification and must immediately notify any downstream customers/recipients of the subject detergent that the certification is no longer valid and that their use of the detergent must discontinue within seven days. To avoid liability and penalties under §§ 80.169 and 80.172, the certifier must take these remedial steps within 45 days of the anniversary of the original fuel-specific certification. Downstream customers/recipients must discontinue usage of the detergent within seven days of receipt of notification of the detergent's invalidity to avoid such liability.

(4) The fuel composition survey results which support the original test fuel specifications and the annual statistical analyses, along with related documentation on test methods and statistical procedures, shall be retained by the certifier for a period of at least five years, and shall be made available to EPA upon request.

§ 80.165 Certification test procedures and standards.

This section specifies the deposit control test requirements and performance standards which must be met in order to certify detergent additives for use in unleaded gasoline, pursuant to § 80.161(b)(1)(ii)(A)(*2*). These standards must be met in the context of the specific test procedures identified in paragraphs (a) and (b) of this section, except as provided in paragraph (c) of this section. In any case, the testing must be conducted and the performance standards met when the subject detergent additive is mixed in a test fuel meeting all relevant requirements of § 80.164, including the deposit-forming tendency demonstration specified in § 80.164(b)(3), if applicable. Complete test documentation must be submitted

by the certifying party within 30 days of receipt of a written request from EPA for such records.

(a) *Fuel injector deposit control testing.* (1) The required test fuel must produce no more than 5% flow restriction in any one injector when tested in accordance with ASTM D 5598–94, ''Standard Test Method for Evaluating Unleaded Automotive Spark-Ignition Engine Fuel for Electronic Port Fuel Injector Fouling,'' 1994, which is incorporated by reference. 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 inspected at U.S. EPA, OAR, 401 M Street, Southwest, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies of this material may be obtained from ASTM, 1916 Race St., Philadelphia, PA 19103.

(2) At the option of the certifier, fuel injector flow may be measured at intervals during the 10,000 mile test cycle described in ASTM D 5598–94, in addition to the flow measurements required at the completion of the test cycle, but not more than every 1,000 miles.

(b) *Intake valve deposit control testing.* The required test fuel must produce the accumulation of less than 100 mg of intake valve deposits on average when tested in accordance with ASTM D 5500–94, ''Standard Test Method for Vehicle Evaluation of Unleaded Automotive Spark-Ignition Engine Fuel for Intake Valve Deposit Formation,'' 1994, which is incorporated by reference. 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 inspected at U.S. EPA, OAR, 401 M Street, Southwest, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies of this material may be obtained from ASTM, 1916 Race St., Philadelphia, PA 19103.

(c) If conducted using test fuels meeting all relevant requirements of § 80.164, and completed prior to September 3, 1996, then the PFID and IVD control test procedures required for detergent certification in California (specified in section 2257 of Title 13, California Code of Regulations) will also be considered acceptable. California Air Resources Board, ''Test Method for Evaluating Port Fuel Injector (PFI) Deposits in Vehicle Engines'', March 1, 1991, and California Air Resources Board, ''BMW—10,000 Miles Intake Valve Test Procedure'', March 1, 1991, are incorporated by reference. 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 inspected at U.S. EPA, OAR, 401 M Street, Southwest, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies of this material may be obtained from the California Air Resource Board, Stationary Source Division, 2020 L Street, PO Box 2815, Sacramento, CA, 95814.

§ 80.166 Carburetor deposit control performance test and test fuel guidelines.

EPA will use the guidelines in this section to evaluate the adequacy of carburetor deposit control test data, used to support the minimum concentration recommended for detergents used in leaded gasoline pursuant to § 80.161(b)(1)(ii)(B).

(a) *Carburetor Deposit Control Test Procedure and Performance Standard Guidelines.* For demonstration of carburetor deposit control performance, any generally accepted vehicle, engine, or bench test procedure and associated performance standard for carburetor deposit control will be considered adequate. Port and throttle body fuel injector deposit control test data will also be considered to be adequate demonstration of an additive's ability to control carburetor deposits. Examples of acceptable test procedures for demonstration of carburetor deposit control, in addition to the fuel injector test procedure listed in § 80.165(a), are contained in the following references:

(1) ''Test Method for Evaluating Port Fuel Injector (PFI) Deposits in Vehicle Engines'', March 1, 1991, Section 2257, Title 13, California Code of Regulations.

(2) ''A Vehicle Test Technique for Studying Port Fuel Injector Deposits—A Coordinating Research Council Program'', Robert Tupa et al., SAE Technical paper No. 890213, 1989.

(3) ''The Effects of Fuel Composition and Additives on Multiport Fuel Injector Deposits'', Jack Benson et al., SAE Technical Paper Series No. 861533, 1986.

(4) ''Injector Deposits—The Tip of Intake System Deposit Problems'', Brian Taneguchi, et al., SAE Technical Paper Series No. 861534, 1986.

(5) ''Fuel Injector, Intake Valve, and Carburetor Detergency Performance of Gasoline Additives'', C.H. Jewitt et al., SAE Technical Paper No. 872114, 1987.

(6) ''Carburetor Cleanliness Test Procedure, State-of-the-Art Summary, Report: 1973–1981'', Coordinating Research Council, CRC Report No. 529, Coordinating Research Council Inc. (CRC), 219 perimeter Center Parking, Atlanta, Georgia, 30346.

(b) *Carburetor Deposit Control Test Fuel Guidelines.* (1) The gasoline used in the tests described in paragraph (a) of this section must contain the detergent-active components of the subject detergent additive package in an amount which corresponds to the minimum recommended concentration recorded in the respective detergent registration, or less than this amount.

(2) The test fuel must not contain any detergent-active components other than those recorded in the subject detergent certification.

(3) The composition of the test fuel used in carburetor deposit control testing, conducted to support the claimed effectiveness of detergents used in leaded gasoline, should be reasonably typical of in-use gasoline in its tendency to form carburetor deposits (or more severe than typical in-use fuels) as defined by the olefin and sulfur content. A test fuel conforming to these compositional guidelines may be sampled directly from finished gasolines or may be blended to specification using typical refinery blend stocks. Test data using leaded fuels is preferred for this purpose, but data collected using unleaded fuels may also be acceptable provided that some correlation with additive performance in leaded fuels is available.

§ 80.167 Confirmatory testing.

EPA may test a detergent to confirm that the required performance levels are met. Based on the findings of this confirmatory testing, a detergent certification may be denied or revoked under the provisions of § 80.161(e).

(a) Confirmatory testing conducted to evaluate the validity of detergent certifications under the national, PADD, or fuel-specific options will generally entail a single vehicle test using the procedures detailed in § 80.165. The test fuel(s) used in conducting confirmatory certification testing will contain the specified fuel parameters at or below the minimum levels specified in § 80.164, and will otherwise conform to the applicable certification test fuel specifications therein.

(b) Confirmatory certification testing conducted to evaluate the validity of CARB-based detergent certifications will use the subject detergent in test fuel(s) containing the relevant fuel parameters at levels no greater than the maximum levels for which the CARB certification was granted. The test procedures will be conducted pursuant to the procedures

specified under section 2257 of Title 13, California Code of Regulations.

(c) Confirmatory testing conducted to evaluate the validity of registration and certification information specific to detergent use in leaded gasoline will use the subject detergent in a test fuel containing the test fuel parameters at levels no greater than those prescribed in § 80.164. EPA will make all reasonable efforts to use the same test procedure for confirmatory testing purposes as was used by the certifier in conducting deposit control performance testing.

(d) When EPA decides to conduct confirmatory testing on a fuel or additive which is not readily available in the open market, EPA may request that the detergent certifier and/or manufacturer of such fuel or additive furnish a sample in the needed quantity. If testing is conducted to evaluate the validity of a detergent certification under the fuel-specific option, the detergent blender must supply EPA with test fuel, or with blend stocks with which to formulate such test fuel, in sufficient quantity to conduct the specified deposit control performance testing. The fuel or additive manufacturer shall comply with a sample request made pursuant to this paragraph within 30 days of receipt of the request.

§ 80.168 Detergent certification program controls and prohibitions.

(a)(1) No person shall sell, offer for sale, dispense, supply, offer for supply, transport, or cause the transportation of gasoline to the ultimate consumer for use in motor vehicles or in any off-road engines (except as provided in § 80.173), or to a gasoline retailer or wholesale purchaser-consumer, and no person shall detergent-additize gasoline, unless such gasoline is additized in conformity with the requirements of § 80.161. No person shall cause the presence of any gasoline in the gasoline distribution system unless such gasoline is additized in conformity with the requirements of § 80.161.

(2) Gasoline has been additized in conformity with the requirements of § 80.161 when the detergent component satisfies the requirements of § 80.161 and when:

(i) The gasoline has been additized in conformity with the detergent composition and purpose-in-use specifications of a detergent certified in accordance with this subpart, and in accordance with at least the minimum concentration specifications of that detergent as certified or as otherwise provided under § 80.161(d); or

(ii) The gasoline is composed of two or more commingled gasolines and each component gasoline has been additized in conformity with the detergent composition and purpose-in-use specifications of a detergent certified in accordance with this subpart, and in accordance with at least the minimum concentration specifications of that detergent as certified or as otherwise provided under § 80.161(d); or

(iii) The gasoline is composed of a gasoline commingled with a post-refinery component (PRC), and both of these components have been additized in conformity with the detergent composition and use specifications of a detergent certified in accordance with this subpart, and in accordance with at least the minimum concentration specifications of that detergent as certified or as otherwise provided under § 80.161(d).

(b) No person shall blend detergent into gasoline or PRC unless such person complies with the volumetric additive reconciliation requirements of § 80.170.

(c) No person shall sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline, detergent, or detergent-additized PRC, unless the product transfer document for the gasoline, detergent or detergent-additized PRC complies with the requirements of § 80.171.

(d) No person shall refine, import, manufacture, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transportation of any detergent that is to be used as a component of detergent-additized gasoline or detergent-additized PRC unless such detergent conforms with the composition specifications of a detergent certified in accordance with this subpart and the detergent otherwise complies with the requirements of § 80.161. No person shall cause the presence of any detergent in the detergent, PRC, or gasoline distribution systems unless such detergent complies with the requirements of § 80.161.

(e)(1) No person shall sell, offer for sale, dispense, supply, offer for supply, transport, or cause the transportation of detergent-additized PRC unless the PRC has been additized in conformity with the requirements of § 80.161. No person shall cause the presence in the PRC or gasoline distribution systems of any detergent-additized PRC that fails to conform to the requirements of § 80.161.

(2) PRC has been additized in conformity with the requirements of § 80.161 when the detergent component satisfies the requirements of § 80.161 and when:

(i) The PRC has been additized in accordance with the detergent composition and use specifications of a detergent certified in accordance with this subpart and in conformity with at least the minimum concentration specifications of that detergent as certified or as otherwise provided under § 80.161(d), or

(ii) The PRC is composed of two or more commingled PRCs, and each component has been additized in accordance with the detergent composition and use specifications of a detergent certified in accordance with this subpart, and in conformity with at least the minimum concentration specifications of that detergent as certified or as otherwise provided under § 80.161(d).

§ 80.169 Liability for violations of the detergent certification program controls and prohibitions.

(a) *Persons Liable*—(1) *Gasoline non-conformity.* Where gasoline contained in any storage tank at any facility owned, leased, operated, controlled or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, or detergent blender, is found in violation of any of the prohibitions specified in § 80.168(a), the following persons shall be deemed in violation:

(i) Each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, or detergent blender, who owns, leases, operates, controls or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation is found;

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who refined, imported, manufactured, sold, offered for sale, dispensed, supplied, offered for supply, stored, detergent additized, transported, or caused the transportation of the detergent-additized gasoline (or the base gasoline component, the detergent component, or the detergent-additized post-refinery component of the gasoline) that is in violation, and each such party that caused the gasoline that is in violation to be present in the gasoline distribution system; and

(iii) Each gasoline carrier who dispensed, supplied, stored, or transported any gasoline in the storage tank containing gasoline found to be in violation, and each detergent carrier who dispensed, supplied, stored, or transported the detergent component of

any PRC or gasoline in the storage tank containing gasoline found to be in violation, provided that EPA demonstrates, by reasonably specific showings by direct or circumstantial evidence, that the gasoline or detergent carrier caused the violation.

(2) *Post-refinery component non-conformity.* Where detergent-additized PRC contained in any storage tank at any facility owned, leased, operated, controlled or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, is found in violation of the prohibitions specified in § 80.168(e), the following persons shall be deemed in violation:

(i) Each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale-purchaser consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, who owns, leases, operates, controls or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation is found;

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who sold, offered for sale, dispensed, supplied, offered for supply, stored, detergent additized, transported, or caused the transportation of the detergent-additized PRC (or the detergent component of the PRC) that is in violation, and each such party that caused the PRC that is in violation to be present in the PRC or gasoline distribution systems; and

(iii) Each carrier who dispensed, supplied, stored, or transported any detergent-additized PRC in the storage tank containing PRC that is in violation, and each detergent carrier who dispensed, supplied, stored, or transported the detergent component of any detergent-additized PRC which is in the storage tank containing detergent-additized PRC found to be in violation, provided that EPA demonstrates by reasonably specific showings by direct or circumstantial evidence, that the gasoline or detergent carrier caused the violation.

(3) *Detergent non-conformity.* Where the detergent (prior to additization) contained in any storage tank or container found at any facility owned, leased, operated, controlled or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, is found in violation of the prohibitions specified in § 80.168(d), the following persons shall be deemed in violation:

(i) Each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, who owns, leases, operates, controls or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation is found;

(ii) Each gasoline refiner, importer, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, or blender, who sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of the detergent that is in violation, and each such party that caused the detergent that is in violation to be present in the detergent, gasoline, or PRC distribution systems; and

(iii) Each gasoline or detergent carrier who dispensed, supplied, stored, or transported any detergent which is in the storage tank or container containing detergent found to be in violation, provided that EPA demonstrates, by reasonably specific showings by direct or circumstantial evidence, that the gasoline or detergent carrier caused the violation.

(4) *Volumetric additive reconciliation.* Where a violation of the volumetric additive reconciliation requirements established by § 80.168(b) has occurred, the following persons shall be deemed in violation:

(i) Each detergent blender who owns, leases, operates, controls or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation has occurred; and

(ii) Each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, or oxygenate blender, and each detergent manufacturer, carrier, distributor, or blender, who refined, imported, manufactured, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of the detergent-additized gasoline, the base gasoline component, the detergent component, or the detergent-additized PRC of the gasoline that is in violation, provided that EPA demonstrates, by reasonably specific showings by direct or circumstantial evidence, that such person caused the violation.

(5) *Product transfer document.* Where a violation of § 80.168(c) is found at a facility owned, leased, operated, controlled, or supervised by any gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, the following persons shall be deemed in violation: each gasoline refiner, importer, carrier, distributor, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, carrier, distributor, or blender, who owns, leases, operates, control or supervises the facility (including, but not limited to, a truck or individual storage tank) where the violation is found.

(b) *Branded Refiner Vicarious Liability.* Where any violation of the prohibitions specified in § 80.168 has occurred, with the exception of violations of § 80.168(c), a refiner will also be deemed liable for violations occurring at a facility operating under such refiner's corporate, trade, or brand name or that of any of its marketing subsidiaries. For purposes of this section, the word facility includes, but is not limited to, a truck or individual storage tank.

(c) *Defenses.* (1) In any case in which a gasoline refiner, importer, distributor, carrier, reseller, retailer, wholesale purchaser-consumer, oxygenate blender, detergent distributor, carrier, or blender, is in violation of any of the prohibitions of § 80.168, pursuant to paragraph (a) or (b) of this section as applicable, the regulated party shall be deemed not in violation if it can demonstrate:

(i) That the violation was not caused by the regulated party or its employee or agent (unless otherwise provided in this paragraph (c));

(ii) That product transfer documents account for the gasoline, detergent, or detergent-additized PRC in violation and indicate that the gasoline, detergent, or detergent-additized PRC satisfied relevant requirements when it left the party's control; and

(iii) That the party has fulfilled the requirements of paragraphs (c) (2) or (3) of this section, as applicable.

(2) *Branded refiner.* Where a branded refiner is in violation of any of the prohibitions of § 80.168 as a result of violations occurring at a facility (including, but not limited to, a truck or individual storage tank) which is operating under the corporate, trade or brand name of a refiner or that of any of its marketing subsidiaries, the refiner shall be deemed not in violation if it can demonstrate, in addition to the defense requirements stated in paragraph (c)(1) of this section, that the violation was caused by:

(i) An act in violation of law (other than these regulations), or an act of sabotage or vandalism, whether or not

such acts are violations of law in the jurisdiction where the violation of the prohibitions of § 80.168 occurred; or

(ii) The action of any gasoline refiner, importer, reseller, distributor, oxygenate blender, detergent manufacturer, distributor, blender, or retailer or wholesale purchaser-consumer supplied by any of these persons, in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite the implementation of an oversight program, including, but not limited to, periodic review of product transfer documents by the refiner to ensure compliance with such contractual obligation; or

(iii) The action of any gasoline or detergent carrier, or other gasoline or detergent distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, PRC, or detergent, to a gasoline or detergent distributor, oxygenate blender, detergent blender, gasoline retailer or wholesale purchaser consumer, despite specification or inspection of procedures or equipment by the refiner which are reasonably calculated to prevent such action.

(iv) In this paragraph (c)(2), to show that the violation ''was caused'' by any of the specified actions, the party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another.

(3) *Detergent blender.* In any case in which a detergent blender is liable for violating any of the prohibitions of § 80.168, the detergent blender shall not be deemed in violation if it can demonstrate, in addition to the defense requirements stated in paragraph (c)(1) of this section, the following:

(i) That it obtained or supplied, as appropriate, prior to the detergent blending, accurate written instructions from the detergent manufacturer or other party with knowledge of such instructions, specifying the appropriate LAC for the detergent, as specified in § 80.161(b)(1)(ii), together with any use restrictions which pertain to this LAC pursuant to the detergent's certification; and

(ii) That it has implemented a quality assurance program that includes, but is not limited to, a periodic review of its supporting product transfer and volume measurement documents to confirm the correctness of its product transfer and volumetric additive reconciliation documents created for all products it additized.

(4) *Detergent manufacturer.*— (i) *Presumptive Liability Affirmative Defense.* Notwithstanding the provisions of paragraph (c)(1) of this section, in any case in which a detergent manufacturer is liable for violating any of the prohibitions of § 80.168, the detergent manufacturer shall be deemed not in violation if it can demonstrate each of the following:

(A) Product transfer documents which account for the detergent component of the product in violation and which indicate that such detergent satisfied all relevant requirements when it left the detergent manufacturer's control.

(B) Written blending instructions which, pursuant to § 80.161(c), were supplied by the detergent manufacturer to its customer who purchased or obtained from the manufacturer the detergent component of the product determined to be in violation. The written blending instructions must have been supplied by the manufacturer prior to the customer's use or sale of the detergent. The instructions must accurately specify both the appropriate LAC for the detergent, pursuant to § 80.161(b)(1)(ii), plus any use restrictions which may pertain to this LAC pursuant to the detergent's certification.

(C) If the detergent batch used in the noncomplying product was produced less than one year before the manufacturer was notified by EPA of the possible violation, then the manufacturer must provide FTIR test results for the batch in question.

(*1*) The FTIR analysis may have been conducted on the subject detergent batch at the time it was manufactured, or may be conducted on a sample of that batch which the manufacturer retained for such purpose at the time the batch was manufactured.

(*2*) To establish that, when it left the manufacturer's control, the detergent component of the noncomplying product was in conformity with the chemical composition and concentration specifications reported pursuant to § 80.161(b), the FTIR test results for the detergent batch used in the noncomplying product must, in EPA's judgment, be consistent with the FTIR results submitted at the time of registration pursuant to § 80.162(d).

(D) If the detergent batch used in the noncomplying product was produced more than one year prior to the manufacturer's notification by EPA of the possible violation, then the manufacturer must provide either:

(*1*) FTIR test results for the batch in question as specified in the preceding paragraph (c)(4)(i)(C) of this § 80.169(c); or

(*2*) The following materials:

(*i*) Documentation for the batch in question, showing that its measured viscosity, density, and basic nitrogen content, or any other such physical parameter(s) which EPA may have approved for monitoring production quality control, were within the acceptable range of production values specified in the certification pursuant to § 80.162(e); and

(*ii*) If the detergent registration identifies polymeric component(s) of the detergent package as the product(s) of other chemical reactants, documentation that the reagents used to synthesize the detergent batch in question were the same as those specified in the registration and that they met the manufacturer's normal acceptance criteria reported pursuant to § 80.162(b)(1).

(ii) *Detergent manufacturer causation liability.* In any case in which a detergent manufacturer is liable for a violation of § 80.168, and the manufacturer establishes an affirmative defense to such liability pursuant to § 80.169(c)(4)(i), the detergent manufacturer will nonetheless be deemed liable for the violation of § 80.168 if EPA can demonstrate, by reasonably specific showings by direct or circumstantial evidence, that the detergent manufacturer caused the violation.

(5) *Defense against liability where more than one party may be liable for VAR violations.* In any case in which a party is presumptively or vicariously liable for a violation of § 80.170, except for the VAR record requirements pursuant to § 80.170(g), such party shall not be deemed liable if it can establish the following:

(i) Prior to the violation it had entered into a written contract with another potentially liable detergent blender party (''the assuming party''), under which that other party assumed legal responsibility for fulfilling the VAR requirement that had been violated;

(ii) The contract included reasonable oversight provision to ensure that the assuming party fulfilled its VAR responsibilities (including, but not limited to, periodic review of VAR records) and the oversight provision was actually implemented by the party raising the defense;

(iii) The assuming party is fiscally sound and able to pay its penalty for the VAR violation; and

(iv) The employees or agents of the party raising the defense did not cause the violation.

(6) *Defense to liability for gasoline non-conformity violations caused solely by the addition of misadditized ethanol or other PRC to the gasoline.* In any case in which a party is presumptively or vicariously liable for a gasoline non-conformity violation of § 80.168(a)

caused solely by another party's addition of misadditized ethanol or other PRC to the gasoline, the former party shall not be deemed liable for the violation, provided that it can establish that it has fulfilled the defense requirements of paragraphs (c)(1) (i) and (ii) of this section.

(7) *Detergent tank transitioning defenses.* The commingling of two detergents in the same detergent storage tank will not be deemed to violate or cause violations of any of the provisions of this subpart, provided the following conditions are met:

(i) The commingling must occur during a legitimate detergent transitioning event, *i.e.*, a shift from the use of one detergent to another through the delivery of the new detergent into the same tank that contains the original detergent; and

(ii) Any use restrictions applicable to the new detergent's certification also apply to the combined detergents; and

(iii) The commingling event must be documented, either on the VAR formula record or on attached supporting records; and

(iv) Notwithstanding any contrary provisions in § 80.170, a VAR formula record must be created for the combined detergents. The VAR compliance period must begin no later than the time of the commingling event. However, at the blender's option, the compliance period may begin earlier, thus including use of the uncombined original detergent within the same period, provided that the 31-day limitation pursuant to § 80.170(a)(6) is not exceeded; and

(v) The VAR formula record must also satisfy the requirements in one of the following paragraphs (c)(7)(v) (A) through (C) of this section, whichever applies to the commingling event. If neither paragraph (c)(7)(v) (A) nor (B) of this section initially applies, then the blender may drain and subsequently redeliver the original detergent into the tank in restricted amounts, in order to meet the conditions of paragraph (c)(7)(v) (A) or (B) of this section. Otherwise, the blender must comply with paragraph (c)(7)(v)(C) of this section.

(A) If both detergents have the same LAC, and the original detergent accounts for no more than 20 percent of the tank's total delivered volume after addition of the new detergent, then the VAR formula record is required to identify only the use of the new detergent.

(B) If the two detergents have different LACs and the original detergent accounts for 10 percent or less of the tank's total delivered volume after addition of the new detergent, then the VAR formula record is required to identify only the use of the new detergent, and must attain the LAC of the new detergent. If the original detergent's LAC is greater than that of the new detergent, then the compliance period may begin earlier than the date of the commingling event (pursuant to paragraph (c)(7)(iv) of this section) only if the original detergent does not exceed 10 percent of the total detergent used during the compliance period.

(C) If neither of the preceding paragraphs (c)(7)(v) (A) or (B) of this section applies, then the VAR formula record must identify both of the commingled detergents, and must use and attain the higher LAC of the two detergents. Once the commingled detergent has been depleted by an amount equal to the volume of the original detergent in the tank at the time the new detergent was added, subsequent VAR formula records must identify and use the LAC of only the new detergent.

(8) *Transition from noncertified to certified detergent.* Notwithstanding the prohibitions in §§ 80.161(a)(3) and 80.168, after June 30, 1997, the addition to gasoline or PRC of a detergent which has not been certified pursuant to § 80.161 shall not be deemed to violate or cause violations of provisions of this subpart, provided that all of the following conditions are met:

(i) The detergent was received by the detergent blender prior to July 1, 1997 and is used prior to January 1, 1998. Documentation which supports these dates must be maintained for at least five years and must be available for EPA's inspection upon request;

(ii) The detergent is added to gasoline or PRC only in combination with a certified detergent and, at any one time, accounts for no more than 10 percent of the detergent tank's delivered volume;

(iii) The total volume of detergent added to the gasoline or PRC is sufficient to attain the LAC of the certified detergent; and

(iv) Use restrictions associated with the certified detergent are adhered to.

(g) Procedures for curing use restrictions. In the case of a fuel product which has been additized with a detergent under the conditions of a use-restricted certification (pursuant to § 80.163), the use restriction can be negated (''cured'') by application of the procedures in this paragraph (g). A party shall not be liable for violations of § 80.168(a) or (e) caused solely by the additization or subsequent use of gasoline or PRC in violation of such use restriction, provided that the following steps and conditions are applied before EPA has identified the nonconformity and prior to the sale or transfer of nonconforming product to the ultimate consumer:

(i) Additional detergent must be added in sufficient quantity to provide effective deposit control, taking into account both the amount of detergent previously added and the final anticipated volume and composition of the subject fuel product.

(ii) The additional detergent may be either the original detergent or a different detergent, so long as the additional detergent has been separately certified both for use with the subject fuel product and for use with the type of fuel product associated with the restriction which the party wishes to negate by the curing procedure. Detergents which have not been separately certified for both types of fuel products are not eligible to be used for this curing procedure.

(iii) If a fuel product has been detergent additized under the conditions of a use-restricted certification which would preclude the addition of an oxygenate or other PRC, then such oxygenate or other PRC may nevertheless be added to that fuel product under this curing procedure, provided that additional eligible detergent is added, in an amount which equals or exceeds the number of gallons (D_A) derived from the following equation:

Additional Detergent Volume=$D_A = Vp(LAC_2 - LAC_1) + V(1-p)LAC_2$

Where:

V=Final volume of fuel product (in gallons)

p=Fraction of final fuel product composed of the original (uncombined) fuel product

LAC_2=Detergent's LAC certified for the final combined fuel product (in gallons of detergent per 1,000 gallons of fuel product)

LAC_1=Detergent's LAC certified for the original (uncombined) fuel product (in gallons of detergent per 1,000 gallons of fuel product)

(iv) In other instances in which gasoline or PRC has been additized in violation of a detergent use restriction, and no additional fuel components are to be added, such use restriction can be cured by the addition of eligible detergent in an amount which equals or exceeds the number of gallons (DA) derived from the following equation, which is a simplified version of the previous equation:

Additional Detergent Volume=$D_A = V(LAC_2 - LAC_1)$

Where:

V=Volume of fuel product (in gallons) to be cured of the use restriction

LAC_2=Detergent's LAC certified for the fuel product without the use restriction (in gallons of detergent per 1,000 gallons of fuel product)

LAC_1=Detergent's LAC certified for the fuel product with the use restriction to be cured (in gallons of detergent per 1,000 gallons of fuel product)

(v) In all such instances, a curing VAR must be created and maintained, which documents the use of the appropriate equation as specified above, and otherwise complies with the requirements of § 80.170(f)(6).

§ 80.170 Volumetric additive reconciliation (VAR), equipment calibration, and recordkeeping requirements.

This section contains requirements for automated detergent blending facilities and hand-blending detergent facilities. All gasoline and all PRC intended for use in gasoline must be additized unless otherwise noted in supporting VAR records, and must be accounted for in VAR records. The VAR reconciliation standard is attained under this section when the actual concentration of detergent used per VAR formula record equals or exceeds the applicable LAC certified for that detergent pursuant to § 80.161(b)(3)(ix) or, if appropriate, § 80.161(d). If a given detergent package has been certified under more than one certification option pursuant to § 80.163, then a separate VAR formula record must be created for gasoline or PRC additized on the basis of each certification and its respective LAC. In such cases, the amount of the detergent used under different certification options must be accurately and separately measured, either through the use of a separate storage tank, a separate meter, or some other measurement system that is able to accurately distinguish its use. Recorded volumes of gasoline, detergent, and PRC must be expressed to the nearest gallon (or smaller units), except that detergent volumes of five gallons or less must be expressed to the nearest tenth of a gallon (or smaller units). However, if the blender's equipment cannot accurately measure to the nearest tenth of a gallon, then such volumes must be rounded downward to the next lower gallon. PRC included in the reconciliation must be identified. Each VAR formula record must also contain the following information:

(a) *Automated blending facilities.* In the case of an automated detergent blending facility, for each VAR period, for each detergent storage system and each detergent in that storage system, the following must be recorded:

(1) The manufacturer and commercial identifying name of the detergent additive package being reconciled, the LAC, and any use restriction applicable to the LAC. The LAC must be expressed in terms of gallons of detergent per thousand gallons of gasoline or PRC, and expressed to four digits. If the detergent storage system which is the subject of the VAR formula record is a proprietary system under the control of a customer, this fact must be indicated on the record.

(2) The total volume of detergent blended into gasoline and PRC, in accordance with one of the following paragraphs (a)(2)(i) or (ii) of this section, as applicable.

(i) For a facility which uses in-line meters to measure detergent usage, the total volume of detergent measured, together with supporting data which includes one of the following: the beginning and ending meter readings for each meter being measured, the metered batch volume measurements for each meter being measured, or other comparable metered measurements. The supporting data may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation.

(ii) For a facility which uses a gauge to measure the inventory of the detergent storage tank, the total volume of detergent shall be calculated from the following equation:

Detergent Volume=(A)–(B)+(C)–(D)

Where:

A=Initial detergent inventory of the tank

B=Final detergent inventory of the tank

C=Sum of any additions to detergent inventory

D=Sum of any withdrawals from detergent inventory for purposes other than the additization of gasoline or PRC.

The value of each variable in this equation must be separately recorded on the VAR formula record. In addition, a list of each detergent addition included in variable C and a list of each detergent withdrawal included in variable D must be provided, either on the formula record or as VAR supporting documentation.

(3) The total volume of gasoline plus PRC to which detergent has been added, together with supporting data which includes one of the following: the beginning and ending meter measurements for each meter being measured, the metered batch volume measurements for each meter being measured, or other comparable metered measurements. The supporting data may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation. If gasoline has intentionally been overadditized in anticipation of the later addition of unadditized PRC, then the total volume of gasoline plus PRC recorded must include the expected amount of unadditized PRC to be added later. In addition, the amount of gasoline which was overadditized for this purpose must be specified.

(4) The actual detergent concentration, calculated as the total volume of detergent added (pursuant to paragraph (a)(2) of this section), divided by the total volume of gasoline plus PRC (pursuant to paragraph (a)(3) of this section). The concentration must be calculated and recorded to four digits.

(5) A list of each detergent concentration rate initially set for the detergent that is the subject of the VAR record, together with the date and description of each adjustment to any initially set concentration. The concentration adjustment information may be supplied on the VAR formula record or in the form of computer printouts or other comparable VAR supporting documentation. No concentration setting is permitted below the applicable certified LAC, except as may be modified pursuant to § 80.161(d) or as described in paragraph (a)(7) of this section.

(6) The dates of the VAR period, which shall be no longer than thirty-one days. If the VAR period is contemporaneous with a calendar month, then specifying the month will fulfill this requirement; if not, then the beginning and ending dates and times of the VAR period must be listed. The times may be supplied on the VAR formula record or in supporting documentation. Any adjustment to any detergent concentration rate more than 10 percent over the concentration rate initially set in the VAR period shall terminate that VAR period and initiate a new VAR period, except as provided in paragraph (a)(7) of this section.

(7) The concentration setting for a detergent injector may be set below the applicable LAC, or it may be adjusted more than 10 percent above the concentration initially set in the VAR period without terminating that VAR period, provided that:

(i) The purpose of the change is to correct a batch misadditization prior to the end of the VAR period and prior to the transfer of the batch to another party, or to correct an equipment malfunction; and

(ii) The concentration is immediately returned after the correction to a concentration that fulfills the

requirements of paragraphs (a) (5) and (6) of this section; and

(iii) The blender creates and maintains documentation establishing the date and adjustments of the correction; and

(iv) If the correction is initiated only to rectify an equipment malfunction, and the amount of detergent used in this procedure is not added to gasoline within the compliance period, then this amount is subtracted from the detergent volume listed on the VAR formula record.

(8) If unadditized gasoline has been transferred from the facility, other than bulk transfers from refineries or pipelines to non-retail outlets or non-WPC facilities, the total amount of such gasoline must be specified.

(b) *Non-automated facilities.* In the case of a facility in which hand blending or any other non-automated method is used to blend detergent, for each detergent and for each batch of gasoline and each batch of PRC to which the detergent is being added, the following shall be recorded:

(1) The manufacturer and commercial identifying name of the detergent additive package being reconciled, the LAC, and any use restriction applicable to the LAC. The LAC must be expressed in terms of gallons of detergent per thousand gallons of gasoline or PRC, and expressed to four digits.

(2) The date of the additization that is the subject of the VAR formula record.

(3) The volume of added detergent.

(4) The volume of the gasoline and/or PRC to which the detergent has been added. If gasoline has intentionally been overadditized in anticipation of the later addition of unadditized PRC, then the total volume of gasoline plus PRC recorded must include the expected amount of unadditized PRC to be added later. In addition, the amount of gasoline which was overadditized for this purpose must be specified.

(5) The brand (if known), grade, and leaded/unleaded status of gasoline, and/or the type of PRC.

(6) The actual detergent concentration, calculated as the volume of added detergent (pursuant to paragraph (b)(3) of this section), divided by the volume of gasoline and/or PRC (pursuant to paragraph (b)(4) of this section). The concentration must be calculated and recorded to four digits.

(c) Every VAR formula record created pursuant to paragraphs (a) and (b) of this section shall contain the following:

(1) The signature of the creator of the VAR record;

(2) The date of the creation of the VAR record; and

(3) A certification of correctness by the creator of the VAR record.

(d) Electronically-generated VAR formula and supporting records.

(1) Electronically-generated records are acceptable for VAR formula records and supporting documentation (including PTDs), provided that they are complete, accessible, and easily readable. VAR formula records must also be stored with access and audit security, which must restrict to a limited number of specified people those who have the ability to alter or delete the records. In addition, parties maintaining records electronically must make available to EPA the hardware and software necessary to review the records.

(2) Electronically-generated VAR formula records may use an electronic user identification code to satisfy the signature requirements of paragraph (c)(1) of this section, provided that:

(i) The use of the ID is limited to the record creator; and

(ii) A paper record is maintained, which is signed and dated by the VAR formula record creator, acknowledging that the use of that particular user ID on a VAR formula record is equivalent to his/her signature on the document.

(e) Automated detergent blenders must calibrate their detergent equipment once in each calendar half year, with the acceptable calibrations being no less than one hundred twenty days apart. Equipment recalibration is also required each time the detergent package is changed, unless written documentation indicates that the new detergent package has the same viscosity as the previous detergent package. Detergent package change calibrations may be used to satisfy the semiannual requirement provided that the calibrations occur in the appropriate half calendar year and are no less than one hundred twenty days apart.

(f) The following VAR supporting documentation must also be created and maintained:

(1) For all automated detergent blending facilities, documentation reflecting performance of the calibrations required by paragraph (e) of this section, and any associated adjustments of the automated detergent equipment;

(2) For all hand-blending facilities which are terminals, a record specifying, for each VAR period, the total volume in gallons of transfers from the facility of unadditized base gasoline;

(3) For all detergent blending facilities, product transfer documents for all gasoline, detergent and detergent-additized PRC transferred into or out of the facility; in addition, bills of lading, transfer, or sale for all unadditized PRC transferred into the facility;

(4) For all automated detergent blending facilities, documentation establishing the brands (if known) and grades of the gasoline which is the subject of the VAR formula record; and

(5) For all hand blending detergent blenders, the documentation, if in the party's possession, supporting the volumes of gasoline, PRC, and detergent reported on the VAR formula record.

(6) For all detergent blending facilities, documentation establishing the curing of a batch or amount of misadditized gasoline or PRC, or the curing of a use restriction on the additized gasoline or PRC, and providing at least the following information: the date of the curing procedure; the problem that was corrected; the amount, name, and LAC of the original detergent used; the amount, name, and LAC of the added curing detergent; and the actual detergent concentration attained in, and the volume of, the total cured product.

(g) Document retention and availability. All detergent blenders shall retain the documents required under this section for a period of five years from the date the VAR formula records and supporting documentation are created, and shall deliver them upon request to the EPA Administrator or the Administrator's authorized representative.

(1) Except as provided in paragraph (g)(3) of this section, automated detergent blender facilities and hand-blender facilities which are terminals, which physically blend detergent into gasoline, must make immediately available to EPA, upon request, the preceding twelve months of VAR formula records plus the preceding two months of VAR supporting documentation.

(2) Except as provided in paragraph (g)(3) of this section, other hand-blending detergent facilities which physically blend detergent into gasoline must make immediately available to EPA, upon request, the preceding two months of VAR formula records and VAR supporting documentation.

(3) Facilities which have centrally maintained records at other locations, or have customers who maintain their own records at other locations for their proprietary detergent systems, and which can document this fact to the Agency, may have until the start of the next business day after the EPA request to supply VAR supporting documentation, or longer if approved by the Agency.

(4) In this paragraph (g) of this section, the term *immediately available*

means that the records must be provided, electronically or otherwise, within approximately one hour of EPA's request, or within a longer time frame as approved by EPA.

§ 80.171 Product transfer documents (PTDs).

(a) *Contents.* For each occasion when any gasoline refiner, importer, reseller, distributor, carrier, retailer, wholesale purchaser-consumer, oxygenate blender, detergent manufacturer, distributor, carrier, or blender, transfers custody or title to any gasoline, detergent, or detergent-additized PRC other than when detergent-additized gasoline is sold or dispensed at a retail outlet or wholesale purchaser-consumer facility to the ultimate consumer, the transferor shall provide to the transferee, and the transferee shall acquire from the transferor, documents which accurately include the following information:

(1) The name and address of the transferee and transferor; the address requirement may be fulfilled, in the alternative, through separate documentation which establishes said addresses and is maintained by the parties and made available to EPA for the same length of time as required for the PTDs, provided that the normal business procedure of these parties is not to identify addresses on PTDs.

(2) The date of the transfer.

(3) The volume of product transferred.

(4)(i) The identity of the product being transferred (*i.e.*, its identity as base gasoline, detergent, detergent-additized gasoline, or specified detergent-additized oxygenate or detergent-additized gasoline blending stock that comprises a detergent-additized PRC). PTDs for detergent-additized gasoline or PRC are not required to identify the particular detergent used to additize the product.

(ii) If the product being transferred consists of two or more different types of product subject to this regulation, *i.e.*, base gasoline, detergent-additized gasoline, or specified detergent-additized PRC, component, then the PTD for the commingled product must identify each such type of component contained in the commingled product.

(5) If the product being transferred is gasoline to which an oxygenate or a PRC has been added, the PTD for the gasoline must identify the oxygenate or PRC. The PTDs for commingled additized gasolines must identify all the oxygenates and PRCs added to either component.

(6) If the product being transferred is base gasoline, then in addition to the base gasoline identification, the following warning must be stated on the PTD: ''Not for sale to the ultimate consumer''. If, pursuant to § 80.173(a), the product being transferred is exempt base gasoline to be used for research, development, or test purposes only, the following warning must also be stated on the PTD: ''For use in research, development, and test programs only''.

(7) The name of the detergent additive as reported in its registration must be used to identify the detergent package on its PTD.

(8) If the product being transferred is leaded gasoline, then the PTD must disclose that the product contains lead and/or phosphorous, as applicable.

(9) If the product being transferred is gasoline or PRC that has been additized with detergent under a PADD-specific or CARB-based certification, or under a certification option which creates an oxygenate or PRC use restriction, then the PTD for the additized product must identify the applicable use restriction. The PTD for commingled additized gasolines or PRCs containing such restrictions must indicate the applicable restriction(s) from each component.

(10) If the product being transferred is detergent-additized gasoline or PRC that has been overadditized in anticipation of the later (or earlier) addition of PRC, then the PTD must include a statement that the product has been overadditized to account for a specified volume in gallons, or a specified percentage of the product's total volume, of additional, specified PRC.

(11) If a detergent package has been certified under only one certification option, and that option places a use restriction on the respective LAC, then the PTD must identify the detergent as use-restricted; the PTD for a detergent package certified with more than one LAC must identify that the detergent has special use options available.

(12) Base gasoline designated for fuel-specific certification.

(i) The PTD for segregated base gasoline intended for additization with a specific fuel-specific detergent pursuant to § 80.163(c) must indicate that it is for use with the designated, fuel-specific detergent.

(ii) A PTD for base gasoline may not indicate that the product is for use with a designated, fuel-specific detergent, unless the entire quantity of base gasoline is from the segregated fuel supply specified in the detergent's certification and the gasoline contains only those oxygenates or PRCs, if any, specified and approved in the detergent's certification.

(iii) If, pursuant to § 80.163(c)(3), the fuel-specific certification for the segregated pool of gasoline has established that no detergent additives are necessary for such gasoline to comply with this subpart, then the PTD must identify this gasoline as detergent-equivalent gasoline.

(b) *Use of product codes and other non-regulatory language.* (1) Product codes and other non-regulatory language may not be used as a substitute for the specified PTD warning language specified in paragraph (a)(6) of this section for base gasoline, except that:

(i) The specified warning language may be omitted for bulk transfers of base gasoline from a refinery to a pipeline if there is a prior written agreement between the parties specifying that all such gasoline is unadditized and will not be transferred to the ultimate consumer;

(ii) Product codes may be used as a substitute for the specified warning language provided that the PTD is an electronic data interchange (EDI) document being used solely for the transfer of title to the base gasoline, and provided that the product codes otherwise comply with the requirements of this section.

(2) Product codes and other non-regulatory language may not be used in place of the PTD language specified in paragraph (a)(11) of this section regarding detergent package use restrictions.

(3) Product codes and other language not specified in this section may otherwise be used to comply with PTD information requirements, provided that they are clear, accurate, and not misleading.

(4) If product codes are used, they must be standardized throughout the distribution system in which they are used, and downstream parties must be informed of their full meaning.

(c) *PTD exemption for small transfers of additized gasoline.* Transfers of additized gasoline are exempt from the PTD requirements of this section provided all the following conditions are satisfied:

(1) The product is being transferred by a distributor who is not the product's detergent blender; and

(2) The recipient is a wholesale purchaser-consumer (WPC) or other ultimate consumer of gasoline, for its own use only or for that of its agents or employees; and

(3) The volume of additized gasoline being transferred is no greater than 550 gallons.

(d) *Recordkeeping Period.* Any person creating, providing or acquiring product transfer documentation for gasoline, detergent, or detergent-additized PRC shall retain the documents required by this section for a period of five years from the date the product transfer

documentation was created, received or transferred, as applicable, and shall deliver such documents to EPA upon request. WPCs are not required to retain PTDs of additized gasoline received by them.

§ 80.172 Penalties.

(a) *General.* Any person who violates any prohibition or affirmative requirement of § 80.168 shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation.

(b) *Gasoline non-conformity.* Any violation of § 80.168(a) shall constitute a separate day of violation for each and every day the gasoline in violation remains at any place in the gasoline distribution system, beginning on the day that the gasoline is in violation of the respective prohibition and ending on the last day that such gasoline is offered for sale or is dispensed to any ultimate consumer.

(c) *Detergent non-conformity.* Any violation of § 80.168(d) shall constitute a separate day of violation for each and every day the detergent in violation remains at any place in the gasoline or detergent distribution system, beginning on the day that the detergent is in violation of the prohibition and ending on the last day that detergent-additized gasoline, containing the subject detergent as a component thereof, is offered for sale or is dispensed to any ultimate consumer.

(d) *Post-refinery component non-conformity.* Any violation of § 80.168(e) shall constitute a separate day of violation for each and every day the PRC in violation remains at any place in the PRC or gasoline distribution system, beginning on the day that the PRC is in violation of the respective prohibition and ending on the last day that detergent-additized gasoline containing the PRC is offered for sale or is dispensed to any ultimate consumer.

(e) *Product transfer document non-conformity.* Any violation of § 80.168(c) shall constitute a separate day of violation for every day the PTD is not fully in compliance. This is to begin on the day that the PTD is created or should have been created and to end at the later of the following dates:

(1) The day that the document is corrected and comes into compliance; or

(2) The day that gasoline not additized in conformity with interim detergent program requirements, as a result of the PTD non-conformity, is offered for sale or is dispensed to the ultimate consumer.

(f) *Volumetric additive reconciliation recordkeeping non-conformity.* Any VAR recordkeeping violation of § 80.168(b) shall constitute a separate day of violation for every day that VAR recordkeeping is not fully in compliance. Each element of the VAR record keeping program that is not in compliance shall constitute a separate violation for purposes of this section.

(g) *Volumetric additive reconciliation compliance standard non-conformity.* Any violation of the VAR compliance standard established in § 80.170 shall constitute a separate day of violation for each and every day of the VAR compliance period in which the standard was violated.

(h) *Volumetric additive reconciliation equipment calibration non-conformity.* Any VAR equipment calibration violation of § 80.168(b) shall constitute a separate day of violation for every day a VAR equipment calibration requirement is not met.

§ 80.173 Exemptions.

(a) *Research, development, and testing exemptions.* Any detergent that is either in a research, development, or test status, or is sold to petroleum, automobile, engine, or component manufacturers for research, development, or test purposes, or any gasoline to be used by, or under the control of, petroleum, additive, automobile, engine, or component manufacturers for research, development, or test purposes, is exempted from the provisions of the detergent certification program, provided that:

(1) The detergent (or fuel containing the detergent), or the gasoline, is kept segregated from non-exempt product, and the party possessing the product maintains documentation identifying the product as research, development, or testing detergent or fuel, as applicable, and stating that it is to be used only for research, development, or testing purposes; and

(2) The detergent (or fuel containing the detergent), or the gasoline, is not sold, dispensed, or transferred, or offered for sale, dispensing, or transfer, from a retail outlet. It shall also not be sold, dispensed, or transferred or offered for sale, dispensing, or transfer from a wholesale purchaser-consumer facility, unless such facility is associated with detergent, fuel, automotive, or engine research, development or testing; and

(3) The party using the product for research, development, or testing purposes, or the party sponsoring this usage, notifies the EPA, on at least an annual basis and prior to the use of the product, of the purpose(s) of the program(s) in which the product will be used and the anticipated volume of the product to be used. The information must be submitted to the address or fax number specified in § 80.174(c).

(b) *Racing fuel and aviation fuel exemptions.* Any fuel that is refined, sold, dispensed, transferred, or offered for sale, dispensing, or transfer as automotive racing fuel or as aircraft engine fuel, is exempted from the provisions of this subpart, provided that:

(1) The fuel is kept segregated from non-exempt fuel, and the party possessing the fuel for the purposes of refining, selling, dispensing, transferring, or offering for sale, dispensing, or transfer as automotive racing fuel or as aircraft engine fuel, maintains documentation identifying the product as racing fuel, restricted for non-highway use in racing motor vehicles, or as aviation fuel, restricted for use in aircraft, as applicable;

(2) Each pump stand at a regulated party's facility, from which such fuel is dispensed, is labeled with the applicable fuel identification and use restrictions described in paragraph (b)(1) of this section; and

(3) The fuel is not sold, dispensed, transferred, or offered for sale, dispensing, or transfer for highway use in a motor vehicle.

(c) *California gasoline exemptions.* (1) Gasoline or PRC which is additized in the state of California is exempt from the VAR provisions in §§ 80.168 (b) and (e) and 80.170, provided that:

(i) For all such gasoline or PRC, whether intended for sale within or outside of California, records of the type required for California gasoline (specified in title 13, California Code of Regulations, section 2257) are maintained; and

(ii) Such records, with the exception of daily additization records, are maintained for a period of five years from the date they were created and are delivered to EPA upon request.

(2) Gasoline or PRC that is transferred and/or sold solely within the state of California is exempt from the PTD provisions of the detergent certification program, specified in §§ 80.168(c) and 80.171.

(3) Nothing in this paragraph (c) exempts such gasoline or PRC from the requirements of § 80.168 (a) and (e), as applicable. EPA will base its determination of California gasoline's conformity with the detergent's LAC on the additization records required by CARB, or records of the same type.

§ 80.174 Addresses.

(a) The detergent additive sample required under § 80.161(b)(2) shall be sent to: Manager, Fuels and Technical Analysis Group, Testing Services Division, U.S. Environmental Protection Agency, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

(b) Other detergent registration and certification data, and certain other information which may be specified in this subpart, shall be sent to: Detergent Additive Certification, Director, Fuels and Energy Division, U.S. Environmental Protection Agency (6406J), 401 M Street, SW., Washington, DC 20460.

(c) Notifications to EPA regarding program exemptions, detergent dilution and commingling, and certain other information which may be specified in this subpart, shall be sent to: Detergent Enforcement Program, U.S. Environmental Protection Agency, Suite 214, 12345 West Alameda Parkway, Denver, CO 80228, (FAX 303–969–6490).

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Part III

Office of Management and Budget

Economic Classification Policy Committee: Standard Industrial Classification Replacement—the North American Industry Classification System Proposed Industry Classification Structure; Notice

OFFICE OF MANAGEMENT AND BUDGET

Economic Classification Policy Committee: Standard Industrial Classification Replacement—The North American Industry Classification System Proposed Industry Classification Structure

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of solicitation of comments for North American Industry Classification System industries.

SUMMARY: Under 44 U.S.C. 3504, the Office of Management and Budget (OMB) is seeking public comment on a series of notices documenting the development of the new North American Industry Classification System (NAICS), the industry classification system being proposed to replace the current Standard Industrial Classification (SIC) system. All Federal agencies that collect establishment-based data are expected to utilize the new system.

OMB is seeking comments on the usefulness and advisability of the proposed new NAICS as submitted by the Economic Classification Policy Committee (ECPC), an interagency committee established by OMB.

This notice, the sixth related to preparation of NAICS and the fourth in a series seeking comment on proposed industry structures, presents the entire proposed industry structure for NAICS including those sectors not previously published, the hierarchy, and the coding system. The structure and coding system shown in Part IV, Table 1 do not include any changes based on comments received in response to previous Federal Register notices regarding NAICS. The ECPC is currently reviewing those comments. Thus comments provided in response to any of the previous notices need not be resubmitted. This fall OMB will publish the ECPC's final recommendations to OMB for comment in a Federal Register notice that incorporates all of the ECPC's recommended revisions to the structure and coding system based on comments received in the U.S. and comments received by Canada and Mexico.

NAICS is being developed in cooperation with Statistics Canada and Mexico's Instituto Nacional de Estadística, Geografía e Informática (INEGI). The new NAICS system provides common industry definitions for Canada, Mexico, and the United States to facilitate economic analyses that cover the economies of the three North American countries. The three country collaboration on an industry classification system for North America was announced for public comment in the Federal Register, July 26, 1994, pp. 38092–38096.

The July 26, 1994 Federal Register notice includes the concepts for the new system, as developed by Statistics Canada, Mexico's INEGI, and the ECPC. It also includes a copy of the joint statement of the three countries' statistical agencies regarding the development of NAICS. That agreement includes the following principles:

(1) NAICS will be erected on a production-oriented, or supply-based, conceptual framework. This means that producing units that use identical or similar production processes will be grouped together in NAICS.

(2) The system will give special attention to developing production-oriented classifications for (a) new and emerging industries, (b) service industries in general, and (c) industries engaged in the production of advanced technologies.

(3) Time series continuity will be maintained to the extent possible. However, changes in the economy and proposals from data users must be considered. In addition, adjustments will be required for sectors where the United States, Canada, and Mexico presently have incompatible industry classification definitions in order to produce a common industry system for all three North American countries.

(4) The system will strive for compatibility with the 2-digit level of the International Standard Industrial Classification of All Economic Activities (ISIC, Rev. 3) of the United Nations.

ECPC Report No. 3—Summary of Public Responses to the Proposed New North American Industry Classification Industry System provides a summary of public comments received in response to the July 26, 1994, Federal Register notice.

A notice was published in the Federal Register, July 26, 1995, pp. 38436–38452, requesting comment on proposed industry structures for petroleum and coal product manufacturing, chemical manufacturing, and rubber and plastics manufacturing; for broadcasting and telecommunications; and for food services and drinking places and accommodations. A second Federal Register notice was published on February 6, 1996, pp. 4524–4578, requesting comment on proposed industry structures for crop production, animal production, forestry and logging; textile mills, textile product mills, apparel manufacturing, and leather and allied product manufacturing; food manufacturing and beverage and tobacco product manufacturing; fabricated metal product manufacturing; machinery manufacturing; electrical equipment, appliance and component manufacturing; and transportation equipment manufacturing. A third Federal Register notice was published on May 28, 1996, pp. 26558–26668, requesting comment on proposed industry structures for health and social assistance; educational services; computers and electronics product manufacturing; furniture manufacturing; printing and related support activities; professional, technical and scientific services; performing arts, spectator sports and related industries; museums, historical sites and similar institutions; recreation, amusement and gambling; information; wood product manufacturing, except furniture; rental and leasing; repair and maintenance; management and support; transportation; mining; paper manufacturing; nonmetallic minerals manufacturing; primary metal manufacturing; miscellaneous manufacturing; and postal service and couriers.

DATES: To ensure consideration and response to all comments on the proposals set forth in this notice, comments must be in writing and should be submitted as soon as possible, but no later than September 3, 1996. It is planned that this proposed industry system would become effective in the U.S. on January 1, 1997.

ADDRESSES: Correspondence about the industry proposals of the NAICS structure announced in this Federal Register notice should be sent to: Carole A. Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, U.S. Department of Commerce, Room 2633–3, Washington, DC 20233, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

Copies of all ECPC issues papers and ECPC reports are available by contacting Jack E. Triplett, Chairman, Economic Classification Policy Committee, Bureau of Economic Analysis (BE–42), U.S. Department of Commerce, Washington, DC 20230, telephone number: (202) 606–9615, FAX number: (202) 606–5311.

ELECTRONIC AVAILABILITY AND COMMENTS: This document is available on the Internet from the Census Bureau via WWW browser, ftp, and E-mail.

To obtain this document via WWW browser, connect to ''http://www.census.gov'' then select the ''Current Economic Indicators'' circular

icon, then select ''Economy-wide topics'' from the ''About businesses'' theme, then select ''North American Industry Classification System (NAICS)'', then select this Federal Register notice.

To obtain this document via ftp, login to ftp.census.gov as anonymous, and retrieve the file ''naicsfr6'' from the ''/pub/epcd/naics'' directory. (That directory also contains previous NAICS Federal Register notices and related documents.)

To obtain this document via Internet E-mail, send a message to majordomo@census.gov with the body text as follows: ''get gatekeeper naicsfr6.txt''. The document will be delivered as a message attachment.

Comments may be sent via Internet E-mail to the Census Bureau at naics@census.gov (do not include any capital letters in the address). Comments received at this address by the dates specified above will be included as part of the official record.

FOR FURTHER INFORMATION CONTACT:

Carole A. Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, U.S. Department of Commerce, Room 2633–3, Washington, DC 20233, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

SUPPLEMENTARY INFORMATION:

Structure of Notice

There are four parts to this notice. PART I includes the proposals for Finance and Insurance; PART II includes the structure for all of the subsectors not made comparable across all three countries and the structure for the retail and wholesale sectors, the boundaries of which are included in NAICS; PART III includes the proposed NAICS hierarchy; and PART IV presents the entire proposed structure of the new classification system, including the proposed coding system.

Part I of the notice is organized into two sections. The first section includes a copy of the proposed agreement signed by the ECPC, Statistics Canada, and INEGI; the structure of NAICS; and an explanation of the structure. For a number of reasons, NAICS industries do not always provide as much industry detail as has been present in the U.S. SIC. Each country may add additional detailed industries, below the proposed 5-digit industry level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 5-digit industry NAICS level in order to ensure full comparability among the three countries. The second section includes the U.S. detailed industries within NAICS and two comparison tables showing the differences between the 1987 SIC and the 1997 NAICS with United States detail.

Part II includes the structure for industries that have not been made comparable across all three countries. Because both resources and time for constructing NAICS were limited, the statistical agencies of the three countries agreed on the boundaries of some sectors or subsectors rather than a detailed industry structure. Those sectors (subsectors) are construction; utilities; retail trade; wholesale trade; real estate; lessors of other non-financial assets; waste management and remediation services; and other services that include personal and laundry services and religious, grantmaking, civic, and other membership organizations. For each of these sectors, except wholesale trade, Canada and the United States have agreed on an industry structure and hierarchy to ensure comparability of statistics between those two countries. The United States will provide for additional industries at the national level to reflect important industries in the United States that will not be shown separately in Canada.

Part III includes the proposed hierarchy for NAICS. This structure includes those sectors for which detailed industries have been agreed upon by the three countries and those industries that include only an agreement between Canada and the United States.

Part IV presents the entire structure of the new classification system for the United States including both NAICS and non-NAICS industries. Table 1 shows the proposed 1997 hierarchy, including NAICS and U.S. national detail industries, and the proposed coding system for NAICS with a comparison to the 1987 SIC. Table 2 is in 1987 SIC sequence and relates the 1987 SIC to the 1997 NAICS.

The structure and coding system shown in Part IV, Table 1 do not include any changes based on comments received about previous Federal Register notices regarding NAICS. The ECPC is currently reviewing these comments. If you have provided comments on any of the previous notices, you do not need to resubmit those comments. This fall OMB will publish the ECPC's final recommendations to OMB for comment in a Federal Register notice that incorporates all of the ECPC's recommended revisions to the structure and coding system based on comments received in the U.S. and comments received by Canada and Mexico.

Time Series Summary

The standard approach to preserving time series continuity after classification revisions is to create linkages where the series break. This is accomplished by producing the data series using both the old and new classifications for a given period of transition. With the dual classifications of data, the full impact of the revision can be assessed. Data producers then may measure the reallocation of the data at aggregate industry levels and develop a concordance between the new and old series for that given point in time. The concordance creates a crosswalk between the old and new classification systems. This link between the 1987 U.S. SIC and NAICS (with U.S. national detail) will be developed by the statistical agencies in the U.S.

Outreach Activities

OMB and the Economic Classification Policy Committee (ECPC) are seeking comments on the proposed NAICS structure for the industries described in this notice. In carrying out its mandate to ensure maximum public participation in the process of constructing NAICS, the ECPC has already discussed many of these industry proposals with industry and user groups and will continue to do so. In addition, the ECPC is replying on a flow basis as soon as the work is completed for industry subsectors to previous Federal Register notices. Thus, this Federal Register notice supplements other ECPC public outreach activities in the development of NAICS.

Part 1—Proposed New Industry Structure for Finance and Insurance

Section A—NAICS Structure

North American Industry Classification System (NAICS)

Agreement Number 24

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following sector: Finance and Insurance.

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the NAICS industry level of NAICS, as

necessary to meet national needs, so long as this additional detail aggregates to the NAICS industry level in order to ensure full comparability among the three countries. This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held on December 12 and December 13, 1995 in Washington, DC.

Accepted	Signature	Date
Canada	/s/ Jacob Ryten.	12/13/95
Mexico	/s/ Enrique Ordaz.	12/13/95
United States	/s/ Jack E. Triplett.	12/13/95

Attachment 1—NAICS Structure

52 FINANCE AND INSURANCE
521 Monetary Authorities—Central Bank
5211 Monetary Authorities—Central Bank
52111 Monetary Authorities—Central Bank
522 Credit Intermediation and Related Activities
523 Securities, Commodity Contracts, and Other Intermediation and Related Activities
5231 Securities and Commodity Contracts Intermediation and Brokerage
5232 Securities and Commodity Exchanges
52321 Securities and Commodity Exchanges
5239 Other Financial Investment Activities
524 Insurance Carriers and Related Activities
5241 Insurance Carriers
5242 Agencies, Brokerages, and Other Insurance Related Activities

Attachment 2—North American Industry Classification System

Draft Classification for:
Finance and Insurance

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft classification for these industries.

This draft classification constitutes the sector Finance and Insurance. This sector is composed of four subsectors: Monetary Authorities—Central Bank; Credit Intermediation and Related Activities; Securities, Commodity Contracts, and Other Intermediation and Related Activities; and Insurance Carriers and Related Activities. These subsectors are subdivided into six industry groups.

In addition, Canada and the United States will further subdivide the NAICS structure, creating, in all, nine industry groups and 25 industries; this structure is shown in Attachment 3. Mexico will have its own industry detail to reflect the very different financial institutions that exist in Mexico.

A General Outline

The Finance and Insurance sector consists of establishments primarily engaged in financial transactions—that is, transactions involving the creation, liquidation, or change in ownership of financial assets—or in facilitating financial transactions. Three principal types of activities can be identified:

- Some establishments raise funds by taking deposits and/or issuing securities, and, in the process, incur liabilities. They use these funds to acquire financial assets by making loans and/or purchasing securities. Putting themselves at risk, they channel funds from lenders to borrowers and transform or repackage the funds with respect to maturity, scale and risk. This activity is known as financial intermediation, and that term will be used in the rest of this agreement.
- Some establishments are engaged in the pooling of risk. They collect fees—insurance premiums or annuity considerations; build up reserves; invest those reserves; and make contractual payments. Fees are based on the expected incidence of the insured risk and the expected return on investment.
- Some establishments are engaged in providing specialized services facilitating, or supporting, financial intermediation, insurance, and employee benefit programs.

In addition, establishments charged with monetary control—the monetary authorities—are included in this sector.

The subsectors, industry groups, and industries within this sector have been defined on the basis of their unique production processes. As with all industries, the production processes are distinguished by their use of specialized human resources and specialized physical capital. In addition, the way in which these establishments acquire and allocate financial capital—their source of funds and the use of those funds—provides a third basis for distinguishing characteristics of the production process. For instance, the production process in raising funds through deposit taking is different from the process of raising funds in bond or money markets. The process of making loans to individuals also requires different production processes than does the creation of investment pools or the underwriting of securities.

Most of the Finance and Insurance subsectors contain one or more industry groups of intermediaries with similar patterns of raising and using funds and another industry group of establishments engaged in activities that facilitate, or are otherwise related to, that type of financial or insurance intermediation.

The subsector Monetary Authorities-Central Bank consists of establishments engaged in such central banking functions as issuing currency, regulating the supply of credit, managing the nation's international reserves, holding deposits that represent the reserves of other banks and other central banks, and acting as fiscal agent for the central government. The institutional arrangements for performing these functions may differ among countries. In Canada these functions are performed by the Bank of Canada, in Mexico by the Bank of Mexico, and in the United States by the Federal Reserve banks.[1]

The subsector Credit Intermediation and Related Activities consists of two types of establishments: those that intermediate in credit markets and those that facilitate such intermediation. Establishments in the first group lend funds to the public or to other borrowers, raising the funds that they lend by accepting deposits from the public, by borrowing from other financial intermediaries, or by issuing commercial paper and debt in the capital markets. Establishments that facilitate credit intermediation are engaged in such activities as mortgage and loan brokerage, clearinghouse and reserve services, and check cashing services.

The subsector Securities, Commodity Contracts, and Other Intermediation and Related Activities contains three industry groups. The first industry group, Securities and Commodity Contracts Intermediation and Brokerage, consists of establishments that put capital at risk in the process of engaging in underwriting securities issues or in making markets for securities and establishments that, as agents and brokers, act as intermediaries between buyers and sellers, usually charging a commission. The second industry group, Securities and Commodity Exchanges, consists of securities and commodity exchanges that provide administrative, monitoring, and enforcement services for financial markets. The third industry group, Other Financial Investment Activities, consists of establishments that facilitate the marketing of other financial contracts or provide portfolio management, other investment advisory services, trust, fiduciary, and custody services.

The subsector Insurance Carriers and Related Activities contains two industry groups. The first industry group,

[1] The Board of Governors of the Federal Reserve System is classified in Public Administration.

Insurance Carriers, consists of establishments that intermediate as the consequence of pooling risks. They invest premiums to build up a portfolio of financial assets to be used against future claims. Industries are defined in terms of the type of risk being insured against, such as, death, loss of employment because of age or disability, and property damage. Contributions and premiums are set on the basis of actuarial calculations of probable payouts based on risk factors from experience tables and expected investment returns on reserves. The second industry group, Agencies, Brokerages, and Other Insurance Related Activities, consists of agencies and brokerages selling insurance and establishments providing other insurance- and employee-benefit-related services.

Background. Existing industry classification structures for this sector typically have been specified at the enterprise level by type of financial institution—banks, life insurance companies, etc. Until recently, the functions that could be performed by particular institutions were constrained by the regulatory structure in each country; but this situation is rapidly changing, particularly in Canada and the United States. The NAICS classification proposed for Finance and Insurance is a bridge between the existing institutional basis and a structure based on the activities performed within these institutions.

Industries are defined in terms of activities for which a production process can be specified, and many of these activities are not exclusive to a particular type of financial institution. Although the activities carried out by establishments in the Finance and Insurance sector appear to be broadly similar in the three countries, the manner in which they have been organized and delivered are unique to each country—depending on laws, regulations, tradition, and technological advancements. The extent to which these activities can be separately identified and measured is not clear; consequently, three-country NAICS is specified, for the most part, only at the subsector or industry group level.

To deal with the varied activities taking place within existing financial institutions, the approach is to split these institutions into components performing specialized services. This requires defining the units engaged in providing those services and developing procedures that allow for their delineation. These units are the equivalents for Finance and Insurance of the establishments defined for other industries. There are differences in the present definition of the production unit in the three countries, ranging from the location in the United States to the enterprise in Mexico. This requires that, in designing the classification structure, consideration be given to the appropriate definition and delineation of the producing unit to be classified.

The output of many financial services, as well as the inputs and the processes by which they are combined, cannot be observed at a single location and can only be defined at a higher level of the organizational structure of the enterprise. Additionally, a number of independent activities that represent separate and distinct production processes may take place at a single location belonging to a multi-location financial firm. Activities are more likely to be homogeneous with respect to production characteristics than are locations, at least in financial services. The classification proposed defines activities broadly enough that it can be used both by those classifying by location and by those employing a more top-down approach to the delineation of the establishment.

Limitations and Constraints of the Classification

The classification of establishments engaged in activities that facilitate, or are otherwise related to, the various types of intermediation have been included in individual subsectors, rather than in a separate subsector dedicated to services alone. This is because these services are performed by intermediaries as well as by specialist establishments, and the extent to which the activity of the former can be separately identified is not clear. An aggregate that includes all of the service, wherever it is produced, is preferable to one that misses much of it. In particular, in many instances Mexico proposes to collect data on an institutional basis and would be unable to separate services. Aggregates for related activities are identified at the 3-digit industry group level, wherever possible. They can be reaggregated to a services subsector if desired.

The boundaries of the Finance and Insurance sector have been defined so as to encompass establishments primarily engaged in financial transactions—that is, transactions involving the creation, liquidation, or change in ownership of financial assets—or in facilitating financial transactions. Financial industries are extensive users of electronic means for facilitating the verification of financial balances, authorizing transactions, transferring funds to and from transactors' accounts, notifying banks (or credit card issuers) of the individual transactions and providing daily summaries. Since these transaction processing activities are integral to the production of finance and insurance services, establishments that principally provide a financial transaction processing service are classified to this sector, rather than to the data processing industry in the Information sector.

Funds, trusts and other financial vehicles that are not separate production units and do not have employees are excluded from the structure in the three-country agreement. The management of these funds can require significant human and capital resources, however, and the management activity is a major source of the value added in the investment intermediary industry. In NAICS, where there are separate establishments and employees devoted to the management of funds, they are classified in ''Other Financial Investment Activities'' by all three countries.

These legal entities that hold portfolios of assets on behalf of others are significant, however, and data on them are required for a variety of purposes. All three countries may include these legal entities in the compilation of financial and other statistics, but whereas Canada and Mexico do not propose to include them in their compilation of production statistics, the United States proposes to do so. The United States, therefore, has extended the boundary to include funds, trusts and other financial vehicles in a fifth subsector.

Relationship to ISIC

All of the industries included in this sector are contained within Divisions 65, Financial Intermediation, Except Insurance and Pension Funding; 66, Insurance and Pension Funding, and 67, Activities Auxiliary to Financial Intermediation in the current International Standard Industrial Classification of All Economic Activities (ISIC, Revision 3) of the United Nations. ISIC Division 67, however, also includes actuarial consulting services, which are in the Professional, Scientific, and Technical subsector of NAICS.

For Finance and Insurance, NAICS differs from ISIC, Rev.3, in the following respects: there are fewer detailed industries in NAICS; NAICS does not distinguish between monetary intermediation and other intermediation; NAICS monetary authorities (ISIC central banking) are not part of depository credit intermediation; NAICS includes activities related to financial intermediation within each

subsector, although to the extent that such industry groups are identified, they can be reaggregated to approximate ISIC Division 67; and those holding companies, pension funds, and other funds that are included in ISIC are excluded from NAICS.

Some Changes to the National Classifications

For Canada, an important revision is that the retail operations of banks, trust companies, and other related institutions, as well as the corporate and institutional activities of these institutions, are classified to Commercial Banking, which is in the Depository Credit Intermediation industry group. There are no longer separate classes for institutions as defined in the 1980 Canadian Standard Industrial Classification (CSIC), except credit unions.

The classes contained in Major Group 71 of the CSIC are to be found in a new industry group entitled Non-Depository Credit Intermediation in NAICS, with the exception of Venture Capital Companies, which are in the industry Miscellaneous Intermediation.

Activities related to depository and non-depository credit intermediation are included in a single industry group, Activities Related to Credit Intermediation, within the NAICS subsector, Credit Intermediation and Related Activities. For instance, central credit unions, clearing houses, and reserve and other depository services are included here. Previously all of the operations of credit card companies were classified to CSIC 7122, Credit Card Companies. In NAICS, establishments specializing in the lending activities associated with credit cards are classified in the industry, Credit Card Issuing, a component of the industry group, Non-Depository Credit Intermediation. Establishments involved in the processing of credit cards (including billing and collection) are classified in an industry within the industry group, Activities Related to Credit Intermediation. In Canada, any establishments primarily involved in the processing of credit cards and also involved in other financial transactions would be placed in the industry group, Activities Related to Credit Intermediation.

There are also important revisions in the treatment of investment intermediary industries. CSIC Major Group 72, Investment Intermediary Industries, includes establishments engaged in investing in a portfolio of securities and other investments on behalf of shareholders or unit holders. Also included in this major group are various funds and holding companies. The funds themselves are the result of savings attributable to other sectors of the economy, do not have a direct role in production, and have been excluded from NAICS. The management of these funds can require significant human and capital resources and is the primary source of the value added in this industry. Where there are separate establishments with employees devoted to the management of funds, such as in the case of mutual fund management companies, they are classified in the industry group, Other Financial Investment Activities.

For Mexico, this sector corresponds almost entirely to the combination of CMAP's subsector 81 (Insurance and financial services) and branch 9740 (Services related to financial, insurance and bond institutions). The current subsector 81 comprises 18 activity classes and branch 9740 has 5 additional classes; of these 23 classes, 11 are entirely comparable with other similar NAICS industry classes, whereas the remaining 12 underwent some changes.

Class 811046 (Non-banking Institutions engaged in savings and loans) and class 811047 (other credit institutions) are included in NAICS subsector, Credit Intermediation and Related Activities; class 813002 refers to insurance services that is included in NAICS industry group Insurance Carriers.

On the other hand, some minor CMAP classes were regrouped or placed in miscellaneous NAICS industries as in the case of surety services (813001) or the financial advisory category and development committees (811045).

Many NAICS activities will not be applicable in the case of Mexico since they refer to activities that do not exist in that country, although some may be created in the future. These activities are credit unions, interbanking and reserve boards, consumer credit, real estate credit, mortgage brokers and other credit, securities and commodity brokerage. The two other ''new'' industries with respect to the CMAP are miscellaneous industries generated by the restructuring of this sector.

Most of the current CMAP classes will correspond either to a NAICS industry or to a national industry. So, in fact, with respect to the CMAP, these changes do not represent a great impact on the time series.

For the United States, 1987 SIC Major Group 60, Depository Institutions, and 1987 SIC Major Group 61, Non-Depository Credit Institutions, differ from NAICS subsector Credit Intermediation and Related Activities in that the NAICS subsector does not include the central bank, which is in a subsector of its own; and a number of activities are broken out as industries and classified in other industry groups or subsectors—trust, fiduciary, and custody services, for example. In addition, NAICS recognizes the lending activities of pawnbrokers in this subsector; pawnbrokers were classified in 1987 SIC 5932, Used Merchandise Stores.

1987 SIC Major Group 62, Security and Commodity Brokers, Dealers, Exchanges, and Services, differs from NAICS subsector Securities, Commodity Contracts, and Other Intermediation and Related Activities in that the NAICS subsector more clearly delineates the distinction between portfolio management (classified here) and the assets under management (excluded from NAICS); it includes the trust, fiduciary, and custody activities of banks and other financial institutions; it includes part of 1987 SIC 6733, Trusts Except Educational, Religious, and Charitable; it includes part of 1987 SIC 6792, Oil Royalty Traders; and it includes part of 1987 SIC 6799, Investors Not Elsewhere Classified.

1987 SIC Major Group 63, Insurance Carriers, and 1987 SIC Major Group 64, Insurance Agents, Brokers, and Service, differ from NAICS subsector Insurance Carriers and Related Activities in that the NAICS subsector excludes those pension and other employee benefit funds that are simply legal entities organized to hold portfolios of securities and other assets on behalf of the beneficiaries of the funds.

Most of 1987 SIC Major Group 67, Holding and Other Investment Offices, is not included in the Finance and Insurance subsector in NAICS. 1987 SIC Industry Group 671, Holding Companies, and 1987 SIC Industry Group 672, Investment Offices, are included in the Funds, Trusts, and Other Financial Vehicles subsector, which is not part of NAICS but is a U.S. only subsector. 1987 SIC 6732, Educational, Religious, and Charitable Trusts, is included in the Religious, Grantmaking, Civic and Other Membership Organizations subsector; part of 1987 SIC 6733, Trusts Except Educational, Religious, and Charitable, is included in the Securities, Commodity Contracts, and Other Intermediation and Related Activities and part in Funds, Trusts and Other Financial Vehicles subsector; 1987 SIC 6794, Patent Owners and Lessors, is now a separate subsector; and 1987 SIC 6798, Real Estate Investment Trusts, and part of 1987 SIC 6799, Investors Not Elsewhere Classified, are included in

the Funds, Trusts, and Other Financial Vehicles subsector.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It is based on the production function concept, and it groups establishments with similar production processes. Data for financial institutions carrying out several activities will need to be disaggregated into their components for classification.

The classification achieves comparability at the subsector or industry group level for the three countries and at the industry level for Canada and the United States. The unique aspects of the financial systems in the three countries, as well as countries' differing abilities to break down institutional data into their component activities, are accommodated through the provision of a number of national industries in the classification.

To the extent possible, the classification structure allows for the delineation of new and emerging industries in this sector by taking into account the foreseeable changes in regulation. Innovative use of technology allows the sector to rapidly develop new products and to deliver them in new ways.

Attachment 3—Proposed U.S./Canadian 5-Digit Detail For Finance and Insurance

52 Finance and Insurance
521 Monetary Authorities—Central Bank
5211 Monetary Authorities—Central Bank
52111 Monetary Authorities—Central Bank
522 Credit Intermediation and Related Activities
5221 Depository Credit Intermediation
52211 Commercial Banking
52212 Savings Institutions
52213 Credit Unions
52219 Other Depository Credit Intermediation
5222 Non-Depository Credit Intermediation
52221 Credit Card Issuing
52222 Sales Financing
52229 Other Non-Depository Credit Intermediation
5223 Activities Related to Credit Intermediation
52231 Mortgage and Other Loan Brokers
52232 Financial Transactions Processing, Reserve, and Clearing House Activities
52239 Other Activities Related to Credit Intermediation
523 Securities, Commodity Contracts, and Other Intermediation and Related Activities
5231 Securities and Commodity Contracts Intermediation and Brokerage
52311 Investment Banking and Securities Dealing
52312 Securities Brokerage
52313 Commodity Contracts Dealing
52314 Commodity Brokerage
5232 Securities and Commodity Exchanges
52321 Securities and Commodity Exchanges
5239 Other Financial Investment Activities
52391 Miscellaneous Intermediation
52392 Portfolio Management
52393 Investment Advice
52399 All Other Financial Investment Activities
524 Insurance Carriers and Related Activities
5241 Insurance Carriers
52411 Direct Life Insurance Carriers
52412 Direct Non-Life Insurance Carriers
52413 Reinsurance Carriers
5242 Agencies, Brokerages, and Other Insurance Related Activities
52421 Insurance Agencies and Brokerages
52429 Other Insurance Related Activities

As mentioned earlier, Canada and the United States have agreed to subdivide the NAICS structure and create a number of industries. Three additional industry groups are specified, all in the sector Credit Intermediation and Related Activities, and 23 industries are defined in the industry groups that are not detailed in NAICS. As compared with the existing classifications, the major features of the proposed elaboration of the NAICS classification structure for this sector are the following:

- Financial intermediation is more clearly differentiated from services facilitating or otherwise related to financial intermediation.
- Industries are more homogeneous in terms of the activities included.
- The classification is less reflective of regulatory definitions.
- The proposed NAICS structure clearly differentiates between the management of funds and the assets under management.
- Remaining class of customer distinctions reflect true differences in production processes.

The NAICS subsector Credit Intermediation and Related Activities is subdivided into three industry groups: Depository Credit Intermediation, Non-Depository Credit Intermediation, and Activities Related to Credit Intermediation. The first industry group, Depository Credit Intermediation, consists of establishments that raise the funds they lend by accepting deposits; within it, industries are defined on the basis of differences in the types of deposit liabilities assumed and the nature of the credit extended. The second industry group, Non-Depository Credit Intermediation, consists of establishments that fund themselves by borrowing from other financial intermediaries or by issuing commercial paper and other debt instruments; within this group, industries are defined on the basis of the type of credit being extended. The third industry group, Activities Related to Credit Intermediation, consists of establishments that facilitate credit intermediation by such activities as bringing borrowers and lenders together and clearing checks and credit card transactions.

The NAICS industry group Securities and Commodity Contracts Intermediation and Brokerage is subdivided into four industries that distinguish between brokers who bring together buyers and sellers of financial instruments, usually charging a commission, and establishments that intermediate by putting capital at risk and that are compensated by price spreads on the instruments they trade. An additional distinction is made between establishments operating in securities markets and establishments operating in commodities contract markets.

The NAICS industry group Other Financial Investment Activities is subdivided into four industries. Miscellaneous Intermediation consists of establishments that put capital at risk in instruments other than securities and commodity contracts. Establishments in Portfolio Management have authority to direct the use or investment of funds or other assets; for a fee, they buy and sell securities or other assets in portfolios of assets entrusted to them and make decisions about the objectives and content of these portfolios. Investment Advice consists of establishments that provide investment information on a fee basis, but do not have authority to execute trades. Establishments in All Other Financial Investment Activities are engaged in such activities as providing trust, fiduciary and custody services.

The NAICS industry group Insurance Carriers is subdivided into three industries. Direct Life Insurance Carriers underwrite annuities and life, accidental death and dismemberment, and disability income insurance directly to policyholders. Direct Non-Life Insurance Carriers underwrite various lines of insurance (other than life insurance) directly to policyholders. Reinsurance Carriers assume all or part of insurance policies originally written by another carrier.

The NAICS industry group Agencies, Brokerages, and Other Insurance Related Activities is subdivided into two industries. Insurance Agencies and Brokerages consists of establishments that sell insurance products. Other Insurance Related Activities consists of establishments providing, on a fee or

contract basis, such insurance services as claims administration and adjusting.

Section B—Annex: United States National Industry Detail

As explained in the Structure presentation of this notice, the three country agreement on NAICS envisions that each country may develop national detail industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability. As explained earlier, for finance and insurance the three countries agreed to comparability at either the subsector or the industry group level. However, Canada and the United States have agreed to a classification that extends comparability to the 5-digit industry level. Attachment 3 shows the industry detail agreed upon by Canada and the United States. These industries can be aggregated to the NAICS classifications, thus assuring full North American comparability.

The ECPC is proposing U.S. 6-digit industry detail for this NAICS industry sector. In the following tables, proposed 6-digit detail is shown. For cases where no 6-digit detail is shown, the ECPC is proposing that the 5-digit industries will also represent the most detailed U.S. industries.

In addition to the 6-digit detail, there is a U.S.-only subsector—Funds, Trusts, and Other Financial Vehicles—that provides a classification structure for legal entities organized to hold portfolios of securities or other assets on behalf of shareholders, beneficiaries of pension funds, etc. The portfolio is customized so as to achieve specific investment characteristics, such as diversification, risk, rate of return, and price volatility. These entities earn interest, dividends, and other property income, but have no employment or revenue from the sale of services. The funds themselves are excluded from the NAICS classification, because they are not separate production units and do not have employees, although establishments with employees devoted to the management of funds are classified in several of the industries within the NAICS subsectors Securities, Commodity Contracts, and Other Intermediation and Related Activities and Insurance Carriers and Related Activities.

Despite their lack of employment, these funds are economically significant, and the United States requires data related to them for various purposes. For instance, financial flow accounts and balance of payments accounts track changes in outstanding assets and liabilities, and interest and dividend income earnings are important in determining the distribution of income. Moreover, funds are frequently given tax numbers, become part of the survey frame, and are sometimes surveyed. It is necessary to have a structure for classifying such records and keeping them separate from those of producing units. Consequently, these funds are placed in a U.S.-only subsector at the end of the NAICS classification structure. Included in this subsector are: Holding Companies, Insurance and Employee Benefit Funds, and Investment Pools and Funds.

TABLE 1

The definition of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
521	Monetary Authorities—Central Bank			
5211	Monetary Authorities—Central Bank			
52111	Monetary Authorities—Central Bank	E	6011	Federal Reserve Banks.
522	Credit Intermediation and Related Activities			
5221	Depository Credit Intermediation			
52211	Commercial Banking	R	*6021	National Commercial Banks (banking).
			*6022	State Commercial Banks (banking).
			6029	Commercial Banks, NEC.
			*6081	Branches and Agencies of Foreign Banks (banking).
52212	Savings Institutions	R	6035	Savings Institutions, Federally Chartered.
			6036	Savings Institutions, Not Federally Chartered.
52213	Credit Unions	R	6061	Credit Unions, Federally Chartered.
			6062	Credit Unions, Not Federally Chartered.
52219	Other Depository Credit Intermediation	N	*6099	Functions Related to Depository Banking, NEC (money order issuance).
5222	Non-Depository Credit Intermediation			
52221	Credit Card Issuing	N	*6021	National Commercial Banks (credit card issuing).
			*6022	State Commercial Banks (credit card issuing).
			*6141	Personal Credit Institutions (credit card issuing).
52222	Sales Financing	N	*6141	Personal Credit Institutions (installment sales finance).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (business sales finance).
			*6159	Miscellaneous Business Credit Institutions (finance leasing).
52229	Other Non-Depository Credit Intermediation			
522291	Consumer Credit	R	*6141	Personal Credit Institutions (except installment sales finance and credit card issuing).
522292	Real Estate Credit	R	*6162	Mortgage Bankers and Loan Correspondents (mortgage bankers and originators).
522293	International Trade Financing	N	*6081	Branches and Agencies of Foreign Banks (international trade financing).
			6082	Foreign Trade and International Banking Institutions.
			*6111	Federal and Federally-Sponsored Credit Agencies (trade banks).

TABLE 1—Continued

The definition of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*6159	Miscellaneous Business Credit Institutions (trade banks).
522294	Secondary Market Financing	N	*6111	Federal and Federally Sponsored Credit Agencies (except trade banks).
522299	All Other Non-Depository Credit Intermediation.	N	*5932	Used Merchandise Stores (pawnshops)
			*6081	Branches and Agencies of Foreign Banks (agencies).
			*6111	Federal and Federally-Sponsored Credit Agencies (except trade banks and secondary market financing).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (except credit card service and business sales finance).
			*6159	Miscellaneous Business Credit Institutions (except trade banks and finance leasing).
5223	Activities Related to Credit Intermediation			
52231	Mortgage and Other Loan Brokers	E	6163	Loan Brokers.
52232	Financial Transactions Processing, Reserve, and Clearing House Activities.	N	6019	Central Reserve Depository Institutions, NEC.
			*6099	Functions Related to Depository Banking, NEC (electronic funds transfer networks and clearing house associations).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (credit card service).
			*7389	Business Services, NEC (credit card service).
52239	Other Activities Related to Credit Intermediation	N	*6099	Functions Related to Depository Banking, NEC (except money orders, electronic funds transfer networks and clearing houses, foreign currency exchanges, escrow and fiduciary agencies and deposit brokers).
			*6162	Mortgage Bankers and Loan Correspondents (mortgage servicing).
523	Securities, Commodity Contracts and Other Intermediation and Related Activities			
5231	Securities and Commodity Contracts Intermediation and Brokerage			
52311	Investment Banking and Securities Dealing	N	*6211	Security Brokers, Dealers, and Flotation Companies (securities dealers and underwriters).
52312	Securities Brokerage	N	*6211	Security Brokers, Dealers, and Flotation Companies (security brokers).
52313	Commodity Contracts Dealing	N	*6099	Functions Related to depository Banking, NEC (foreign currency exchange).
			*6221	Commodity Contracts Brokers and Dealers (commodity dealers).
52314	Commodity Brokerage	N	*6221	Commodity Contracts Brokers and Dealers (commodity brokers).
5232	Securities and Commodity Exchanges			
52321	Securities and Commodity Exchanges	E	6231	Security and Commodity Exchanges.
5239	Other Financial Investment Activities			
52391	Miscellaneous Intermediation	N	*6211	Securities Brokers, Dealers and Flotation Companies (except securities and commodity dealers).
			*6799	Investors, NEC (venture capital companies).
52392	Portfolio Management	N	*6282	Investment Advice (portfolio managers).
			*6371	Pension, Health, and Welfare Funds (managers).
			*6733	Trust, Except Educational, Religious, and Charitable (managers).
			*6799	Investors, NEC (pool operators).
52393	Investment Advice	R	*6282	Investment Advice (except portfolio managers).
52399	All Other Financial Investment Activities			
523991	Trust, Fiduciary and Custody Activities	N	*6021	National Commercial Banks (trust services).
			*6022	State Commercial Banks (trust services).
			6091	Nondeposit Trust Facilities.
			*6099	Functions Related to Depository Banking, NEC (escrow and fiduciary agencies).
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (securities custodians).

TABLE 1—Continued

The definition of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*6733	Trusts, Except Educational, Religious, and Charitable (administrators of private estates).
523999	Miscellaneous Financial Investment Activities	R	*6099	Functions Related to Depository Banking, NEC (deposit brokers).
			*6211	Security Brokers, Dealers, and Flotation Companies (dealers, except security and commodity).
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (except security custodians).
			*6792	Oil Royalty Traders (investors on own account).
524	Insurance Carriers and Related Activities			
5241	Insurance Carriers			
52411	Direct Life Insurance Carriers	R	*6311	Life Insurance (life insurers-direct).
52412	Direct Non-Life Insurance Carriers			
524121	Property and Casualty Insurance Carriers	R	*6331	Fire, Marine, and Casualty Insurance (fire, marine, and casualty insurers-direct).
			*6351	Surety Insurance (financial responsibility insurers-direct).
524122	Health and Medical Insurance Carriers	R	*6324	Hospital and Medical Service Plans (health and medical insurers-direct).
			*6321	Accident and Health Insurance (health and medical insurers-direct).
524123	Title Insurance Carriers	R	*6361	Title Insurance (title insurers-direct).
524129	Other Direct Non-Life Insurance Carriers	E	6399	Insurance Carriers, NEC.
52413	Reinsurance Carriers	N	*6311	Life Insurance (reinsurers).
			*6321	Accident and Health Insurance (reinsurers).
			*6324	Hospital and Medical Service Plans (reinsurers).
			*6331	Fire, Marine, and Casualty Insurance (reinsurers).
			*6351	Surety Insurance (reinsurers).
			*6361	Title Insurance (reinsurers).
5242	Agencies, Brokerages and Other Insurance Related Activities			
52421	Insurance Agencies and Brokerages	R	*6411	Insurance Agents, Brokers and Service (insurance agents and brokers)
52429	Other Insurance Related Activities			
524291	Claims Adjusters	N	*6411	Insurance Agents, Brokers and Service (insurance claims adjusters).
524292	Third Party Administration for Insurance and Pension Funds.	N	*6371	Pension, Health, and Welfare Funds (administrators).
			*6411	Insurance Agents, Brokers and Service (processors).
524299	All Other Activities Related to Insurance	N	*6411	Insurance Agents, Brokers and Service (except processors, agents and brokers, and claims adjusters).
525	Funds, Trusts and Other Financial Vehicles (U.S. Only)			
5251	Holding Companies			
52511	Holding Companies			
525111	Bank Holding Companies	E	6712	Offices of Bank Holding Companies.
525119	Other Holding Companies	E	6719	Offices of Holding Companies, NEC.
5252	Insurance and Employee Benefit Funds			
52521	Pension Funds	N	*6371	Pension, Health, and Welfare Funds (pension funds).
52522	Health and Welfare Funds	N	*6371	Pension, Health, and Welfare Funds (health and welfare funds).
52523	Insurance and Other Employee Benefit Funds	N	*6321	Accident and Health Insurance (self insurers).
			*6324	Hospital and Medical Service Plans (self insurers).
			*6331	Fire, Marine, and Casualty Insurance (self insurers).
			*6733	Trusts, Except Educational, Religious, and Charitable (vacation funds for employees).
5259	Other Investment Pools and Funds			
52591	Open-End Investment Funds	E	6722	Management Investment Offices, Open-End.
52592	Personal Trusts, Estates, and Agency Accounts	N	*6733	Trusts, Except Educational, Religious, and Charitable (personal trusts, estates, and agency accounts).
52593	Mortgage Investment Funds	E	6798	Real Estate Investment Trusts (REIT funds).

TABLE 1—Continued

The definition of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
52599	Other Financial Vehicles	E	6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices.

TABLE 2

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 USIC code	1987 USIC description	1997 U.S. description
5932	Used Merchandise Stores	
	Pawnshops	All Other Non-Depository Credit Intermediation (pt).
	Except Pawnshops	Used Merchandise Stores.
6011	Federal Reserve Banks	Monetary Authorities-Central Banks.
6019@	Central Reserve Depository Institutions, NEC	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
6021@	National Commercial Banks	
	Commercial Banks	Commercial Banking (pt).
	Credit Card Issuing	Credit Card Issuing (pt).
	Trust Services.	
	Trust, Fiduciary and Custody Activities (pt)	
6022@	State Commercial Banks	
	Commercial Banks	Commercial Banking (pt).
	Credit Card Issuing	Credit Card Issuing (pt).
	Trust Services	Trust, Fiduciary and Custody Activities (pt).
6029@	Commercial Banks, NEC	Commercial Banking (pt).
6035@	Savings Institutions, Federally Chartered	Savings Institutions (pt).
6036@	Savings Institutions, Not Federally Chartered	Savings Institutions (pt).
6061@	Credit Unions, Federally Chartered	Credit Unions (pt).
6062@	Credit Unions, Not Federally Chartered	Credit Unions (pt).
6081@	Branches and Agencies of Foreign Banks	
	International Trade Financing	International Trade Financing (pt).
	Branches of Foreign Banks	Commercial Banking (pt).
	Agencies of Foreign Banks	All Other Non-Depository Credit Intermediation (pt).
6082@	Foreign Trade and International Banking Institutions	International Trade Financing (pt).
6091@	Nondeposit Trust Facilities	Trust, Fiduciary, and Custody Activities (pt).
6099@	Functions Related to Deposit Banking, NEC	
	Money Order Issuance	Other Depository Credit Intermediation (pt).
	Clearinghouses	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
	Foreign Currency Exchange	Commodity Contracts Dealing (pt).
	Escrow and Fiduciary Agencies	Trust, Fiduciary, and Custody Activities (pt).
	Deposit Brokers	Miscellaneous Financial Investment Activities (pt).
	Other	Other Activities Related to Credit Intermediation (pt).
6111	Federal and Federally Sponsored Credit Agencies.	
	Trade Banks	International Trade Financing (pt).
	Secondary Market Financing	Secondary Market Financing.
	Other	All Other Non-Depository Credit Intermediation (pt).
6141@	Personal Credit Institutions	
	Credit Card Issuing	Credit Card Issuing (pt).
	Installment Sales Financing	Sales Financing and Finance Leasing (pt).
	Other	Consumer Credit (pt).
6153@	Short-Term Business Institutions, Except Agricultural	
	Business Sales Finance	Sales Financing and Finance Leasing (pt).
	Credit Card Service	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
	Other	All Other Non-Depository Credit Intermediation (pt).
6159@	Miscellaneous Business Credit Institutions	
	Finance Leasing	Sales Financing and Finance Leasing.
	Trade Banks	International Trade Financing (pt).
	Other	All Other Non-Depository Credit Intermediation (pt).
6162@	Mortgage Bankers and Loan Correspondents	
	Mortgage Bankers and Originators	Real Estate Credit.
	Mortgage Servicing	Other Activities Related to Credit Intermediation (pt).
6163	Loan Brokers	Mortgage and Other Loan Brokers.
6211@	Security Brokers, Dealers, and Flotation Companies	

TABLE 2—Continued

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 USIC code	1987 USIC description	1997 U.S. description
	Security Dealers and Underwriters	Investment Banking and Securities Dealing (pt).
	Security Brokers	Securities Brokerage.
	Dealers, Except Securities and Commodities	Miscellaneous Intermediation (pt).
	Other	Miscellaneous Financial Investment Activities (pt).
6221@	Commodity Contracts Brokers and Dealers	
	Commodity Dealers	Commodity Contracts Dealing (pt).
	Commodity Brokers	Commodity Brokerage (pt).
6231	Security and Commodity Exchanges	Securities and Commodity Exchanges.
6282@	Investment Advice	
	Portfolio Managers	Portfolio Management (pt).
	Other	Investment Advice (pt).
6289@	Services Allied With the Exchange of Securities or Commodities, NEC	
	Securities Custodians	Trust, Fiduciary, and Custody Activities (pt).
	Other	Miscellaneous Financial Investment Activities (pt).
6311@	Life Insurance	
	Life Insurers—Direct	Direct Life Insurance Carriers (pt).
	Reinsurance Carriers, Life	Reinsurance Carriers (pt).
6321@	Accident and Health Insurance	
	Health and Medical Insurers—Direct	Health and Medical Insurance Carriers (pt).
	Reinsurance Carriers, Accident and Health	Reinsurance Carriers (pt).
	Self Insurers	Insurance and Other Employee Benefit Funds (pt).
6324@	Hospital and Medical Service Plans	
	Health and Medical Insurers—Direct	Health and Medical Insurance Carriers (pt).
	Reinsurance Carriers, Health and Medical	Reinsurance Carriers (pt).
	Self Insurers	Insurance and Other Employee Benefit Funds (pt).
6331@	Fire, Marine, and Casualty Insurance	
	Fire, Marine, and Casualty Insurers-Direct	Property and Casualty Insurance Carriers (pt).
	Reinsurance Carriers, Fire, Marine, and Casualty	Reinsurance Carriers (pt).
	Self Insurers	Insurance and Other Employee Benefit Funds (pt).
6351@	Surety Insurance	
	Financial Responsibility Insurers-Direct	Property and Casualty Insurance Carriers (pt).
	Reinsurance Carriers, Financial Responsibility	Reinsurance Carriers (pt).
6361@	Title Insurance	
	Title Insurers—Direct	Title Insurance Carriers (pt).
	Reinsurance Carriers, Title	Reinsurance Carriers (pt).
6371@	Pension, Health, and Welfare Funds	
	Managers	Portfolio Management.
	Administrators	Third Party Administration for Insurance and Pension Funds (pt).
	Pension Funds	Pension Funds (pt).
	Health and Welfare Funds	Health and Welfare Funds (pt).
6399	Insurance Carriers, NEC	Other Direct Non-Life Insurance Carriers.
6411@	Insurance Agents, Brokers, and Service	
	Insurance Agents and Brokers	Insurance Agencies and Brokerages.
	Claim Adjusters	Claims Adjusters.
	Claim Processors	Third Party Administrators for Insurance and Pension Funds (pt).
	Other	All Other Activities Related to Insurance.
6712	Offices of Bank Holding Companies	Bank Holding Companies.
6719	Offices of Holding Companies, NEC	Other Holding Companies.
6722	Management Investment Offices, Open-End	Open-End Investment Funds.
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices.	Other Financial Vehicles.
6732	Educational, Religious and Charitable Trusts	Grantmaking Foundations.
6733@	Trusts, Except Educational, Religious, and Charitable	Grantmaking Foundations.
	Managers	Portfolio Management (pt).
	Administrators of Private Estates	Trust, Fiduciary, and Custody Services (pt).
	Vacation Funds for Employees	Insurance and Other Employee Benefit Funds (pt).
	Personal Trusts, Estates, and Agency Accounts	Personal Trusts, Estates, and Agency Accounts (pt).
6792@	Oil Royalty Traders	
	Investors on Own Account	Miscellaneous Financial Investment Activities (pt).
	Oil Royalty Trading Companies	Owners and Lessors of Other Non-Financial Assets.
6794	Patent Owners and Lessors	Owners and Lessors of Other Non-Financial Assets.
6798	Real Estate Investment Trusts	Mortgage Investment Funds.
6799@	Investors, NEC	
	Venture Capital Companies	Miscellaneous Intermediation (pt).
	Pool Operators	Portfolio Management (pt).
	Other	Miscellaneous Financial Investment Activities (pt).

TABLE 2—Continued

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 USIC code	1987 USIC description	1997 U.S. description
7389	Business Services, NEC	
	Credit Card Service	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
	Other Business Services	Included in Other Subsectors of NAICS.

Overview of the U.S. Classification Structure

1987 SIC Major Group 60, Depository Institutions, differs from industry group Depository Credit Intermediation in that the new industry group does not include the central bank, which is in a subsector of its own; industries are no longer defined by charter; and a number of activities are broken out as industries and classified in other industry groups or subsectors—trust, fiduciary, and custody services, for example. In addition, activities such as clearing houses and reserve services, which were part of 1987 SIC Major Group 60, are classified to the new industry group Activities Related to Credit Intermediation.

1987 SIC Major Group 61, Non-Depository Credit Institutions, is similar in coverage to the new industry group Non-Depository Credit Intermediation, but, in the latter, industry detail is based on production differences in granting particular types of credit, not on class of customers or on the extent of government sponsorship. In particular, the activities previously included in 1987 Industry Group 615, Business Credit Institutions, are now more clearly specified. In addition, NAICS recognizes the lending activities of pawnbrokers in this subsector; pawnbrokers were classified in 1987 SIC 5932, Used Merchandise Stores. In addition, activities such as mortgage brokers and financial transactions processing are classified to the new industry group Activities Related to Credit Intermediation.

1987 SIC Major Group 62, Security and Commodity Brokers, Dealers, Exchanges, and Services, differs from NAICS subsector Securities, Commodity Contracts, and Other Intermediation and Related Activities in that the NAICS subsector separates brokerage from underwriting and dealing; it more clearly delineates the distinction between portfolio management (classified here) and the assets under management (excluded from NAICS but shown as U.S. detail); and it includes the trust, fiduciary, and custody activities of banks and other financial institutions.

1987 SIC Major Groups 63, Insurance Carriers, and 64, Insurance Agents, Brokers, and Service, differ from NAICS subsector Insurance Carriers and Related Activities in that in NAICS, reinsurance carriers are separated from direct insurance carriers; pension and other employee benefit funds (now in the U.S. subsector Funds, Trusts, and Other Financial Vehicles) are no longer included; and separate industries are defined for several insurance-related services.

1987 Major Group 67, Holding and Other Investment Offices, differs from the U.S.-only subsector Funds, Trusts, and Other Financial Vehicles, in that the latter includes 1987 SIC 6371, Pension, Health and Welfare Funds, but excludes 1987 SIC 6732, Educational, Religious, and Charitable Trusts; 1987 SIC 6792, Oil Royalty Traders; 1987 SIC 6794, Patent Owners and Lessors; and 1987 SIC 6799, Investors NEC. 1987 SIC 6732 has been transferred to the Religious, Grantmaking, Civic, and Other Membership Association subsector on the grounds that they are essentially treasury establishments supporting the charitable purposes of the entities that own the assets under management. Part of 1987 SIC 6792, Oil Royalty Traders, and part of 1987 SIC 6794, Patent Owners and Lessors, have been transferred to a new subsector. The remainder of 1987 SIC 6792, Oil Royalty Traders, and 1987 SIC 6799, Investors, NEC, are classified in Miscellaneous Financial Investment Activities.

Description of Changes to the U.S. System

There are 44 industries in this sector, of which 23 are new, 14 are revised, and 7 remain the same as in the 1987 SIC.

1. Monetary Authorities—Central Bank: There were two industries in this subsector for 1987. One, 1987 SIC 6011, Federal Reserve Banks, remains in this subsector; the other, 1987 SIC 6019, Central Reserve Depository Institutions, NEC, is moved to Credit Intermediation and Related Activities.

2. Credit Intermediation and Related Activities: Eight new industries are added to the 1997 industry structure for this subsector. New industries are the following:

Other Depository Credit Intermediation from part of 1987 SIC 6099, Functions Related to Depository Banking, NEC.

Credit Card Issuing from part of 1987 SIC 6021, National Commercial Banks; part of 1987 SIC 6022, State Commercial Banks; and part of 1987 SIC 6141, Personal Credit Institutions.

Sales Financing and Finance Leasing from part of 1987 SIC 6141, Personal Credit Institutions' part of 1987 SIC 6153, Short-Term Business Credit Institutions, Except Agricultural; and part of 1987 SIC 6159, Miscellaneous Business Credit Institutions.

International Trade Financing from part of 1987 SIC 6081, Branches and Agencies of Foreign Banks; from 1987 SIC 6082, Foreign Trade and International Banking Institutions; part of 1987 SIC 6111, Federal and Federally-Sponsored Credit Agencies; and part of 1987 SIC 6159, Miscellaneous Business Credit Institutions.

Secondary Market Financing from part of 1987 SIC 6111, Federal and Federally-Sponsored Credit Agencies.

All Other Non-Depository Credit Intermediation from part of 1987 SIC 5932, Used Merchandise Stores; part of 1987 SIC 6081, Branches and Agencies of Foreign Banks; part of 1987 SIC 6111, Federal and Federally-Sponsored Credit Agencies; part of 1987 SIC 6153, Short-Term Business Credit Institutions, Except Agriculture; and part of 1987 SIC 6159, Miscellaneous Business Credit Institutions.

Financial Transactions Processing, Reserve, and Clearing House Activities from 1987 SIC 6019, Central Reserve Depository Institutions, NEC; part of 1987 SIC 6099, Functions Related to Depository Banking, NEC; part of 1987 SIC 6153, Short-Term Business Credit Institutions, Except Agricultural; and part of 1987 SIC 7389, Business Services, NEC.

Other Activities Related to Credit Intermediation from part of 1987 SIC 6099, Functions Related to Depository Banking, NEC, and part of 1987 SIC 6162, Mortgage Bankers and Loan Correspondents.

Five industries are revised for the 1997 industry structure for this subsector. The revised industries are the following:

Commercial Banking revised from part of 1987 SIC 6021, National Commercial Banks; part of 1987 SIC 6022, State Commercial Banks; 1987 SIC 6029, Commercial Banks, NEC; and part of 1987 SIC 6081, Branches and Agencies of Foreign Banks.

Savings Institutions revised to include 1987 SIC 6035, Savings Institutions, Federally Chartered, and 1987 SIC 6036, Savings Institutions, Not Federally Chartered.

Credit Unions revised to include 1987 SIC 6061, Credit Unions, Federally Chartered, and 1987 SIC 6062, Credit Unions, Not Federally Chartered.

Consumer Credit revised to include part of 1987 SIC 6141, Personal Credit Institutions.

Real Estate Credit revised from part of 1987 SIC 6162, Mortgage Bankers and Loan Correspondents.

The number of Credit Intermediation and Related Activities industries decreased from 18 in 1987 to 14 in 1997. For time series linkage, there is one 1987 industry that is comparable within 3 percent of the 1997 industry.

3. Securities, Commodity Contracts, and Other Intermediation and Related Activities: Seven new industries are added to the 1997 industry structure for this subsector. New industries are the following:

Investment Banking and Securities Dealing from part of 1987 SIC 6211, Security Brokers, Dealers, and Flotation Companies.

Securities Brokerage from part of 1987 SIC 6211, Security Brokers, Dealers, and Flotation Companies.

Commodity Contracts Dealing from part of 1987 SIC 6099, Functions Related to Depository Banking, NEC, and part of 1987 SIC 6221, Commodity Contracts Brokers and Dealers.

Commodity Brokerage from part of 1987 SIC 6221, Commodity Contracts Brokers and Dealers.

Miscellaneous Intermediation from part of 1987 SIC 6211, Security Brokers, Dealers, and Flotation Companies; and part of 1987 SIC 6799, Investors, NEC.

Portfolio Management from part of 1987 SIC 6282, Investment Advice; part of 1987 SIC 6371, Pension, Health, and Welfare Funds; part of 1987 SIC 6733, Trusts, Except Educational, Religious, and Charitable; and part of 1987 SIC 6799, Investors, NEC.

Trust, Fiduciary and Custody Activities from part of 1987 SIC 6021, National Commercial Banks; part of 1987 SIC 6022, State Commercial Banks; 1987 SIC 6091, Non-deposit Trust Facilities; part of 1987 SIC 6099, Functions Related to Depository Banking, NEC; part of 1987 SIC 6289, Services Allied With the Exchange of Securities or Commodities, NEC; and part of 1987 SIC 6733, Trusts, Except Educational, Religious, and Charitable.

Two industries are revised for the 1997 industry structure for this subsector. The revised industries are the following:

Investment Advice revised to include part of 1987 SIC 6282, Investment Advice.

Miscellaneous Financial Investment Activities revised to include part of 1987 SIC 6099, Functions Related to Depository Banking, NEC; part of 1987 SIC 6211, Security Brokers, Dealers, and Flotation Companies; part of 1987 SIC 6289, Services Allied With the Exchange of Securities or Commodities, NEC; part of 1987 SIC 6792, Oil Royalty Traders; and part of 1987 SIC 6799, Investors, NEC.

The number of Securities, Commodity Contracts, and Other Intermediation and Related Activities industries increased from 5 in 1987 to 10 in 1997. For time series linkage, one 1987 industry is comparable within 3 percent of the 1997 industry.

4. Insurance Carriers and Related Activities: Four new industries are added to the 1997 industry structure for this subsector. New industries are the following:

Reinsurance Carriers from part of 1987 SIC 6311, Life Insurance; part of 1987 SIC 6321, Accident and Health Insurance; part of 1987 SIC 6324, Hospital and Medical Service Plans; part of 1987 SIC 6331, Fire, Marine, and Casualty Insurance; part of 1987 SIC 6351, Surety Insurance; and part of 1987 SIC 6361, Title Insurance.

Claims Adjusters from part of 1987 SIC 6411, Insurance Agents, Brokers, and Service.

Third Party Administrators for Insurance and Pension funds from part of 1987 SIC 6371, Pension, Health, and Welfare Funds, and part of 1987 SIC 6411, Insurance Agents, Brokers and Service.

All Other Activities Related to Insurance from part of 1987 SIC 6411, Insurance Agents, Brokers and Service.

Five industries are revised for the 1997 industry structure for this subsector. The revised industries are the following:

Direct Life Insurance Carriers revised to include part of 1987 SIC 6311, Life Insurance, and part of 1987 SIC 6321, Accident and Health Insurance.

Property and Casualty Insurance Carriers revised to include part of 1987 SIC 6331, Fire, Marine, and Casualty Insurance, and part of 1987 SIC 6351, Surety Insurance.

Health and Medical Insurance Carriers revised to include part of 1987 SIC 6324, Hospital and Medical Service Plans, and part of 1987 SIC 6321, Accident and Health Insurance.

Title Insurance Carriers revised to include part of 1987 SIC 6361, Title Insurance.

Insurance Agencies and Brokerages revised to include part of 1987 SIC 6411, Insurance Agents, Brokers and Service.

The number of Insurance Carriers and Related Activities industries increased from 9 in 1987 to 10 in 1997. For time series linkage, there is one 1987 industry that is comparable within 3 percent of the 1997 industry.

5. Funds, Trusts, and Other Financial Vehicles: Four new industries are added to the 1997 industry structure for this (U.S. only) subsector. New industries are the following:

Pension Funds from part of 1987 SIC 6371, Pension, Health, and Welfare Funds.

Health and Welfare Funds from part of 1987 SIC 6371, Pension, Health, and Welfare Funds.

Insurance Funds and Other Employee Benefit Funds from part of 1987 SIC 6321, Accident and Health Insurance; part of 1987 SIC 6324, Hospital and Medical Service Plans; part of 1987 SIC 6331, Fire, Marine, and Casualty Insurance; and part of 1987 SIC 6733, Trusts, Except Educational, Religious, and Charitable.

Personal Trusts, Estates, and Agency Accounts from part of 1987 SIC 6733, Trusts, Except Educational, Religious, and Charitable.

Two industries were revised for 1987. The revised industries are as follows:

Financial Holding Companies from 1987 SIC 6712, Offices of Bank Holding Companies and part of 1987 SIC 6719, Offices of Holding Companies, NEC.

Managing Holding Companies from part of 1987 SIC 6719, Offices of Holding Companies, NEC.

The number of Funds, Trusts, and Other Financial Vehicles industries decreased from 10 in 1987 to nine in 1997. For time series linkage, four 1987 industries are comparable within 3 percent of the 1997 industries.

For time series linkage, 10 of the 43 1987 industries are comparable within 3 percent of the 1997 industries. Nine of

the 44 1997 industries are included in the subsector Funds, Trusts, and Other Financial Vehicles.

Part II—Proposed New Industry Structure for Construction; Utilities; Waste Management and Remediation Services; Retail Trade; Wholesale Trade; Real Estate; Lessors of Other Non-Financial Assets; Personal and Laundry Services; and Religious, Grantmaking, Civic and Other Membership Organizations

Construction

This draft classification is provided for the Construction sector.

The Construction sector includes establishments primarily engaged in the construction of buildings and other structures, additions, alterations, reconstruction, installations and maintenance and repairs. The industries within this sector have been defined on the basis of their unique production processes. As with all industries, the production processes are distinguished by their use of specialized human resources and specialized physical capital. Construction activities are generally administered or managed at a relatively fixed place of business, but the actual construction work is performed at one or more different project sites.

This sector is divided into three subsectors of construction activities: (1) building construction and land subdivision and land development; (2) heavy construction other than buildings, such as highways, tunnels, and pipelines; and (3) construction activity by special trade contractors.

Establishments classified in the Building, Developing and General Contracting subsector and the Heavy Construction (other than buildings) subsector, usually assume responsibility for an entire construction project, and may subcontract some or all of the actual construction work. Operative builders who build on their own account for sale, and Land Subdividers and Land Developers, who engage in subdividing real property into lots for sale, are included in the Building, Developing and General Contracting subsector. Special Trade Contractors can be included in the Heavy Construction subsector if they are engaged in activities primarily relating to heavy construction, such as grading for highways. Some establishments included in these subsectors operate under arrangements such as design-build, engineer-constructor, joint venture, and turnkey construction. Construction management is also included.

The Special Trade Contractors subsector includes establishments that are primarily engaged in specialized construction activities, such as plumbing, painting, and electrical work and work for builders and general contractors under subcontract or directly for project owners.

''Force Account'' construction is construction work performed by an establishment primarily engaged in some business other than construction, for its own account and use, and by employees of the establishment. This activity is not included in this industry sector unless the construction work performed is the primary activity of a separate establishment of the enterprise.

The installation of prefabricated building equipment and materials, such as elevators and revolving doors, is classified in the construction industry sector. Installation work incidental to sales by employees of a manufacturing or retail establishment is classified as secondary activity of those establishments.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
236	Building, Developing and General Contracting			
2361	Land Subdivision and Land Development			
23611	Land Subdivision and Land Development	E	6552	Land Subdividers and Developers, Except Cemeteries.
2362	Residential Building Construction			
23621	Single-Family Housing Construction	R	1521	General contractors-Single-Family Houses.
			*1531	Operative Builders (single-family housing construction).
23622	Multi-Family Housing Construction	R	*1522	General Contractors-Residential Building, Other Than Single-Family (except hotel and motel construction).
			*1531	Operative Builders (multi-family housing construction).
2363	Nonresidential Building Construction			
23631	Manufacturing and Light Industrial Building Construction.	R	*1531	Operative Builders (manufacturing and light industrial building construction).
			*1541	General Contractors-Industrial Buildings and Warehouses (except warehouse construction).
23632	Commercial and Institutional Building Construction.	R	*1522	General Contractors-Residential Building Other than Single-Family (hotel and motel construction).
			*1531	Operative Builders (commercial and institutional building construction).
			*1541	General Contractors-Industrial Buildings and Warehouses (warehouse construction).
			1542	General Contractor-Nonresidential Buildings, Other than Industrial Buildings and Warehouses.
237	Heavy Construction			
2371	Highway, Street, Bridge and Tunnel Construction.			
23711	Highway and Street Construction	E	1611	Highway and Street Construction, Except Elevated Highways.
23712	Bridge and Tunnel Construction	R	1622	Bridge, Tunnel, and Elevated Highway Construction.

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
2379	Other Heavy Construction			
23791	Water, Sewer, and Pipeline Construction	N	*1623	Water, Sewer, Pipeline, and Communications and Power Line Construction (water and sewer mains and pipelines construction).
23792	Power and Communication Transmission Line Construction.	N	*1623	Water, Sewer, Pipelines, and Communications and Power Line Construction (communications and power line construction).
23793	Industrial Nonbuilding Structure Construction	N	*1629	Heavy Construction, NEC (industrial nonbuilding structures construction).
23799	All Other Heavy Construction	R	*1629	Heavy Construction, NEC (except industrial non-building structures construction).
238	Special Trade Contractors			
2381	Plumbing, Heating and Air-Conditioning Contractors			
23811	Plumbing, Heating and Air-Conditioning Contractors.	E	1711	Plumbing, Heating and Air-Conditioning.
2382	Painting and Wall Covering Contractors			
23821	Painting and Wall Covering Contractors	R	1721	Painting and Paper Hanging.
			*1799	Special Trade Contractors, NEC (paint and wallpaper, stripping and wallpaper removal contractors).
2383	Electrical Contractors			
23831	Electrical Contractors	R	*1731	Electrical Work (except burglar and fire alarm installation).
2384	Masonry and Drywall Insulation, and Tile Contractors			
23841	Masonry and Stone Contractors	E	1741	Masonry, Stone Setting and Other Stone Work.
23842	Drywall, Plastering, Acoustical and Insulation Contractors.	R	1742	Plastering, Drywall, Acoustical, and Insulation Work.
			*1743	Terrazzo, Tile, Marble and Mosaic work (fresco work).
			*1771	Concrete Work (stucco construction).
23843	Tile, Marble, Terrazzo and Mosaic Contractors	R	*1743	Terrazzo, Tile, Marble, and Mosaic Work (except fresco work).
2385	Carpentry and Floor Contractors			
23851	Carpentry Contractors	E	1751	Carpentry Work.
23852	Floor Laying and Other Floor Contractors	E	1752	Floor Laying and Other Floor Work, NEC.
2386	Roofing, Siding and Sheet Metal Contractors			
23861	Roofing, Siding and Sheet Metal Contractors	E	1761	Roofing, Siding, and Sheet Metal Work.
2387	Concrete Contractors			
23871	Concrete Contractors	R	*1771	Concrete Work (except stucco construction).
2388	Water Well Drilling Contractors			
23881	Water Well Drilling Contractors	E	1781	Water Well Drilling.
2389	Other Special Trade Contractors			
23891	Structural Steel Erection Contractors	E	1791	Structural Steel Erection.
23892	Glass and Glazing Contractors	R	1793	Glass and Glazing Work.
			*1799	Specialty Trade Contractors, NEC (tinting glass work).
23893	Excavation Contractors	E	1794	Excavation Work.
23894	Wrecking and Demolition Contractors	E	1795	Wrecking and Demolition Work.
23895	Building Equipment and Other Machinery Contractors.	E	1796	Installation of Erection of Building Equipment, NEC.
23899	All Other Special Trade Contractors	R	1799	Special Trade Contractors, NEC (except paint and wallpaper stripping, wall paper removal contractors, and tinting glass work).
			7353	Heavy Construction Equipment Rental and Leasing (with operator).

TABLE 2

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of construction work for the 1987 SIC Industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
1521 @	General Contractors—Single-Family Houses	Single-Family Housing Construction (pt).

TABLE 2—Continued

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of construction work for the 1987 SIC Industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
1522 @	General Contractors—Residential Buildings, Other Than Single-Family.	
	Hotel and Motel Construction	Commercial and Institutional Building Construction (pt).
	Except Hotel and Motel Construction	Multi-Family Housing Construction (pt).
1531@	Operative Builders	
	Single-Family Housing	Single-Family Housing Construction (pt).
	Multi-Family Housing	Multi-Family Housing Construction (pt).
	Manufacturing and Light Industrial Buildings	Manufacturing and Light Industrial Building Construction (pt).
	Commercial and Institutional Buildings	Commercial and Institutional Building Construction (pt).
1541@	General Contractors—Industrial Buildings and Warehouses	
	Warehouse Construction	Commercial and Institutional Building Construction (pt).
	Except Warehouse Construction	Manufacturing and Light Industrial Building Construction (pt).
1542@	General Contractors—Nonresidential Buildings, Other than Industrial Buildings and Warehouses.	Commercial and Institutional Building Construction (pt).
1611	Highway and Street Construction, Except Elevated Highways	Highway and Street Construction.
1622	Bridge, Tunnel, and Elevated Highway Construction	Bridge and Tunnel Construction.
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction.	Water, Sewer and Pipelines Construction.
	Water, Sewer and Pipeline Power and Communication Transmission Lines.	Power and Communication Transmission Line Construction.
1629	Heavy Construction, NEC	
	Industrial Nonbuilding Structures Construction	Industrial Nonbuilding Structure Construction.
	Except Industrial Nonbuilding Structures Construction	All Other Heavy Construction.
1711	Plumbing, Heating, and Air-Conditioning	Plumbing, Heating and Air-Conditioning Contractors.
1721@	Painting and Paper Hanging	Painting and Wall Covering Contractors (pt).
1731@	Electrical Work	
	Burglar and Fire Alarm Installation	Security Systems Services, except Locksmiths (pt).
	Except Burglar and Fire Alarm Installation	Electrical Contractors.
1741	Masonry, Stone Setting and Other Stone Work	Masonry and Stone Contractors.
1742	Plastering, Drywall, Acoustical and Insulation Work	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
1743	Terrazzo, Tile, Marble, and Mosaic Work	
	Fresco Work	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
	Except Fresco Work	Tile, Marble, Terrazzo and Mosaic Contractors.
1751	Carpentry Work	Carpentry Contractors.
1752	Floor Laying and Other Floor Work, NEC	Floor Laying and Other Floor Contractors.
1761	Roofing, Siding, and Sheet Metal Work	Roofing, Siding, and Sheet Metal Contractors.
1771@	Concrete Work	
	Stucco Construction	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
	Except Stucco Construction	Concrete Contractors.
1781	Water Well Drilling	Water Well Drilling Contractors.
1791	Structural Steel Erection	Structural Steel Erection Contractors.
1793	Glass and Glazing Work	Glass and Glazing Contractors (pt).
1794	Excavation Work	Excavation Contractors.
1795	Wrecking and Demolition Work	Wrecking and Demolition Contractors.
1796	Installation of Erection of Building Equipment, NEC	Building Equipment and Other Machinery Installation Contractors.
1799@	Special Trade Contractors, NEC	
	Paint and Wallpaper Stripping and Wallpaper Removal Contractors.	Painting and Wall Covering Contractors (pt.).
	Tinted Glass Work	Glass and Glazing Contractors (pt).
	All Other Special Trade Contractors	All Other Special Trade Contractors (pt).
6552	Land Subdividers and Developers, Except Cemeteries	Land Subdivision and Land Development.
7353@	Heavy Construction Equipment Rental and Leasing	
	With Operator	All Other Special Trade Contractors (pt).
	Without Operator	Rental and Leasing of Heavy Construction, Mining and Forestry Machinery and Equipment (pt).

Description of Changes to the U.S. System

The overall number of industries for the Construction sector increased from 26 to 28 from the 1987 SIC.

Three new industries were created for the Heavy Construction subsector as follows: 1987 SIC 1623, Water, Sewer, Pipeline, and Communications and Power Line Construction is split into two industries: Water, Sewer and Pipeline Construction and Power and Communication Transmission Line Construction. The third new industry is Industrial Nonbuilding Structure Construction from part of 1987 SIC 1629, Heavy Construction, NEC. The split of 1987 SIC 1623 into two industries reflects the proposal received from outside users. This change improves the comparability with the grouping used in Canada. The split of 1987 SIC 1629 separates heavy construction activities for industrial

nonbuilding construction from the nonindustrial nonbuilding construction and groups similar production activities. The result is improved reporting of information in greater detail according to industrial versus nonindustrial nonbuilding grouping and a reduction in the NEC classification.

One industry, 1987 SIC 6552, Land Subdividers and Developers, Except Cemetery was moved from 1987 SIC 65, Real Estate, to the Construction sector because the production process is more closely related to the production process of construction industries in the Building, Developing, and General Contracting subsector.

In addition, part of 1987 SIC 7353, Heavy Construction Equipment Rental and Leasing (with operators), was moved to the Construction sector because these establishments become part of the production process. The move was recommended by the Business Services Subcommittee to improve comparability with Canada and Mexico.

A number of changes were made to 1987 industries in the Construction sector. These changes are:

1987 SIC 1531, Operative Builders, was deleted as a separate industry. These establishments are now included in the Building, Developing, and General Contracting subsector based on type of construction activity. The production process for these establishments is the same as other contractors who engage in constructing buildings and structures with the exception that these buildings are generally for sale on own account. The kinds of construction classified in 1987 SIC 1531 and the production processes associated with them are comparable to and consistent with the types of construction and production processes of building contractors in general. The existence of an operative builder classification is duplicative and only the U.S. includes a separate 4-digit industry specifically for operative builders. Canada and Mexico provide for operative builders within all relevant types of construction. The existence of a separate industry creates an incomparability between the three systems and this change increases comparability among the Canadian, Mexican and the U.S. classification systems.

Hotel and motel construction was moved from part of 1987 SIC 1522, General Contractors—Residential Building, Other Than Single Family, to Commercial and Institutional Building Construction. Also warehouse construction was moved from part of 1987 SIC 1541, General Contractors—Industrial Buildings and Warehouses, to Commercial and Institution Building Construction. The construction activity and physical capital used in hotel, motel, and warehouse construction are closely related to the construction activity and physical capital used by nonresidential building contractors. The reassignment of the hotel and motel construction to commercial and institutional buildings will not create collectability and reportability problems. In fact, such problems may be reduced. Because contractors are more likely to classify hotels and motels within nonresidential or commercial buildings, reassigning the two items enhances the logic of the system and may improve data collectability and reportability. This change will create explicit consistency with the Canadian classification system and implicit comparability with the Mexican classification system.

1987 SIC 1611, Highway and Street Construction, Except Elevated Highways, and 1987 SIC 1622, Bridge, Tunnel, and Elevated Highway Construction, are grouped together in the industry group Highway, Street, Bridge and Tunnel Construction in the Heavy Construction subsector. The establishments in both industries have similar production processes.

Fresco work was moved from part of 1987 SIC 1743, Terrazzo, Tile, Marble, and Mosaic Work, to Drywall, Plastering, Acoustical and Insulation Contractors. Fresco work is similar to the work performed by specialty plaster contractors. In Canada, fresco work is included with the plastering industry.

Stucco construction was moved from part of 1987 SIC 1771, Concrete Work, to Drywall, Plastering, Acoustical and Insulation Contractors. Stucco work is done by plastering contractors on interior ceilings and walls. Stucco work is similar to plastering and drywall work and is not considered to be concrete work construction. Canada includes stucco work with the plastering industry.

Paint and wallpaper removal was moved from part of 1987 SIC 1799, Specialty Trade Contractors, NEC, to Painting and Wall Covering Contractors. The production process for paint and wallpaper stripping activities are more closely allied with the activities of painting and wall covering contractors than with Other Special Trade contractors. This move achieves comparability with Canada and reduces the U.S. NEC classification.

Tinting glass was moved from part of 1987 SIC 1799, Specialty Trade Contractors, NEC, to Glass and Glazing Contractors. The production process for glass tinting is more closely allied with glass and glazing construction activities. This move improves comparability with Canada. All of the above recommended changes in the classification of fresco, stucco, paint and wallpaper removal, and tinting glass improve comparability with Canada and do not reduce the comparability with Mexico.

Burglar and fire alarm installation (with incidental installation) was moved from part of 1987 SIC 1731, Electrical Work, to Security System Services, except Locksmiths in the Management and Support Services subsector because more and more establishments that install also offer monitoring services. This change was proposed by an outside user.

Utilities

The Utilities sector includes three industry groups. The first industry group, Electric Power Generation, Transmission and Distribution, includes establishments that provide electric power, services to both businesses and households. These are grouped together based on the presence of the system required to provide the services to the customers location. The second, Natural Gas Distribution, includes establishments that provide for the distribution of natural gas via pipelines to final customers. The last industry group, Water, Sewerage, and Other Systems, includes establishments that provide water, irrigation, sewerage and other services to customers. This group includes separate classifications for water and irrigation systems, sewerage systems, and steam and air-conditioning supply.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of.'' The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
221	Utilities			
2211	Electric Power Generation, Transmission and Distribution			
22111	Electric Power Generation			
221111	Hydroelectric Power Generation	N	*4911	Electric Services (hydroelectric power generation).
			*4931	Electric and Other Services Combined (hydroelectric power generation).
			*4939	Combination Utilities, NEC (hydroelectric power generation).
221112	Fossil Fuel Electric Power Generation	N	*4911	Electric Services (fossil fuel power generation).
			*4931	Electric and Other Services Combined (fossil fuel power generation).
			*4939	Combination Utilities, NEC (fossil fuel power generation).
221113	Nuclear Electric Power Generation	N	*4911	Electric Services (nuclear electric power generation).
			*4931	Electric and Other Services Combined (nuclear power generation).
			*4939	Combination Utilities, NEC (nuclear power generation).
221119	Other Electric Power Generation	N	*4911	Electric Services (other electric power generation).
			*4931	Electric and Other Services Combined (other electric power generation).
			*4939	Combination Utilities, NEC (other electric power generation).
22112	Electric Power Transmission, Distribution and Control			
221121	Electric Bulk Power Transmission and Control.	N	*4911	Electric Services (electric power transmission and control).
			*4931	Electric and Other Services Combined (electric power transmission and control).
			*4939	Combination Utilities, NEC (electric power transmission and control).
221122	Electric Power Distribution	N	*4911	Electric Services (electric power distribution).
			*4931	Electric and Other Services Combined (electric power distribution).
			*4939	Combination Utilities, NEC (electric power distribution).
2212	Natural Gas Distribution			
22121	Natural Gas Distribution	R	*4923	Natural Gas Transmission and Distribution (distribution).
			4924	Natural Gas Distribution.
			4925	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution (natural gas distribution).
			*4932	Gas and Other Services Combined (natural gas distribution).
			*4939	Combination Utilities, NEC (natural gas distribution).
2213	Water, Sewerage and Other Systems			
22131	Water and Irrigation Systems	R	4941	Water Supply.
			4971	Irrigation Systems.
22132	Sewerage Systems	E	4952	Sewerage Systems.
22133	Steam and Air-Conditioning Supply	E	4961	Steam and Air-Conditioning Supply.

TABLE 2

The abbreviation ''pt'' means ''part of'' and @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
4911	Electric Services	
	Hydroelectric Power Generation	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels	Nuclear Electric Power Generation (pt).
	Other Electric Power Generation	Other Electric Power Generation (pt).
	Electric Power Transmission and Control	Electric Bulk Power Transmission and Control (pt).

TABLE 2—Continued

The abbreviation ''pt'' means ''part of'' and @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Electric Power Distribution	Electric Power Distribution.
4922	Natural Gas Transmission	Pipeline Transportation of Natural Gas.
4923@	Natural Gas Transmission and Distribution	Natural Gas Distribution (pt).
4924@	Natural Gas Distribution	Natural Gas Distribution (pt).
4925@	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution.	Natural Gas Distribution (pt).
4931@	Electric and Other Services Combined	
	Hydroelectric Power Generation When Combined with Other Services.	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels When Combined with Other Services.	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels When Combined with Other Services.	Nuclear Electric Power Generation (pt).
	Other Electric Power Generation When Combined with Other Services.	Other Electric Power Generation (pt).
	Electric Power Transmission When Combined with Other Services.	Electric Bulk Power Transmission and Control (pt).
	Electric Power Distribution When Combined with Other Services.	Electric Power Distribution (pt).
4932@	Gas and Other Services Combined	Natural Gas Distribution (pt).
4939@	Combination Utilities, Not Elsewhere Classified	
	Hydroelectric Power Generation When Combined with Other Services.	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels When Combined with Other Services.	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels When Combined with Other Services.	Nuclear Electric Power Generation (pt).
	Other Power Generation When Combined with Other Services.	Other Electric Power Plants (pt).
	Electric Power Transmission When Combined with Other Services.	Electric Bulk Power Transmission and Control (pt).
	Electric Power Distribution When Combined with Other Services.	Electric Power Distribution.
	Natural Gas Distribution When Combined with Other Services.	Natural Gas Distribution (pt).
4941	Water Supply	Water and Irrigation Systems (pt).
4952	Sewerage Systems	Sewerage Systems.

Description of Changes to the U.S. System

The U.S. detail for the Utilities sector consists of two subsectors, six industry groups, and 21 U.S. detail industries. For 1987, there were 14 industries.

For the electrical power industry group, NAICS has added new detail for four classifications that identify different types of power plants including Hydroelectric Power Generation, Fossil Fuel Electric Power Generation, Nuclear Electric Power Generation, and Other Electric Power Generation. The Electric Power Transmission, Distribution, and Control industry group includes two U.S. detail classifications that identify establishments that provide transmission and control services separately from those that provide for the distribution of power to final customers.

The change to 1987 Industry Group 492, Gas Production and Distribution, separates the activities of transmission and distribution. The natural gas transmission activities included in 1987 SIC 4924, Natural Gas Transmission, and 1987 SIC 4923, Natural Gas Transmission and Distribution, have been moved to the Transportation sector. 1987 SIC 4925, Mixed, Manufactured, or Liquefied Gas Production and/or Distribution, has been eliminated. These activities along with the distribution activities included in 1987 SIC 4923, Natural Gas Transmission and Distribution, have been consolidated with 1987 SIC 4922, Natural Gas Distribution. The industries for combination utilities, 1987 SIC 4931, Electric and Other Services Combined, and 1987 SIC 4932, Gas and Other Services Combined, and 1987 SIC 4939, Combination Utilities, Not Elsewhere Classified, have been eliminated. These activities will be classified according to their primary activity.

Waste Management and Remediation Services

The Waste Management and Remediation Services subsector includes establishments engaged in collection, treatment, and disposal of waste materials. This includes establishments providing related services like materials recovery facilities (those that sort recyclable materials from the trash stream), remediation services (those that provide for the cleanup of polluted ground, ground water, etc.), septic and sewer services, and other sanitary services. There are three industry groups within the subsector which separate these activities into Waste Collection, Waste Treatment and Disposal, and Remediation Services and Other Waste Management.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of.'' The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
572	Waste Management and Remediation Services			
5721	Waste Collection			
57211	Waste Collection			
572111	Solid Waste Collection	N	*4212	Local Trucking Without Storage (solid waste collection).
			*4953	Refuse Systems (solid waste collection).
572112	Hazardous Waste Collect	N	*4212	Local Trucking Without Storage (hazardous waste collection).
			*4953	Refuse Systems (hazardous waste collection).
572119	Other Waste Collection	N	*4212	Local Trucking Without Storage (other waste collection without disposal).
5722	Waste Treatment and Disposal			
57221	Waste Treatment and Disposal			
572211	Hazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (hazardous waste treatment and disposal).
572212	Solid Waste Landfill	N	*4953	Refuse Systems (solid waste landfills).
572213	Solid Waste Combustors and Incinerators	N	*4953	Refuse Systems (solid waste combustors and incinerators).
572219	Other Nonhazardous Waste Treatment and Disposal.	N	*4953	Refuse Systems (other nonhazardous waste treatment and disposal).
5723	Remediation Services and Other Waste Management			
57231	Materials Recovery Facilities	N	*4953	Refuse Systems (materials recovery facilities).
57232	Remediation Services and All Other Waste Management			
572321	Remediation Services	N	*4959	Sanitary Services, NEC (remediation services).
572322	Septic Tank and Related Services	N	*7359	Equipment Rental and Leasing, NEC (portable toilet rental).
			*7699	Repair Shops and Related Services, NEC (cesspool cleaning, sewer cleaning and rodding).
572329	All Other Miscellaneous Waste Management	R	*4953	Refuse Systems (waste transfer stations).
			*4959	Sanitary Services, NEC (all but remediation services, malaria control, mosquito eradication, snowplowing, street sweeping, and airport runway vacuuming).

TABLE 2

The abbreviation ''pt'' means ''part of'' and @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
4212	Local Trucking Without Storage	
	Solid Waste Collection Without Disposal	Solid Waste Collection (pt).
	Hazardous Waste Collection Without Disposal	Hazardous Waste Collection (pt).
	Other Waste Collection Without Disposal	Other Waste Collection (pt).
	Other	Included in Transportation subsector.
4953	Refuse Systems	
	Solid Waste Collection When Combined with Disposal	Solid Waste Collection (pt).
	Hazardous Waste Collection When Combined with Disposal	Hazardous Waste Collection (pt).
	Materials Recovery Facilities	Materials Recovery Facilities.
	Waste Transfer Stations	All Other Miscellaneous Waste Management (pt).
	Other Waste Collection When Combined with Disposal	Other Waste Collection.
	Hazardous Waste Disposal	Hazardous Waste Treatment and Disposal.
	Solid Waste Landfills	Solid Waste Landfills.
	Solid Waste Combustors and Incinerators	Solid Waste Combustors and Incinerators.
	Other Waste Treatment and Disposal	Other Nonhazardous Waste Treatment and Disposal.
4959	Sanitary Services, NEC	
	Vacuuming of Airport Runways	Airport Operations, Except Air Traffic Control.
	Remediation Services	Remediation Services.
	Malaria Control and Mosquito Eradication	Exterminating and Pest Control.
	Snowplowing and Street Sweeping	Lawn and Garden Services (pt).
	Other	All Other Miscellaneous Waste Management (pt).
4961	Steam and Air-Conditioning Supply	Steam and Air-Conditioning Supply.
4971@	Irrigation Systems	Water and Irrigation Systems (pt).
7359	Equipment Rental and Leasing, NEC.	

TABLE 2—Continued

The abbreviation ''pt'' means ''part of'' and @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Portable Toilet Rental	Septic Tank and Related Services (pt).
	Consumer Electronics and Appliances Rental and Leasing	Rental of Consumer Electronics and Appliances.
	Home and Garden Tools and Equipment Rental and Leasing.	Rental and Leasing of Home and Garden Equipment.
	Residential Furniture, Party Supplies, and All Other Miscellaneous Consumer Goods Rental and Leasing.	All Other Rental and Leasing of Consumer Goods (pt).
	Oilfield and Well Drilling Machinery and Equipment Rental and Leasing.	Rental and Leasing of Heavy Construction, Mining, and Forestry Machinery and Equipment.
	Airplane Rental and Leasing	Rental and Leasing of Commercial Air, Rail, and Water Transportation Equipment.
	Industrial Trucks Rental and Leasing	Rental and Leasing of Other Machinery and Equipment.
	Office Machinery and Equipment Rental and Leasing	Rental and Leasing of Office Machinery and Equipment.
7699	Repair Shops and Relates Services, NEC	
	Cesspool Cleaning, Sewer Cleaning and Rodding	Septic Tank and Related Services (pt).
	Other Non-Automotive Transportation Equipment	Transportation Equipment Repair and Maintenance (pt).
	Industrial Machines and Equipment	Other Industrial Machinery and Equipment Repair and Maintenance (pt).
	Typewriter Repair	Computer and Office Machine Repair and Maintenance (pt).
	Ship Scaling	Other Support Activities for Water Transportation (pt).
	Dental Instrument Repair, Laboratory Instrument Repair, Medical Equipment and Other Electronic and Precision Equipment Repair, Except Typewriters.	Other Electronic and Precision Equipment Repair and Maintenance (pt).
	Bicycle Sales Locations Providing Supporting Repair Services as a Major Source of Revenue.	Sporting Good Stores (pt).
	Furnce Ducts, Chimney and Gutter Cleaning Services	Other Services to Dwellings and Building (pt).
	Lawnmower Repair Shops, Sharpening and Repairing Knives, Saws and Tools.	Home and Garden Equipment Repair and Maintenance (pt).
	Gas Appliance Repair Service, Sewing Machine Repair, Stove Repair Shops, and Other Non-Electrical Appliances.	Appliance Repair and Maintenance.
	Leather Goods Repair Shops, Luggage Repair Shops, Pocketbook Repair Shops.	Footwear and Leather Goods Repair (pt).
	Locksmith Shops	Locksmiths.
	Except Industrial, Electronic, Home and Garden, Appliance, Locksmith, and Leather Goods.	Other Personal or Household Goods Repair and Maintenance.

Description of Changes to the U.S. System

1987 SIC 4953, Refuse Systems, has been restructured to separate the operations of waste collection and waste disposal. This includes moving the garbage collection activity included in 1987 SIC 4212, Local Trucking Without Storage, from Transportation and combining it with the collection activities included in 1987 SIC 4953, Refuse Systems. There are separate classifications for hazardous waste, solid waste landfills, solid waste incinerators and other nonhazardous waste treatment.

The miscellaneous sanitary services classification (1987 SIC 4959, Sanitary Services, Not Elsewhere Classified) has also been split to separate the Remediation Services.

Retail

In most sectors of NAICS, the statistical agencies of Canada, Mexico, and the United States agreed to a detailed structure that includes subsectors, industry groups, and detailed industry definitions. However, because both resources and time for constructing NAICS were limited, in the the Retail Trade sector, the three statistical agencies agreed that only the boundaries of the sectors will be made comparable internationally at the present time. The structure and detailed definitions of the industries within the boundaries will be determined by national requirements. The three country agreement on the boundaries of retail and wholesale trade was published in the May 28, 1996, Federal Register, pp. 26642–26644.

For Retail Trade, Canada and the United States have agreed to restructure their respective existing 4-digit hierarchies to provide for more comparable data at the detailed industry level between the two countries. This resulted primarily in developing a new hierarchy that better reflects the structure of economic activity occurring within the two countries. The United States will provide for additional industries at the national level to reflect important industries in the United States. The ECPC is proposing 5-digit industries that will be comparable with Canada and 6-digit national detail industries as shown in Table 1 for Retail Trade. In that table, where no 6-digit detail is shown, the ECPC is proposing that the NAICS 5-digit industries will also represent the most detailed U.S. industries.

The Retail Trade sector is divided into twelve subsectors: Motor Vehicles and Parts Dealers; Furniture and Home Furnishing Stores; Electronics and Appliance Stores; Building Materials and Garden Equipment and Supplies Dealers; Food and Beverage Stores; Health and Personal Care Stores; Gasoline Stations; Clothing and Accessories Stores; Sports, Hobby, Book and Music Stores; General Merchandise Stores; Miscellaneous Store Retailers; and Nonstore Retailers.

Two types of retailers are identified. Store retailers sell goods through a sales location and/or stores and are differentiated by characteristics of the location and selling equipment, the types and variety of services provided, and the skills of the personnel. Nonstore retailers sell goods by means other than

through the sales location or store. Nonstore retailers include establishments engaged in activities like television and electronic shopping, mail order sales, door-to-door sales, home fuel sales, and sales through portable stands and stalls. The principal distinction is that the business comes to the customer rather than the customer going to the business.

Store retailers are divided into 11 subsectors. Motor Vehicle and Parts Dealers operate from a showroom and/or an open lot where the vehicles are on display. The display of vehicles and the related parts require little by way of display equipment. The personnel include both the sales and sales support staff familiar with the requirements for registering, licensing, and financing a vehicle as well as a staff of parts experts and mechanics trained to provide repair and maintenance services for the vehicles. Specific industries have been included in this subsector to identify the type of vehicle being sold.

The Furniture and Home Furnishing Stores also usually operate from showrooms; however, their expertise is in the areas of decorating and coordinating the furniture and accessories for the home. Many of these establishments offer interior decorating services in conjunction with the sale of products. Furniture Stores provide substantial areas for the proper presentation of the furniture which differentiates them within this group. The Floor Covering Stores maintain special equipment for the handling and display of the rolled carpet. Window Treatment Stores have special display equipment and have expertise in the way curtains, drapes, and shades should be matched to the particular type of window and coordinated with the style of furnishings being used in the room.

Electronics and Appliance Stores operate from locations that have special provisions for floor displays requiring special electrical capacity to accommodate the proper demonstration of the products. The staff includes sales personnel knowledgeable in the characteristics, warranties, etc. of the line of goods sold and may also include trained repairmen to handle the maintenance and repair of the electronic equipment and appliances. The classifications within this subsector are made principally on the type of product and repair knowledge required to operate each store.

Building Materials and Garden Equipment and Supplies Dealers have display equipment designed to handle lumber and related products and garden equipment and supplies that may be kept either indoors or outdoors under covered areas. The staff is usually well versed in the use of the specific products being sold in the construction, repair, and maintenance of the home and associated grounds. Hardware Stores are identified separately based on the display equipment and expertise in the use of tools and related equipment sold at these stores. Home center stores are identified separately based on the display equipment for lumber and the expertise in the use of tools and related equipment. Paint and wallpaper stores have special equipment to color and mix paint and display wallpaper. Outdoor power equipment stores typically have both inside and outside displays of equipment and provide the expertise to repair and maintain the equipment. Nursery and garden centers have the equipment and expertise to maintain a stock of live trees and plants.

Food and beverage stores have special equipment for the display of the goods usually including refrigerators, freezers, and refrigerated display cases. They have staff trained in the processing of food products to guarantee the proper storage and sanitary conditions required by regulatory authority. General grocery stores are separated between convenience stores and supermarket and other grocery stores based on the mix of products. Supermarkets and other grocery stores maintain a broad variety of products including a number of highly perishable goods. Convenience stores sell a narrow line of products that includes very few perishable products. Meat markets are separated based on the equipment (extensive use of refrigeration) and the expertise to properly prepare meat products. Fish and seafood markets share much of the same refrigeration equipment but also have special equipment and skill to properly process the seafood products safely. Fruit and vegetable markets have many health and safety considerations but have far less by way of refrigeration equipment. Baked goods stores and candy, nut, and confectionery stores are separated based on the product.

Health and personal care stores are characterized principally by specialized staff trained in dealing with the products. This includes pharmacists, beauticians, opticians, and other professionals that sell and may fit the product sold to the customer needs. This expertise is the principal basis for the distinctions within this subsector.

Gasoline stations are establishments that sell gasoline and diesel fuel. As such, they have specialized equipment for the storage and dispensing of automotive fuels.

Clothing and accessories stores have similar display equipment and staff that are knowledgeable regarding fashion trends and the proper match of styles, colors, and combinations of clothing and accessories to the characteristics and tastes of the customer.

Sports, hobby, book and music stores are establishments that provide expertise on use of sporting equipment or other specific activities such as needlework, musical instruments, etc. Book stores are also included in this grouping.

General merchandise stores are unique in that they have the equipment and staff capable of selling a large variety of goods from a single location. This includes a variety of display equipment and staff trained to provide information on many lines of products. Department Stores have been identified separately based on the operation of separate subunits or departments within the stores. The warehouse clubs and other general merchandise stores are separated based on the use of equipment for both the processing of food and nonfood items. This is a new and emerging industry that has not previously been identified in the classification system.

Miscellaneous store retailers include stores with unique characteristics like florists, used merchandise stores, and pet and pet supply stores as well as other store retailers.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ‘‘part of’’. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
441	Motor Vehicle and Parts Dealers			
4411	Automobile Dealers			

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
44111	New Car Dealers	E	5511	Motor Vehicle Dealers (New and Used).
44112	Used Car Dealers	E	5521	Motor Vehicle Dealers (Used Only).
4412	Other Motor Vehicle Dealers			
44121	Recreational Vehicle Dealers	E	5561	Recreational Vehicle Dealers.
44122	Motorcycles, Boats and Other Motor Vehicle Dealers.			
441221	Motorcycle Dealers	E	5571	Motorcycle Dealers.
441222	Boat Dealers	E	5551	Boat Dealers.
441229	All Other Motor Vehicle Dealers	E	5599	Automotive Dealers, NEC.
4413	Automotive Parts, Tires and Supplies Stores			
44131	Automotive Parts and Supplies Stores	N	*5013	Motor Vehicle Supplies and New Parts (Wholesale) (auto parts sold via retail method).
			*5731	Radio, Television, and Consumer Electronics Stores (automobile radios).
			*5531	Auto and Home Supply Stores (except tires and tubes).
44132	Tire Dealers	N	*5014	Tires and Tubes (Wholesale) (tires and tubes sold via retail method).
			*5531	Auto and Home Supply Stores (tires and tubes).
442	Furniture and Home Furnishings Stores			
4421	Furniture Stores			
44211	Furniture Stores	R	*5021	Furniture (Wholesale) (sold via the retail method).
			*5712	Furniture Stores (except custom furniture and cabinets).
4422	Home Furnishings Stores			
44221	Floor Covering Stores	R	*5023	Homefurnishings (Wholesale) (floor covering sold via retail method).
			5713	Floor Coverings Stores.
44229	Other Home Furnishings Stores.			
442291	Window Treatment Stores	N	*5714	Drapery, Curtain, and Upholstery Stores (drapery and curtain stores).
			*5719	Miscellaneous Homefurnishings Stores (blinds and shades).
442299	All Other Home Furnishings Stores	R	*5719	Miscellaneous Homefurnishings Stores (except pottery and crafts made and sold on site and frame shops, and window furnishings).
443	Electronics and Appliance Stores			
4431	Electronics and Appliance Stores			
44311	Appliance, Television and Other Electronics Stores			
443111	Household Appliance Stores	R	5722	Household Appliance Stores.
			*5999	Miscellaneous Retail Stores, NEC (personal appliance stores).
			*7623	Refrigeration and Air-Conditioning Service and Repair Shops (sales location providing supporting refrigerator repair services as major source of receipts).
			*7629	Electrical and Electronic Repair Shops, NEC (Services) (Sales location providing supporting appliance repair services as major source of receipts).
443112	Radio, Television and Other Electronics Stores	R	*5731	Radio, Television, and Consumer Electronics Stores (except auto radios).
			*5999	Miscellaneous Retail Stores, NEC (typewriters and telephones).
			*7622	Radio and Television Repair Shops (sales locations providing supporting repair services as major source of receipts).
44312	Computer and Software Stores	R	*5045	Computers and Computer Peripheral Equipment and Software (sold via retail method).
			*7378	Computer Maintenance and Repair (sales locations providing supporting repair services as major source of receipts).
			5734	Computer and Computer Software Stores.
44313	Camera and Photographic Supply Stores	E	5946	Camera and Photographic Supply Stores.
444	Building Materials and Garden Equipment and Supplies Dealers			
4441	Building Materials and Supplies Dealers			

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
44411	Home Centers	N	*5211	Lumber and Other Building Materials Dealers (home center stores).
44412	Paint and Wallpaper Stores	R	*5198	Paints, Varnishes, and Supplies (sold via retail method).
			*5231	Paint, Glass, and Wallpaper Stores (paint and wallpaper).
44413	Hardware Stores	E	5251	Hardware Stores.
44419	Other Building Materials Dealers	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (Wholesale) (sold via retail method).
			*5032	Brick, Stone, and Related Construction Materials (Wholesale) (sold via retail method).
			*5039	Construction Materials, NEC (Wholesale) (glass sold via retail method).
			*5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials (Wholesale) (sold via retail method).
			*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (sold via retail method).
			*5211	Lumber and Other Building Materials Dealers (except home centers).
			*5231	Paint, Glass, and Wallpaper Stores (glass).
4442	Lawn and Garden Equipment and Supplies Stores			
44421	Outdoor Power Equipment Stores	N	*5083	Farm and Garden Machinery and Equipment (Wholesale) (sold via retail method).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (outdoor power equipment).
44422	Nursery and Garden Centers	R	*5191	Farm Supplies (sold via retail method).
			*5193	Flowers, Nursery Stock, and Florists' Supplies (sold via retail method).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (except outdoor power equipment and cut Christmas trees).
445	Food and Beverage Stores.			
4451	General Food Stores.			
44511	Supermarkets and Grocery Stores	N	*5411	Grocery Stores (except convenience stores).
44512	Convenience Stores	N	*5411	Grocery Stores (convenience stores without gas).
4452	Specialty Food Stores.			
44521	Meat Markets	R	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (meat except freezer provisioners).
			*5499	Miscellaneous Food Stores (poultry and poultry products).
44522	Fish and Seafood Markets	N	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (seafood).
44523	Fruit and Vegetable Markets	E	5431	Fruit and Vegetable Markets.
44529	Other Specialty Food Stores.			
445291	Baked Goods Stores	R	*5461	Retail Bakeries (selling only).
445292	Candy, Nut and Confectionery Stores	R	*5441	Candy, Nut and Confectionery Stores (selling only).
445299	All Other Specialty Food Stores	R	*5499	Miscellaneous Food Stores (except food supplements).
			5451	Dairy Products Stores.
4453	Beer, Wine and Liquor Stores.			
44531	Beer, Wine and Liquor Stores	E	5921	Liquor Stores.
446	Health and Personal Care Stores.			
4461	Health and Personal Care Stores.			
44611	Drug Stores and Pharmacies	E	5912	Drug Stores and Proprietary Stores.
44612	Cosmetics, Beauty Supplies and Perfume Stores.	N	*5087	Service Establishment Equipment and Supplies (beauty and barber supplies sold via retail method).
			*5999	Miscellaneous Retail Stores, NEC (cosmetics and perfumes).
44613	Optical Goods Stores	R	*5995	Optical Goods Stores (except grinding prescription lenses).
44619	Other Health and Personal Care Stores.			
446191	Food (Health) Supplement Stores	N	*5499	Miscellaneous Food Stores (food supplements).
46199	All Other Health and Personal Care Stores	N	*5047	Medical, Dental, and Hospital Equipment and Supplies (sold via retail method).

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
			*5999	Miscellaneous Retail Stores, NEC (hearing aids and artificial limbs).
447	Gasoline Stations.			
4471	Gasoline Stations.			
44711	Gasoline Stations with Convenience Stores	N	*5541	Gasoline Service Station (gasoline station with convenience store).
			*5411	Grocery Stores (convenience store with gas).
44719	Other Gasoline Stations	N	*5541	Gasoline Service Station (gasoline station without convenience store).
448	Clothing and Accessories Stores.			
4481	Clothing Stores.			
44811	Men's Clothing Stores	R	*5611	Men's and Boys' Clothing and Accessory Stores (clothing stores).
44812	Women's Clothing Stores	E	5621	Women's Clothing Stores.
44813	Children's and Infants' Clothing Stores	E	5641	Children's and Infants' Wear Stores.
44814	Family Clothing Stores	E	5651	Family Clothing Stores.
44819	Other Clothing Stores	R	*5632	Women's Accessory and Specialty Stores (specialty clothing).
			*5699	Miscellaneous Apparel and Accessory Stores (miscellaneous apparel).
4482	Jewelry and Accessories Stores			
44821	Jewelry Stores	R	*5999	Miscellaneous Retailer, NEC (rough gems).
			5944	Jewelry Stores.
44822	Luggage and Leather Goods Stores	E	5948	Luggage and Leather Goods Stores.
44823	Accessories Stores	N	*5611	Men's and Boys' Clothing and Accessory Stores (accessories).
			*5632	Women's Accessory and Specialty Stores (accessories).
			*5699	Miscellaneous Apparel and Accessory Stores (accessories).
4483	Shoe Stores			
44831	Shoe Stores	E	5661	Shoe Stores.
451	Sports, Hobby, Book and Music Stores			
4511	Sports, Hobby and Music Stores			
45111	Sporting Goods Stores	R	*7699	Repair Shops and Related Services, NEC (bicycle sales locations providing supporting repair services as major source of receipts).
			5941	Sporting Goods Stores and Bicycle Shops.
45112	Hobby, Toy and Game Stores	E	5945	Hobby, Toy, and Game Stores.
45113	Sewing, Needlework and Piece Goods Stores	R	*5714	Drapery, Curtain, and Upholstery Stores (upholstery materials).
			5949	Sewing, Needlework, and Piece Goods Stores.
45114	Musical Instrument and Supply Stores	E	5736	Musical Instruments Stores.
4512	Books, Periodicals and Music Stores			
45121	Book Stores and News Dealers			
451211	Book Stores	E	5942	Book Stores.
451212	News Dealers and Newsstands	E	5994	News Dealers and Newsstands.
45122	Prerecorded Tape, Compact Disk and Record Stores.	E	5735	Record and Prerecorded Tape Stores.
452	General Merchandise Stores			
4521	Department Stores			
45211	Department Stores	E	5311	Department Stores.
4522	Other General Merchandise Stores			
45221	Warehouse Clubs and Other General Merchandise Stores with Food.	N	*5399	Miscellaneous General Merchandise Stores (warehouse clubs and supermarket/general merchandise combination).
			*5411	Grocery Stores (grocery stores and supermarkets selling substantial amounts of nonfood items).
45229	All Other General Merchandise Stores	R	*5399	Miscellaneous General Merchandise Stores (except warehouse club and supermarket/general merchandise combination).
			5331	Variety Stores.
453	Miscellaneous Store Retailers			
4531	Florists			
45311	Florists	E	5992	Florists.
4532	Office Supply and Stationery and Gift Stores			
45321	Office Supply and Stationery Stores	R	*5049	Professional Equipment and Supplies, NEC (school and church supplies sold via retail method).

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
			*5112	Stationery and Office Supplies (sold via retail method).
			5943	Stationery Stores.
45322	Gift, Novelty and Souvenir Stores	E	5947	Gift, Novelty, and Souvenir Shops.
4533	Used Merchandise Stores.			
45331	Used Merchandise Stores	R	*5932	Used Merchandise Stores (except pawn shops).
4539	Other Miscellaneous Store Retailers.			
45391	Pet and Pet Supply Stores	N	*5999	Miscellaneous Retail Stores, NEC (pet and pet supplies).
45392	Art Dealers	N	*5999	Miscellaneous Retail Stores, NEC (art dealer).
45393	Manufactured (Mobile) Home Dealers	E	5271	Mobile Home Dealers.
45399	All Other Miscellaneous Store Retailers.			
453991	Tobacco Stores	E	5993	Tobacco Stores and Stands.
453999	All Other Miscellaneous Store Retailers	R	*5999	Miscellaneous Retail Stores, NEC (except art, pet and pet supplies, hearing aids, artificial limbs, cosmetics, live Christmas trees, telephones, typewriters, personal appliances and rough gems).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (cut Christmas trees).
454	Nonstore Retailers			
4541	Electronic Shopping and Mail-Order Houses.			
45411	Electronic Shopping and Mail-Order Houses	E	5961	Catalog and Mail-Order Houses.
4542	Vending Machine Operators.			
45421	Vending Machine Operators	E	5962	Automatic Merchandise Machine Operators.
4543	Direct Selling Establishments.			
45431	Fuel Dealers.			
454311	Heating Oil Dealers	R	*5171	Petroleum Bulk Stations and Terminals (heating oil sold to final consumer).
			5983	Fuel Oil Dealers.
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers.	R	*5171	Petroleum Bulk Stations and Terminals (LP gas sold to final consumer).
			5984	Liquefied Petroleum Gas (Bottled Gas) Dealers.
454319	Other Fuel Dealers	E	5989	Fuel Dealers, NEC.
45439	Other Direct Selling Establishments	R	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (freezer provisioners).
			*5963	Direct Selling Establishments (except mobile food services).

TABLE 2

The abbreviation ''pt'' means ''part of'', @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
5013	Motor Vehicle Supplies and New Parts	
	Sold Via Retail Method	Automotive Parts and Supplies Stores (pt).
	Sold Via Wholesale Method	Motor Vehicle Supplies and New Parts (pt).
5014	Tires and Tubes	
	Sold Via Retail Method	Tire Dealers (pt).
	Sold Via Wholesale Method	Tires and Tubes.
5021	Furniture	
	Sold Via Retail Method	Furniture Stores (pt).
	Sold Via Wholesale Method	Furniture.
5023	Home Furnishings	
	Sold Via Retail Method	Floor Covering Stores (pt).
	Sold Via Wholesale Method	Homefurnishings (pt).
5031	Lumber, Plywood, Millwork and Wood Panels	
	Sold Via Retail Method	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	Lumber, Plywood, Millwork, and Wood Panels (pt).
5032	Brick, Stone and Related Construction Materials	
	Sold Via Retail Method	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	Brick, Stone and Related Construction Materials.
5039	Construction Materials, NEC	
	Sold Via Retail Method	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	Other Construction Materials.
5045	Computers and Computer Peripheral Equipment and Software	

TABLE 2—Continued

The abbreviation ''pt'' means ''part of'', @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Sold Via Retail Method	Computer and Software Stores (pt).
	Sold Via Wholesale Method	Computers and Computer Peripheral Equipment and Software.
5047	Medical, Dental and Hospital Equipment	
	Sold Via Retail Method	All Other Health and Personal Care Stores (pt)—Retail
	Sold Via Wholesale Method	Medical, Dental and Hospital Equipment and Supplies—Wholesale.
5049	Professional Equipment and Supplies, NEC	
	Religious and School Supplies Sold Via Retail Method	Office Supply and Stationery Stores (pt).
	Sold Via Wholesale Method	Other Professional Equipment and Supplies.
5063	Electrical Apparatus and Equipment Wiring Supplies and Construction Materials	
	Sold Via Retail Method	Other Building Materials (pt).
	Sold Via Wholesale Method	Electrical Apparatus and Equipment Wiring Supplies and Construction Materials.
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	
	Sold Via Retail Method	Other Building Materials (pt).
	Sold Via Wholesale Method	Plumbing and Heating Equipment and Supplies.
5083	Farm and Garden Machinery and Equipment Garden and Lawn Equipment	
	Sold Via Retail Method	Outdoor Power Equipment Stores (pt).
	Sold Via Wholesale Method	Farm and Garden Machinery and Equipment.
5087	Service Establishment Equipment and Supplies	
	Sold Via Retail Method	Cosmetics, Beauty Supplies and Perfume Stores (pt).
	Sold Via Wholesale Method	Service Establishment Equipment and Supplies
5112	Stationery and Office Supplies	
	Sold Via Retail Method	Office Supply and Stationery Stores (pt).
	Sold Via Wholesale Method	Stationery and Office Supplies.
5171	Petroleum Bulk Stations and Terminals Heating Oil	
	Sold Via Retail Method	Heating Oil Dealers (pt).
	LP Gas Sold Via Retail Method	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt).
	All Other Petroleum and Bulk Stations and Terminals	Petroleum Bulk Stations and Terminals.
5191	Farm Supplies	
	Lawn and Garden Supplies Sold Via Retail Method	Nursery and Garden Centers (pt).
	Except Lawn and Garden Supplies Sold Via Retail Method	Farm Supplies.
5193	Flowers, Nursery Stock, and Florists' Supplies	
	Sold Via Retail Method	Nursery and Garden Centers (pt).
	Sold Via Wholesale Method	Flowers, Nursery Stock and Florists' Supplies.
5198	Paints, Varnishes, and Supplies	
	Sold Via Retail Method	Paint and Wallpaper Stores (pt).
	Sold Via Wholesale Method	Paints, Varnishes and Supplies.
5211	Lumber and Other Building Materials Dealers	
	Sold Via Wholesale Method	Lumber, Plywood, Millwork and Wood Panels - Wholesale (pt)
	Sold Via Retail Method, Except Home Centers and Glass	Other Building Materials Dealers (pt).
	Home Centers	Home Centers.
5231	Paint, Glass, and Wallpaper Stores	
	Paint and Wallpaper Sold Via Wholesale Method	Paint, Varnishes and Supplies—Wholesale (pt).
	Glass Stores	Other Building Materials Dealers (pt).
	Paint and Wallpaper Sold Via Retail Method	Paint and Wallpaper Stores (pt).
5251	Hardware Stores	Hardware Stores
5261	Retail Nurseries, Lawn and Garden Supply Stores	
	Except Cut Christmas Trees	Nursery and Garden Centers (pt).
	Cut Christmas Trees	All Other Miscellaneous Store Retailers (pt).
	Outdoor Power Equipment Stores	Outdoor Power Equipment Stores.
5271	Mobile Home Dealers	Manufactured (Mobile) Home Dealers.
5311	Department Stores	Department Stores.
5331	Variety Stores	All Other General Merchandise Stores (pt).
5399	Miscellaneous General Merchandise Stores	
	Warehouse Clubs and General Merchandise Combination Stores.	Warehouse Clubs and Other General Merchandise Stores with Food.
	All Other General Merchandise Stores	All Other General Merchandise Stores (pt).
5411	Grocery Stores	
	Convenience Stores with Gas	Gasoline Stations with Convenience Stores (pt).
	Supermarkets and Grocery Stores with Little General Merchandise.	Supermarkets and Grocery Stores.
	Supermarkets and Grocery Stores with Substantial General Merchandise.	Warehouse Clubs and Other General Merchandise Stores with Food.
	Convenience Stores	Convenience Stores.
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners	

TABLE 2—Continued

The abbreviation ''pt'' means ''part of'', @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Freezer Provisioners	Other Direct Selling Establishments (pt).
	Meat Markets	Meat Markets.
	Fish and Seafood Markets	Fish and Seafood Markets
5431	Fruit and Vegetable Markets	Fruit and Vegetable Markets.
5441	Candy, Nut, and Confectionery Stores	
	Candy Makers that Sell at Same Location	Confectionery Manufacturing from Purchased Chocolate (pt).
	Candy Makers that Sell at Same Location	Non-Chocolate Confectionery Manufacturing (pt).
	Sales Only	Candy, Nut, and Confectionery Stores.
5451	Dairy Products Stores	All Other Specialty Food Stores (pt).
5461	Retail Bakeries	
	Doughnut Shops, Pretzel Shops, Cookie Shops, Bagel Shops, and Other Such Shops that Make and Sell For Immediate Consumption.	Refreshment Places (pt).
	Bakeries that Make and Sell at the Same Location	Retail Bakeries.
	Sales Only of All Other Baked Goods	Baked Goods Stores.
5499	Miscellaneous Food Stores	
	Poultry and Poultry Products	Meat Markets (pt).
	Coffee Shops Making and Serving Food and Beverages for Immediate Consumption.	Limited-Service Restaurants (pt).
	Food Supplement Stores	Food (Health) Supplement Stores.
	All Other Miscellaneous Food Stores	All Other Specialty Food Stores (pt).
5511	Motor Vehicle Dealers (New and Used)	New Car Dealers.
5521	Motor Vehicle Dealers (Used Only)	Used Car Dealers.
5531	Auto and Home Supply Stores	
	Tire Dealers	Tire Dealers.
	All Other Auto and Home Supply Stores	Automotive Parts and Supplies Stores (pt).
5541	Gasoline Service Stations	
	Convenience Store with Gas	Gasoline Stations with Convenience Store (pt).
	Except with Convenience Stores	Other Gasoline Stations.
5551	Boat Dealers	Boat Dealers.
5561	Recreational Vehicle Dealers	Recreational Vehicle Dealers.
5571	Motorcycle Dealers	Motorcycle Dealers.
5599	Automotive Dealers, NEC	All Other Motor Vehicle Dealers.
5611	Men's and Boys' Clothing and Accessory Stores	
	Men's Clothing Stores	Men's Clothing Stores.
	Men's Accessory Stores	Accessories Stores (pt).
5621	Women's Clothing Stores	Women's Clothing Stores.
5632	Women's Accessory and Specialty Stores	
	Specialty stores	Other Clothing Stores (pt).
	Accessory stores	Accessories Stores (pt).
5641	Children's and Infants' Wear Stores	Children's and Infants' Clothing Stores.
5651	Family Clothing Stores	Family Clothing Stores.
5661	Shoe Stores	Shoe Stores.
5699	Miscellaneous Apparel and Accessory Stores	
	Custom Tailors and Seamstresses	Included in Apparel Manufacturing subsector based on type of garment produced.
	Miscellaneous Apparel	Other Clothing Stores (pt).
	Miscellaneous Accessories	Accessories Stores (pt).
5712	Furniture Stores	
	Custom Made Furniture, Except Cabinets	Wood Household Furniture Manufacturing, Except Upholstered (pt).
	Custom Wood Cabinets	Wood Kitchen Cabinet Manufacturing (pt).
	Upholstered Custom Made Furniture	Upholstered Wood Household Furniture Manufacturing (pt).
	Except Custom Cabinet and Furniture Builders	Furniture Stores.
5713	Floor Covering Stores	Floor Covering Stores (pt).
5714	Drapery, Curtain and Upholstery Stores	
	Drapery and Curtain Stores	Window Treatment Stores (pt).
	Upholstery Stores	Sewing, Needlework and Piece Goods Stores (pt).
	Custom Drapes	Curtain and Drapery Mills (pt).
5719	Miscellaneous Homefurnishings Stores	
	Blinds and Shades	Window Treatment Stores.
	Pottery and Crafts Made and Sold on Site	Included in Manufacturing sector based on article produced.
	Except Blinds, Shades, and Pottery and Crafts Made and Sold on Site.	All Other Home Furnishings Stores.
5722	Household Appliance Stores	Household Appliance Stores.
5731	Radio, Television, and Consumer Electronics Stores	
	Except Auto Radio Stores	Radio, Television, and Other Electronics Stores.
	Auto Radio Stores	Automotive Parts and Supplies Stores (pt).
5734	Computer and Computer Software Stores	Computer and Software Stores.

TABLE 2—Continued

The abbreviation ''pt'' means ''part of'', @ means time series break has been created that is greater than 3% of the 1992 revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
5735	Record and Prerecorded Tape Stores	Prerecorded Tape, Compact Disk and Record Stores.
5736	Musical Instrument Stores	Musical Instrument and Supply Stores.
5912	Drug Stores and Proprietary Stores	Drug Stores and Pharmacies.
5921	Liquor Stores	Beer, Wine and Liquor Stores.
5932	Used Merchandise Stores	
	Pawn Shops	All Other Non-Depository Credit Intermediation (pt).
	Except Pawn Shops	Used Merchandise Stores.
5941	Sporting Goods Stores and Bicycle Shops	Sporting Goods Stores (pt).
5942	Book Stores	Book Stores.
5943	Stationery Stores	Office Supply and Stationery Stores (pt).
5944	Jewelry Stores	Jewelry Stores.
5945	Hobby, Toy and Game Shops	Hobby, Toy and Game Stores.
5946	Camera and Photographic Supply Stores	Camera and Photographic Supply Stores.
5947	Gift, Novelty, and Souvenir Shops	Gift, Novelty and Souvenir Stores.
5948	Luggage and Leather Goods Stores	Luggage and Leather Goods Stores.
5949	Sewing, Needlework, and Piece Goods Stores	Sewing, Needlework and Piece Goods Stores (pt).
5961	Catalog and Mail-Order Houses	Electronic Shopping and Mail-Order Houses.
5962	Automatic Merchandising Machine Operator	Vending Machine Operators.
5963	Direct Selling Establishments	
	Mobile Food Service	Mobile Caterers.
	All Other Direct Selling Establishments	Other Direct Selling Establishments (pt).
5983	Fuel Oil Dealers	Heating Oil Dealers (pt).
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt).
5989	Fuel Dealers, NEC	Other Fuel Dealers.
5992	Florists	Florists.
5993	Tobacco Stores and Stands	Tobacco Stores.
5994	News Dealers and Newsstands	News Dealers and Newsstands.
5995	Optical Goods Stores	
	Optical Stores Grinding Prescription Lenses, except 1-Hour Labs.	Eyeglass and Contact Lens Manufacturing (pt).
	Except Optical Laboratories Grinding Prescription Lenses	Optical Goods Stores.
5999	Miscellaneous Retail Stores, NEC	
	Cosmetic Stores	Cosmetics, Beauty Supplies and Perfume Stores (pt).
	Hearing Aid and Artificial Limb Stores	All Other Health and Personal Care Stores (pt).
	Pets and Pet Supply Stores	Pet and Pet Supply Stores.
	Art Dealers	Art Dealers.
	Personal Appliance Stores	Household Appliance Stores (pt).
	Telephone and Typewriter Stores	Radio, Television and Other Electronics Stores (pt).
	Rough Gem Stores	Jewelry Stores (pt).
	Other Miscellaneous Retail Stores	All Other Miscellaneous Store Retailers (pt).
7378	Computer Maintenance and Repair	
	Sales Locations Providing Supporting Repair Services as Major Source of Revenue.	Computer and Software Stores (pt).
	All Other Repair and Maintenance	Computer and Office Machine Repair and Maintenance (pt).
7622	Radio and Television Repair Shops	
	Radio and TV Sales Locations Providing Supporting Repair Services as Major Source of Revenue.	Radio, Television and Other Electronics Stores (pt).
	Stereo, TV, VCR and Radio Repair	Consumer Electronics Repair and Maintenance (pt).
	Telecommunication Equipment Repair	Communication Equipment Repair and Maintenance (pt).
7623	Refrigeration and Air-Conditioning Services and Repair Shops	
	Refrigerator and A/C Sales Locations Providing Supporting Repair Service as Major Source of Revenue.	Household Appliance Stores (pt).
	Commercial Refrigerator Equipment Repair	Other Industrial Machinery and Equipment Repair and Maintenance (pt).
	Except Commercial	Appliance Repair and Maintenance (pt).
7629	Electrical and Electronic Repair Shops, NEC	
	Appliance Sales Locations Providing Supporting Repair Services as Major Source of Revenue.	Household Appliance Stores (pt).
	All Other Repair and Maintenance	Included in Repair and Maintenance subsector.
7699	Repair Shops and Related Services, NEC	
	Bicycle Sales Locations Providing Supporting Repair Services as Major Source of Revenue.	Sporting Goods Stores (pt)
	All Other Repair and Maintenance	Included in Repair and Maintenance subsector.

Description of Changes to the U.S. System

Seventeen new industries have been added to the Retail Trade sector. These new industries are the following:

Automotive Parts and Supplies Stores from part of 1987 SIC 5013, Motor Vehicle Supplies and New Parts; part of 1987 SIC 5731, Radio, Television and Consumer Electronics Stores; and part of 1987 SIC 5531, Auto and Home Supply Stores.

Tire Dealers from part of 1987 SIC 5014, Tires and Tubes, and part of 1987 SIC 5531, Auto and Home Supply Stores. These changes were made to incorporate the revised boundaries of retail/wholesale and improve comparability with Canada.

Window Treatment Stores from part of 1987 SIC 5714, Drapery, Curtain, and Upholstery Stores, and 1987 SIC 5719, Miscellaneous Home Furnishings Stores, to recognize a growing and unique type of store.

Home Centers from part of 1987 SIC 5211, Lumber and Other Building Materials Dealers. Home Centers are identified separately based on the equipment and personnel expertise required to sell both lumber and the related products included in this classification.

Outdoor Power Equipment Stores from part of 1987 SIC 5083, Farm and Garden Machinery and Equipment, and part of 1987 SIC 5261, Retail Nurseries, Lawn and Garden Supply Stores. Outdoor power equipment stores provide trained staff to sell and service power equipment while nursery and garden centers employ staff that are knowledgeable about plants. These stores also have the equipment necessary to maintain a stock of living plants, etc.

Supermarkets and Grocery Stores from part of 1987 SIC 5411, Grocery Stores.

Convenience Stores from part of 1987 SIC 5411, Grocery Stores.

Fish and Seafood Markets from part of 1987 SIC 5421, Meat and Fish (Seafood) Markets, Including Freezer Provisioners. These three new industries employ distinct production processes.

Cosmetics, Beauty Supplies and Perfume Stores from part of 1987 SIC 5087, Service Establishment Equipment and Supplies, and part of 1987 SIC 5999, Miscellaneous Retail Stores, Not Elsewhere Classified. These types of stores are growing in number and are more like each other than the stores in the industries in which they were formerly classified.

Food (Health) Supplement Stores from part of 1987 SIC 5499, Miscellaneous Food Stores.

All Other Health and Personal Care Stores from part of 1987 SIC 5047, Medical, Dental and Hospital Equipment and Supplies, and part of 1987 SIC 5999, Miscellaneous Retail Stores, Not Elsewhere Classified. These are distinct types of stores and also reduce the size of the miscellaneous category.

Gasoline Stations with Convenience Stores from part of 1987 SIC 5541, Gasoline Stations, and part of 1987 SIC 5541, Gasoline Service Stations. Gasoline stations with convenience stores combine the processes of gas stations (requiring special equipment like gas pumps) and convenience stores (requiring food display and refrigeration equipment).

Other Gasoline Stations from part of 1987 SIC 5541, Gasoline Stations. These gasoline stations do not have a convenience store.

Accessories Stores from part of 1987 SIC 5611, Men's and Boys' Clothing and Accessories Stores; part of 1987 SIC 5632, Women's Accessory and Specialty Stores; and part of 1987 SIC 5699, Miscellaneous Apparel and Accessory Stores.

Warehouse Clubs and Other General Merchandise Stores from part of 1987 SIC 5399, Miscellaneous General Merchandise Stores and part of 1987 SIC 5411, Grocery Stores. These stores are separated based on the equipment and personnel required to handle a wide variety of products.

Pet and Pet Supply Stores from part of 1987 SIC 5999, Miscellaneous Retail Stores, Not Elsewhere Classified.

Art Dealers from part of 1987 SIC 5999, Miscellaneous Retail Stores.

The number of industries in this industry sector increased from 64 in 1987 to 72 in 1997. For time series linkage, 44 of the 64 industries are comparable within three percent of the 1997 industries. For five other industries, changes involve splitting a part of 1987 industries to obtain more industry detail in response to new economic developments in this sector. For these industries, the new, more detailed industries can readily be reaggregated for analytical purposes where time series comparability is important.

Wholesale

For Wholesale Trade, the ECPC is proposing only those changes necessary to define the boundaries of Wholesale Trade agreed upon with Canada and Mexico. Rather, the ECPC proposes to undertake a thorough review of the wholesale sector, in cooperation with its North American partners, within the next five years that may result in a complete restructuring of the wholesale sector in the next revision. That review will focus on the different types of wholesalers that undertake different activities and provide different services. For example, some wholesalers may be directly associated with a manufacturer, such as a manufacturer's sales branches. Manufacturer's sales branches promote and sell a particular manufacturers' product to a wide range of other wholesalers or retailers. Other wholesalers may be connected to a retail chain or a limited number of retail chains and only provide a variety of products needed by that particular retail operation(s). Still other wholesalers may take title to goods and provide a wide range of products to a wide range of retailers. Some analysts have suggested that these types of distinctions, based on activities and services provided, should be made in the industry classification system rather than the product distinction that is imbedded in the current system.

Therefore, to avoid disrupting time series, the ECPC proposes to make no changes for 1997 except those needed for clarification of the boundaries of wholesale trade. Proposals to restructure the wholesale sector may be made in the next revision based on the study to be undertaken. This delay also will allow the U.S. to consult more thoroughly with its North American partners and design a system that provides for more comparability with Canada and Mexico. The proposed structure for Wholesale Trade for 1997 is shown in Table 1.

TABLE 1

The definitions of status codes are as follows: E-existing industry; N-new industry; R-revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status Code	1987 SIC Code	1987 SIC description
431	Wholesale Trade, Durable Goods			
4311	Motor Vehicles and Motor Vehicle Parts and Supplies			
43111	Automobiles and Other Motor Vehicles	E	5012	Automobiles and Other Motor Vehicles.
43112	Motor Vehicles Supplies and New Parts	R	*5013	Motor Vehicle Supplies and New Parts (except parts sold via retail methods).
43113	Tires and Tubes	R	*5014	Tires and Tubes (except tires sold via retail method).
43114	Motor Vehicle Parts, Used	E	5015	Motor Vehicle Parts, Used.
4312	Furniture and Home Furnishings			
43121	Furniture	R	*5021	Furniture (except furniture sold via retail method).
43122	Home Furnishings	R	*5023	Homefurnishings (except homefurnishings sold via retail method).
4313	Lumber and Other Construction Materials			
43131	Lumber, Plywood, Millwork and Wood Panels	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (except construction materials sold via retail method).
			5211	Lumber and Other Building Materials Dealers—Retail (construction materials sold by establishments ''known as retail in the trade'' selling via wholesale method).
43132	Brick, Stone and Related Construction Materials.	R	*5032	Brick, Stone, and Related Construction Materials (except construction materials sold via retail method).
43133	Roofing, Siding and Insulation Materials	E	5033	Roofing, Siding, and Insulation Materials.
43139	Other Construction Materials	R	*5039	Construction Materials, NEC (sold via wholesale method).
4314	Professional and Commercial Equipment and Supplies			
43141	Photographic Equipment and Supplies	E	5043	Photographic Equipment and Supplies.
43142	Office Equipment	E	5044	Office Equipment.
43143	Computers and Computer Peripheral Equipment and Software.	R	*5045	Computers and Computer Peripherals Equipment and Software (except computers, equipment, and software sold via retail method).
43144	Other Commercial Equipment	E	5046	Commercial Equipment, NEC.
43145	Medical, Dental and Hospital Equipment and Supplies.	R	*5047	Medical, Dental and Hospital Equipment and Supplies (except medical, dental, and hospital equipment and supplies sold via retail method).
43146	Ophthalmic Goods	E	5048	Ophthalmic Goods.
41349	Other Professional Equipment and Supplies	R	*5049	Professional Equipment and Supplies, NEC (except religious and school supplies sold via retail method).
4315	Metals and Minerals, Except Petroleum			
43151	Metals Service Centers and Offices	E	5051	Metals Service Centers and Offices.
43152	Coal and Other Minerals and Ores	E	5052	Coal and Other Mineral and Ores.
4316	Electrical Goods			
43161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials.	R	*5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials (except electrical supplies sold via retail method).
43162	Electrical Appliances, Television and Radio Sets.	E	5064	Electrical Appliances, Television and Radio Sets.
43169	Other Electronic Parts and Equipment	E	5065	Electronic Parts and Equipment, NEC.
4317	Hardware, and Plumbing and Heating Equipment and Supplies			
43171	Hardware	E	5072	Hardware.
43172	Plumbing and Heating Equipment and Supplies (Hydronics).	R	*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (except plumbing equipment sold via retail method).
43173	Warm Air Heating and Air-Conditioning Equipment and Supplies.	E	5075	Warm Air Heating and Air-Conditioning Equipment and Supplies.
43174	Refrigeration Equipment and Supplies	E	5078	Refrigeration Equipment and Supplies.
4318	Machinery, Equipment and Supplies			
43181	Construction and Mining (Except Petroleum) Machinery and Equipment.	E	5082	Construction and Mining (Except Petroleum) Machinery and Equipment.
43182	Farm and Garden Machinery and Equipment	R	*5083	Farm and Garden Machinery and Equipment (except lawn and garden equipment sold via retail method).
43183	Industrial Machinery and Equipment	R	5084	Industrial Machinery and Equipment.

TABLE 1—Continued

The definitions of status codes are as follows: E-existing industry; N-new industry; R-revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status Code	1987 SIC Code	1987 SIC description
			*5085	Industrial Supplies (fluid power accessories).
43184	Industrial Supplies	R	*5085	Industrial Supplies (except fluid power accessories and reconditioning barrels).
43185	Service Establishment Equipment and Supplies	R	*5087	Service Establishment Equipment and Supplies (except sales of the service establishment equipment and supplies sold via retail method).
43186	Transportation Equipment and Supplies, Except Motor Vehicles.	E	5088	Transportation Equipment and Supplies, Except Motor Vehicles.
4319	Miscellaneous Durable Goods			
43191	Sporting and Recreational Goods and Supplies	E	5091	Sporting and Recreational Goods and Supplies.
43192	Toys and Hobby Goods and Supplies	E	5092	Toys and Hobby Goods and Supplies.
43193	Recyclable Materials	E	5093	Scrap and Waste Materials.
43194	Jewelry, Watches, Precious Stones and Precious Metals.	E	5094	Jewelry, Watches, Precious Stones, and Precious Metals.
43199	Other Miscellaneous Nondurable Goods	R	5099	Durable Goods, NEC.
			7822	Motion Picture and Video Tape Distribution (prerecorded video tapes—distribution).
432	Wholesale Trade Nondurable Goods			
4321	Paper and Paper Products			
43211	Printing and Writing Paper	E	5111	Printing and Writing Paper.
43212	Stationery and Office Supplies	R	*5112	Stationery and Office Supplies (except stationery and office supplies sold via retail method).
43213	Industrial and Personal Service Paper	E	5113	Industrial and Personal Service Paper.
4322	Drugs, Drug Proprietaries and Druggists' Sundries			
43221	Drugs, Drug Proprietaries and Druggists' Sundries.	E	5122	Drugs, Drug Proprietaries, and Druggists' Sundries.
4323	Apparel, Piece Goods, and Notions			
43231	Piece Goods, Notions and Other Dry Goods	R	*5131	Piece Goods, Notions, and Other Dry Goods (except piece goods converters).
43232	Men's and Boys' Clothing and Furnishings	E	5136	Men's and Boys' Clothing and Furnishings.
43233	Women's, Children's, and Infants' and Accessories.	E	5137	Women's, Children's, and Infants' Clothing and Accessories.
43234	Footwear	E	5139	Footwear.
4324	Groceries and Related Products			
43241	Groceries, General Line	E	5141	Groceries, General Line.
43242	Packaged Frozen Foods	E	5142	Packaged Frozen Foods.
43243	Dairy Products, Except Dried or Canned	E	5143	Dairy Products, Except Dried or Canned.
43244	Poultry and Poultry Products	E	5144	Poultry and Poultry Products.
43245	Confectionery	E	5145	Confectionery.
43246	Fish and Seafoods	E	5146	Fish and Seafoods.
43247	Meats and Meat Products	R	*5147	Meats and Meat Products (except boxed beef).
43248	Fresh Fruits and Vegetables	E	5148	Fresh Fruits and Vegetables.
43249	Other Groceries and Related Products	E	5149	Groceries and Related Products, NEC.
4325	Farm Product Raw Materials			
43251	Grain and Field Beans	E	5153	Grain and Field Beans.
43252	Livestock	E	5154	Livestock.
43259	Other Farm Product Raw Materials	E	5159	Farm-Product Raw Materials, NEC.
4326	Chemicals and Allied Products			
43261	Plastics Materials and Basic Forms and Shapes	E	5162	Plastics Materials and Basic Forms and Shapes.
43269	Other Chemicals and Allied Products	E	5169	Chemicals and Allied Products, NEC.
4327	Petroleum and Petroleum Products			
43271	Petroleum Bulk Stations and Terminals	R	*5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method).
43272	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.	E	5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.
4328	Beer, Wine, and Distilled Alcoholic Beverages			
43281	Beer and Ale	E	5181	Beer and Ale.
43282	Wine and Distilled Alcoholic Beverages	E	5182	Wine and Distilled Alcoholic Beverages.
4329	Miscellaneous Nondurable Goods			
43291	Farm Supplies	R	*5191	Farm Supplies (except lawn and garden supplies sold via retail method).
43292	Books, Periodicals and Newspapers	E	5192	Books, Periodicals, and Newspapers.
43293	Flowers, Nursery Stock and Florists' Supplies	E	*5193	Flowers, Nursery Stock, and Florists' Supplies (except nursery stock sold via retail method).
43294	Tobacco and Tobacco Products	E	5194	Tobacco and Tobacco Products.
43295	Paints, Varnishes and Supplies	R	*5198	Paints, Varnishes, and Supplies (except paints, etc. sold via retail method).

TABLE 1—Continued

The definitions of status codes are as follows: E-existing industry; N-new industry; R-revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status Code	1987 SIC Code	1987 SIC description
			*5231	Paint, Glass and Wallpaper Stores (sold via wholesale method).
43299	Other Miscellaneous Nondurable Goods	R	*5199	Nondurable Goods, NEC (except specialty advertising).

TABLE 2

The abbreviation ''pt'' means part of and @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
5012	Automobiles and Other Motor Vehicles	Automobiles and Other Motor Vehicles.
5013	Motor Vehicle Supplies and New Parts	
	Sold Via Retail Method	Automotive Parts and Supplies Stores (pt)—Retail.
	Sold Via Wholesale Method	Motor Vehicle Supplies and New Parts (pt)—Wholesale.
5014	Tires and Tubes	
	Sold Via Retail Method	Tire Dealers (pt.)—Retail.
	Sold Via Wholesale Method	Tires and Tubes—Wholesale.
5015	Motor Vehicle Parts, Used	Motor Vehicle Parts, Used.
5021	Furniture	
	Sold Via Retail Method	Furniture Stores (pt)—Retail.
	Sold Via Wholesale Method	Furniture—Wholesale.
5023	Home Furnishings	
	Sold Via Retail Method	Floor Covering Stores (pt.)—Retail.
	Sold Via Wholesale Method	Homefurnishings.
5031	Lumber, Plywood, Millwork, and Wood Panels	
	Sold Via Retail Method	Other Building Materials Dealers (pt.)—Retail.
	Sold Via Wholesale Method	Lumber, Plywood, Millwork and Wood Panels (pt)—Wholesale.
5032	Brick, Stone, and Related Construction Materials	
	Sold Via Wholesale Method	Brick, Stone, and Related Construction Materials—Wholesale.
	Sold Via Retail Method	Other Building Materials Dealers (pt.)—Retail.
5033	Roofing, Siding, and Insulation Materials	Roofing, Siding, and Insulation Materials.
5039	Construction Materials, NEC	
	Sold Via Retail Method	Other Building Materials Dealers—Retail.
	Sold Via Wholesale Method	Other Construction Materials.
5043	Photographic Equipment and Supplies	Photographic Equipment and Supplies.
5044	Office Equipment	Office Equipment.
5045	Computers and Computer Peripheral Equipment and Software	
	Sold Via Wholesale Method	Computers and Computer Peripheral Equipment and Software.
	Sold Via Retail Method	Computer and Software Stores (pt)—Retail.
5046	Commercial Equipment, NEC	Other Commercial Equipment.
5047	Medical, Dental, and Hospital Equipment and Supplies	
	Sold Via Wholesale Method	Medical, Dental and Hospital Equipment and Supplies—Wholesale.
	Sold Via Retail Method	All Other Health and Personal Care Stores (pt)—(Retail).
5048	Ophthalmic Goods	Ophthalmic Goods.
5049	Professional Equipment and Supplies, NEC	
	Sold Via Wholesale Method	Other Professional Equipment and Supplies.
	Religious and School Supplies Sold Via Retail Method	Office Supply and Stationery Stores (pt)—Retail.
5051	Metals Service Centers and Offices	Metals Service Centers and Offices.
5052	Coal and Other Minerals and Ores	Coal and Other Minerals and Ores.
5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials	
	Sold Via Wholesale Method	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials.
	Sold Via Retail Method	Other Building Materials (pt)—Retail.
5064	Electrical Appliances, Television and Radio Sets	Electrical Appliances, Television and Radio Sets.
5065	Electronic Parts and Equipment, NEC	Other Electronic Parts and Equipment.
5072	Hardware	Hardware.
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	
	Sold Via Wholesale Method	Plumbing and Heating Equipment and Supplies (Hydronics)—Wholesale.
	Sold Via Retail Method	Other Building Materials Dealers (pt)—Retail.
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies.	Warm Air Heating and Air-Conditioning Equipment and Supplies.
5078	Refrigeration Equipment and Supplies	Refrigeration Equipment and Supplies.

TABLE 2—Continued

The abbreviation ''pt'' means part of and @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
5082	Construction and Mining (Except Petroleum) Machinery and Equipment.	Construction and Mining (Except Petroleum) Machinery and Equipment.
5083	Farm and Garden Machinery and Equipment	
	Sold Via Wholesale Method	Farm and Garden Machinery and Equipment—Wholesale.
	Sold Via Retail Method	Outdoor Power Equipment Stores (pt)—Retail.
5084	Industrial Machinery and Equipment	Industrial Machinery and Equipment.
5085	Industrial Supplies	
	Fluid Power Accessories	Industrial Machinery and Equipment (pt).
	Reconditioning Barrels and Drums	Other Metal Container Manufacturing.
	Except Fluid Power Accessories and Reconditioning Barrels and Drums.	Industrial Supplies.
5087	Service Establishment Equipment and Supplies	
	Sold Via Wholesale Method	Service Establishment Equipment and Supplies.
	Sold Via Retail Method	Cosmetics, Beauty Supplies, and Perfume Stores (pt)—(Retail).
5088	Transportation Equipment and Supplies, Except Motor Vehicles.	Transportation Equipment and Supplies, Except Motor Vehicles.
5091	Sporting and Recreational Goods and Supplies	Sporting and Recreational Goods and Supplies.
5092	Toys and Hobby Goods and Supplies	Toys and Hobby Goods and Supplies.
5093	Scrap and Waste Materials	Recyclable Materials.
5094	Jewelry, Watches, Precious Stones, and Precious Metals	Jewelry, Watches, Precious Stones, and Precious Metals.
5099	Durable Goods, NEC	Other Miscellaneous Durable Goods (pt).
5111	Printing and Writing Paper	Printing and Writing Paper.
5112	Stationery and Office Supplies	
	Sold Via Wholesale Method	Stationery and Office Supplies.
	Sold Via Retail Method	Office Supply and Stationery Stores (pt)—Retail.
5113	Industrial and Personal Service Paper	Industrial and Personal Service Paper.
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	Drugs, Drug Proprietaries, and Druggists' Sundries.
5131	Piece Goods, Notions, and Other Dry Goods	
	Except Converters	Piece Goods, Notions, and Other Dry Goods.
	Piece Good Converters, Broadwoven Fabrics	Broadwoven Fabric Finishing Mills (pt).
	Piece Good Converters, Except Broadwoven Fabrics	Textile and Fabric Finishing Mills, Except Broadwoven Fabrics (pt).
5136	Men's and Boys' Clothing and Furnishings	Men's and Boys' Clothing and Furnishings.
5137	Women's, Children's, and Infants' Clothing and Accessories	Women's, Children's, and Infants' Clothing and Accessories.
5139	Footwear	Footwear.
5141	Groceries, General Line	Groceries, General Line.
5142	Packaged Frozen Foods	Packaged Frozen Foods.
5143	Dairy Products, Except Dried or Canned	Dairy Products, Except Dried or Canned.
5144	Poultry and Poultry Products	Poultry and Poultry Products.
5145	Confectionery	Confectionery.
5146	Fish and Seafoods	Fish and Seafoods.
5147	Meats and Meat Products	
	Boxed Beef	Meat Processed from Carcasses (pt).
	Except Boxed Beef	Meats and Meat Products.
5148	Fresh Fruits and Vegetables	Fresh Fruits and Vegetables.
5149	Groceries and Related Products, NEC	Other Groceries and Related Products.
5153	Grain and Field Beans	Grain and Field Beans.
5154	Livestock	Livestock.
5159	Farm-Product Raw Materials, NEC	Other Farm-Product Raw Materials.
5162	Plastics Materials and Basic Forms and Shapes	Plastics Materials and Basic Forms and Shapes.
5169	Chemicals and Allied Products, NEC	Other Chemicals and Allied Products.
5171	Petroleum Bulk Stations and Terminals	
	Heating Oil Sold Via Retail Method	Heating Oil Dealers (pt)—Retail.
	LP Gas Sold Via Retail Method	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt)—Retail.
	Sold Via Wholesale Method	Petroleum Bulk Stations and Terminals.
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.
5181	Beer and Ale	Beer and Ale.
5182	Wine and Distilled Alcoholic Beverages	Wine and Distilled Alcoholic Beverages.
5191	Farm Supplies	
	Lawn and Garden Supplies Sold Via Retail Method	Nursery and Garden Centers (pt)—Retail.
	Except Lawn and Garden Supplies Sold Via Retail Method	Farm Supplies—Wholesale.
5192	Books, Periodicals, and Newspapers	Books, Periodicals and Newspapers.
5193	Flowers, Nursery Stock, and Florists' Supplies	
	Sold Via Wholesale Method	Flowers, Nursery Stock and Florists' Supplies.
	Sold Via Retail Method	Nursery and Garden Centers (pt)—Retail.
5194	Tobacco and Tobacco Products	Tobacco and Tobacco Products.
5198	Paint, Varnishes, and Supplies	

TABLE 2—Continued

The abbreviation ''pt'' means part of and @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Sold Via Wholesale Method	Paint, Varnishes and Supplies—Wholesale.
	Sold Via Retail Method	Paint and Wallpaper Stores (pt)—(Retail).
5199	Nondurable Goods, NEC	
	Advertising Specialty Goods Distributors	Other Services Related to Advertising (pt).
	Except Specialty Advertising	Other Miscellaneous Nondurable Goods—Wholesale.
5211	Lumber and Other Building Materials Dealers	
	Home Centers	Home Centers.
	Sold Via Retail Method, Except Home Centers and Glass	Other Building Materials Dealers—Retail.
	Sold Via Wholesale Method	Lumber, Plywood, Millwork, and Wood Panels (pt)—Wholesale.
5231	Paint, Glass and Wallpaper Stores	
	Paint and Wallpaper Sold Via Wholesale Method	Paint, Varnishes, and Supplies (pt).
	Glass Stores	Other Building Materials Dealer (pt).
	Paint and Wallpaper Sold Via Retail Method	Paint and Wallpaper Stores—Retail.
7822	Motion Picture and Video Tape Distribution	
	Prerecorded Video Tapes (Wholesaling of)	Other Miscellaneous Nondurable Goods (pt).
	All Other	Motion Picture and Video Distribution.

Description of Changes to the U.S. System

Changes to the Wholesale Trade sector were generally the result of the movement of activities to or from wholesale trade from other sectors in NAICS.

Four activities that were in Wholesale Trade in the 1987 SIC are moved to Manufacturing. These activities are reconditioning and sale of drums and barrels, boxed beef processors, and piece goods converters. The sale of reconditioned drums and barrels was included in 1987 SIC 5085, Industrial Supplies. Dealers in boxed beef receive carcasses, cut them up, and then vacuum seal the cuts. These establishments were in 1987 SIC 5147, Meat and Meat Products. Establishments that purchase fabrics in the gray and contract to have the fabric dyed are referred to as piece goods converters. They were in 1987 SIC 5131, Piece Goods, Notions, and Other Dry Goods. Establishments that sell advertising specialties were 1987 SIC 5199, Nondurable Goods, Not Elsewhere Classified. For NAICS, this activity is included in Advertising Services.

Establishments engaged in the wholesale distribution of prerecorded video tapes were included in 1987 SIC 7822, Motion Picture and Video Tape Distribution. In NAICS, this activity is included in Wholesale Trade as Other Miscellaneous Durable Goods.

In the 1987 SIC, the principal determination of whether an establishment was included in wholesale or retail was whether the goods were sold to business consumers (wholesale) or household consumers (retail). In NAICS, an establishment is included in either retail or wholesale based on its production characteristics (see Agreement 25 published in the May 28, 1996 Federal Register, pp.26642–26644). Thus, establishments that sell goods to business users through retail methods are included in the Retail Trade sector in NAICS. This affects several industries within Wholesale but primarily those establishments selling such items as computers, office supplies, and electrical building materials.

Real Estate

This draft classification provides for the subsector Real Estate.

The Real Estate subsector comprises establishments that rent real estate to others, manage real estate for others, and/or facilitate the sale and/or rental of real estate.

The industry group Lessors of Real Estate comprises establishments that own real estate that in turn is leased to others. Rent is the major source of revenue for these establishments. The industries, Lessors of Residential Buildings and Dwellings, Lessors of Nonresidential Buildings, Except Warehouses, Lessors of Miniwarehouses and Self Storage Units, and Lessors of Other Real Estate Property, are based on processes needed for the different types of properties being leased.

The industry group Activities Related to Real Estate comprises establishments primarily engaged in providing real estate services, other than those owning and leasing. The industries included in this industry group are the following:

Real Estate Property Managers comprises establishments responsible for ensuring that various activities associated with the overall operation of property are performed (property managers do not own the property). Property managers are usually hired by the property owners, and their major source of revenue is fees charged for their management services. The industries, Condominium Management, Cooperative Housing, and Homeowners' Associations, Other Residential Property Managers, and Other Nonresidential Property Managers are distinguished by the types of property managed by the establishment.

The industry Offices of Real Estate Agents and Brokers comprises establishments engaged in renting, buying, and selling real property on behalf of others. The establishments usually receive commission as revenue. The staff at these establishments receive special certification and licensing to perform the specific duties.

The remaining discrete industries, Offices of Real Estate Appraisers and Title Abstract Offices, use staff who receive specialized training, certification, and licensing to perform the specific duties.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of.'' The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 USIC description
531	Real Estate			
5311	Lessors of Real Estate			
53111	Lessors of Residential Buildings and Dwellings	R	6513	Operators of Apartment Buildings.
			6514	Operators of Dwellings Other Than Apartment Buildings.
53112	Lessors of Nonresidential Buildings, Except Miniwarehouses.	E	6512	Operators of Nonresidential Buildings.
53113	Lessors of Miniwarehouses and Self Storage Units.	N	*4225	General Warehousing and Storage (miniwarehouses and self-storage units).
53119	Lessors of Other Real Estate Property	R	6515	Operators of Residential Mobile Home Sites.
			6517	Lessors of Railroad Property.
			6519	Lessors of Real Property, NEC.
5312	Activities Related to Real Estate			
53121	Real Estate Property Managers			
531211	Condominium Management, Cooperative Housing, and Homeowners' Associations.	N	*6531	Real Estate Agents and Managers (condominium and cooperative management).
			*8641	Civic, Social, and Fraternal Associations (condominium and homeowners associations, except property management).
531212	Other Residential Property Managers	N	*6531	Real Estate Agents and Managers (managers-residential, real estate).
531213	Other Nonresidential Property Managers	N	*6531	Real Estate Agents and Managers (managers-nonresidential, real estate).
53122	Offices of Real Estate Agents and Brokers	N	*6531	Real Estate Agents and Managers (agents and brokers).
53123	Offices of Real Estate Appraisers	N	*6531	Real Estate Agents and Managers (appraisers).
53129	Other Activities Related to Real Estate			
531291	Title Abstract Offices	E	6541	Title Abstract Offices.
531299	All Other Activities Related to Real Estate	N	*6531	Real Estate Agents and Managers (except real estate managers, agents and brokers, and appraisers).

TABLE 2

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry, The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
4225	General Warehousing and Storage	
	Miniwarehouses and Self-Storage Units	Lessors of Miniwarehouses and Self Storage Units.
	General Warehousing and Storage	General Storage Facilities (pt).
6512	Operators of Nonresidential Buildings	
	Stadium and Arena Owners	Promoters of Arts, Sports and Similar Events With Facilities (pt).
	Except Stadium and Arena Owners	Lessors of Nonresidential Buildings, Except Miniwarehouses.
6513@	Operators of Apartment Buildings	Lessors of Residential Buildings and Dwellings (pt).
6514@	Operators of Dwellings Other Than Apartment Buildings	Lessors of Residential Buildings and Dwellings (pt).
6515@	Operators of Residential Mobile Home Sites	Lessors of Other Real Estate Property (pt).
6517@	Lessors of Railroad Property	Lessors of Other Real Estate Property (pt).
6519@	Lessors of Real Property, NEC	Lessors of Other Real Estate Property (pt).
6531@	Real Estate Agents and Managers	
	Real Estate Agents and Brokers	Offices of Real Estate Agents and Brokers.
	Condominium and Cooperative Managers	Condominium Management, Cooperative Housing, and Homeowners' Associations (pt).
	Residential Property Managers, Except Condominium and Cooperative.	Other Residential Property Managers.
	Nonresidential Property Managers, Except Condominium and Cooperative.	Other Nonresidential Property Managers.
	Real Estate Appraisers	Offices of Real Estate Appraisers.
	Cemetery Management	Cemeteries and Crematories (pt).
	Other	All Other Activities Related to Real Estate.
6541	Title Abstract Offices	Title Abstract Offices
6552	Land Subdividers and Developers, Except Cemeteries	Land Subdivision and Development.
6553	Cemetery Subdividers and Developers	Cemeteries and Crematories (pt).
8641	Civic, Social, and Fraternal Associations	

TABLE 2—Continued

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry, The abbreviation NEC is used for Not Elsewhere Classified.

1987 SIC code	1987 SIC description	1997 U.S. description
	Homeowner and Condominium Associations, Except Property Management.	Condominium Management, Cooperative Housing, and Homeowners' Associations (pt).
	With Restaurants and Bars	Civic and Social Associations with Restaurants and Bars (pt).
	Without Restaurants and Bars	Civic and Social Associations without Restaurants and Bars (pt)

Description of Changes to the U.S. System

Seven new industries were created for this subsector as follows:

Lessors of Miniwarehouses and Self Storage Units from part of 1987 SIC 4225, General Warehousing and Storage. These establishments collect rent from a person (company) who uses the facility and has access to the space without undue interference or assistance from the facility operator. This activity is more like lessors of real estate than general warehousing and storage.

Condominium Management, Cooperative Housing, and Homeowners' Associations from part of 1987 SIC 6531, Real Estate Agents and Managers, and part of 1987 SIC 8641, Civic, Social, and Fraternal Associations.

Other Residential Property Managers; Other Nonresidential Property Managers; Offices of Real Estate Agents and Brokers; Offices of Real Estate Appraisers; and All Other Activities Related to Real Estate were each created from part of 1987 SIC 6531, Real Estate Agents and Managers. These five new industries are all significant and can be better represented under the new classification system. On a production orientation basis, each industry is unique.

Two industries were moved from the Real Estate subsector.

1987 SIC 6552, Land Subdividers and Developers, was moved to the Construction sector because the production process for this industry is more closely related to the production process of construction industries.

1987 SIC 6553, Cemetery Subdivision and Developers, was moved to Cemeteries and Crematories in the Other Services sector. Most of this activity is conducted by establishments that operate the cemetery after development; therefore, it is not possible to separate the subdivision and development of cemeteries from their operation. Neither of these two types of operations is closely related to the production activity of real estate establishments.

Lessors of Other Non-Financial Assets

The subsector Lessors of Other Non-Financial Assets comprises establishments primarily engaged in holding non-financial assets other than real estate and equipment and in allowing others to use or reproduce those assets for a fee. The establishments did not themselves produce the assets that they hold and permit others to use.

Examples of the assets involved are trademarks, industrial designs, and artistic works not subject to copyright.

Excluded from this industry are: (a) establishments engaged in the creation, production, reproduction, and/or distribution of artistic and literary works subject to copyright, such as newspapers, periodicals, books, databases, software and multimedia products, film and videos, and musical works—that is, publishing industries, motion picture and video production and distribution industries, record production companies, integrated record companies, music publishers, broadcasters, and independent artists, writers and performers (Information Sector and the Arts, Entertainment, and Recreation Sector); (b) establishments engaged in the leasing of real property, subsector Lessors of Real Estate; and © establishments engaged in the leasing of equipment, NAICS subsector Rental and Leasing Services.

Provision for the activities of lessors of intangible assets and of tangible assets other than real estate and equipment has been inadequate in existing classifications. In the United States, establishments engaged in franchising, licensing trademarks, leasing taxi medallions, etc., have been assigned to 1987 SIC 6794, Patent Owners and Lessors. It is desirable to create a broader industry in which to classify these activities.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
534	Lessors of Other Non-Financial Assets			
5341	Lessors of Other Non-Financial Assets			
53411	Lessors of Other Non-Financial Assets	R	*6792	Oil Royalty Traders (except investors on own account).
			6794	Patent Owners and Lessors.

TABLE 2

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 value of revenue for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

1987 USIC code	1987 USIC description	1997 U.S. description
6792@	Oil Royalty Traders	
	Investors on Own Account	Miscellaneous Financial Investment Activities.
	Oil Royalty Companies	Lessors of Other Non-Financial Assets (pt).
6794	Patent Owners and Lessors	Lessors of Other Non-Financial Assets (pt).

Description of Changes to the U.S. System

One new industry, Lessors of Other Non-Financial Assets, has been created from part of 1987 SIC 6792, Oil Royalty Traders, and 1987 SIC 6794, Patent Owners and Lessors.

Personal and Laundry Services

This draft classification provides for the subsector Personal and Laundry Services.

The Personal and Laundry Services subsector includes establishments that provide a range of services to individuals and businesses. The industries are distinguished by their use of specialized human resources and specialized physical facilities. The subsector contains four industry groups.

The industry group Personal Care Services comprises establishments that provide appearance-care services to individual consumers such as barber and beauty services. The industry group contains the industry Hair Care and Esthetic Services that is subdivided into Barber Shops, Beauty Salons, and Nail Salons. The industry Other Personal Care Services is subdivided into Diet and Weight Reducing Centers and Other Personal Care Services.

The industry group Funeral Services comprises establishments that provide funeral services such as preparation of bodies for burial and operation of cemeteries and crematories. The group contains two industries, Funeral Homes and Cemeteries and Crematories.

The industry group Laundry Services comprises establishments that provide a range of laundry, drycleaning, and related services to individual and business customers. The industry group contains the industries Coin-Operated Laundries and Drycleaning; Drycleaning and Laundry Services, except Coin-Operated that is subdivided into the Laundries, Family and Commercial, and Drycleaning Plants; Linen and Uniform Supply that is subdivided into Linen Supply and Industrial Launderers; and Other Laundry Services that is subdivided into Garment Pressing and Agents for Laundries and All Other Laundry Services.

The industry group Miscellaneous Personal Services comprises establishments that provide a wide variety of consumer-related services. The industry group contains the industries Pet Care Services, Except Veterinary Services; Photo Finishing that is subdivided into Photo Finishing Laboratories, except One-Hour and One-Hour Photo Finishing; Parking Lots and Garages; and Other Miscellaneous Personal Services.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of.''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
812	Personal and Laundry Services.			
8121	Personal Care Services.			
81211	Hair Care and Esthetic Services.			
812111	Barber Shops	R	*7241	Barber Shops (except barber colleges).
812112	Beauty Salons	R	*7231	Beauty Shops (except beauty and cosmetology schools and manicure and pedicure salons).
812113	Nail Salons	N	*7231	Beauty Shops (manicure and pedicure salons).
81219	Other Personal Care Services.			
812191	Diet and Weight Reducing Centers	N	*7299	Miscellaneous Personal Services, NEC (diet and weight reducing services).
812199	Other Personal Care Services	N	*7299	Miscellaneous Personal Services, NEC, (personal care services).
8122	Funeral Services			
81221	Funeral Homes	R	7261	Funeral Services and Crematories (funeral homes).
81222	Cemeteries and Crematories	R	*6531	Real Estate Agents and Managers (cemetery management).
			6553	Cemetery Subdividers and Developers.
			*7261	Funeral Services and Crematories (except funeral homes).
8123	Laundry Services			
81231	Coin-Operated Laundries and Drycleaning	E	7215	Coin-Operated Laundry and Drycleaning.
81232	Drycleaning and Laundry Services, Except Coin-Operated			
812321	Laundries, Family and Commercial	E	7211	Power Laundries, Family and Commercial.
812322	Drycleaning Plants	E	7216	Drycleaning Plants, Except Rug Cleaning.
81233	Linen and Uniform Supply			
812331	Linen Supply	R	7213	Linen Supply.

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of.''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*7219	Laundry and Garment Services, NEC, (diaper service).
812332	Industrial Launderers	E	7218	Industrial Launderers.
81239	Other Laundry Services.			
812391	Garment Pressing, and Agents for Laundries	E	7212	Garment Pressing and Agents for Laundries.
812399	All Other Laundry Services	R	*7219	Laundry and Garment Services, NEC (except diaper service and clothing alteration and repair).
8129	Miscellaneous Personal Services.			
81291	Pet Care Services, Except Veterinary Services	R	*0752	Animal Speciality Services, Except Veterinary (pet care services, except veterinary).
			*8734	Testing Laboratories (veterinary testing labs).
81292	Photo Finishing			
812921	Photo Finishing Laboratories, Except One-Hour.	N	*7384	Photofinishing Laboratories (except one-hour).
812922	One-Hour Photo Finishing	N	*7384	Photofinishing Laboratories (one-hour).
81293	Parking Lots and Garages	E	7521	Automobile Parking.
81299	Other Miscellaneous Personal Services	R	*7299	Miscellaneous Personal Services, NEC (except diet and weight reducing services, personal care services, and formal wear and costume rental service).

Table 2

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry.

1987 SIC code	1987 SIC description	1997 U.S. description
0752@	Animal Specialty Services, Except Veterinary	
	Pet Care Services	Pet Care Services, Except Veterinary Services (pt).
	Horses and Equines Services and Animal Production Breeding.	Support Activities for Animal Production (pt).
6553@	Cemetery Subdividers and Developers	Cemeteries and Crematories (pt).
7211	Power Laundries, Family and Commercial	Laundries, Family and Commercial.
7212	Garment Pressing and Agents for Laundries	Garment Pressing and Agents for Laundries.
7213@	Linen Supply	Linen Supply (pt).
7215	Coin-Operated Laundry and Drycleaning	Coin-Operated Laundries and Drycleaning.
7216	Drycleaning Plants, Except Rug Cleaning	Drycleaning Plants.
7217	Carpet and Upholstery Cleaning	Carpet and Upholstery Cleaning Services.
7218	Industrial Launderers	Industrial Launderers.
7219@	Laundry and Garment Services, NEC	
	Diaper Service	Linen Supply (pt).
	Clothing Alteration and Repair	Other Personal or Household Goods Repair and Maintenance (pt).
	Except Diaper Service and Clothing Alteration and Repair	All Other Laundry Services.
7221	Photographic Studios, Portrait	Photography Studios, Portrait.
7231@	Beauty Shops	
	Beauty Shops and Salons	Beauty Salons.
	Manicure and Pedicure Salons	Nail Salons.
	Beauty and Cosmetology Schools	Cosmetology and Barber Schools (pt).
7241@	Barber Shops	
	Barber Shops	Barber Shops.
	Barber Colleges	Cosmetology and Barber Schools (pt).
7251	Shoe Repair Shops and Shoeshine Parlors	Footwear and Leather Goods Repair (pt).
7261	Funeral Services and Crematories	
	Funeral Homes	Funeral Homes.
	Except Funeral Homes	Cemeteries and Crematories (pt).
7291	Tax Return Preparation Services	Tax Preparation Services.
7299@	Miscellaneous Personal Services, NEC	
	Locker Rental, Except Cold Storage	All Other Rental and Leasing of Consumer Goods (pt).
	Diet and Weight Reducing Centers	Diet and Weight Reducing Centers.
	Formal Wear and Costume Rental	Rental of Formal Wear and Costumes.
	Personal Care Services	Other Personal Care Services.
	All Other Miscellaneous Personal Services, NEC	Other Miscellaneous Personal Services.
7384	Photofinishing Laboratories	
	Photo Finishing Laboratories (Except One-Hour)	Photo Finishing Laboratories (except one-hour).
	One-Hour Photo Finishing	Photo Finishing Laboratories (one-hour).

Table 2—Continued

The abbreviation ''pt'' means ''part of''. @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry.

1987 SIC code	1987 SIC description	1997 U.S. description
7521	Automobile Parking	Parking Lots and Garages.
8734	Testing Laboratories	
	Veterinary Testing Labs	Pet Care Services, Except Veterinary Services (pt).
	Except Veterinary Testing Labs	Testing Laboratories.

Description of Changes to the U.S. System

Five new industries were created for this subsector as follows:

Nail Salons from part of 1987 SIC 7231, Beauty Shops. These establishments specialize in providing pedicure and other nail care and design services.

Diet and Weight Reducing Centers from part of 1987 SIC 7299, Miscellaneous Personal Services. These establishments provide specialized counseling, weight reduction programs, and nutritional supplements to individual clients.

Other Personal Care Services from part of 1987 SIC 7299, Miscellaneous Personal Services. This is a residual industry containing a variety of personal care service establishments.

Photo Finishing Laboratories, Except One-Hour from part of 1987 SIC 7384, Photo Finishing Laboratories. These establishments provide a range of developing and photo processing services clients.

One-Hour Photo Finishing from part of 1987 SIC 7384, Photo Finishing Laboratories. These establishments offer a limited range of photo finishing services with work usually being done on-site in short period of time.

One industry was moved to this subsector from the Agriculture sector:

Pet Care Services, Except Veterinary Services from part of 1987 SIC 0752, Animal Speciality Services, Except Veterinary. These establishments provide a range of pet care services to customers such as grooming and boarding.

Religious, Grantmaking, Civic and other Membership Organizations

This draft classification provides for the subsector Religious, Grantmaking, Civic and Other Membership Organizations.

The Religious, Grantmaking, Civic and Other Membership Organizations subsector comprises establishments that are typically defined as religious, grantmaking, civic and/or membership organizations. These establishments solicit members, promote and advocate causes, and provide donations or funding of causes.

There are five industry groups within this subsector.

The industry group Religious Organizations comprises establishments related to the activities of organized religion.

The industry group Grantmaking and Giving Services comprises establishments that provide competitive funding for specific causes from a trust fund or raise money to distribute for a variety of charitable causes. The industry group Grantmaking and Giving Services is subdivided into Grantmaking Foundations, Voluntary Health Organizations, and Other Grantmaking and Giving Services.

The industry group Social Advocacy Organizations comprises establishments that advocate and actively promote causes and beliefs for the public good. The industry Social Advocacy Organizations are subdivided into Human Rights Organizations; Environment, Conservation, and Wildlife Organizations; and Other Social Advocacy Organizations.

The industry group Civic and Social Associations comprises establishments that have an active membership structure and are engaged in a wide array of civic, social, or fraternal activities. The industry group contains the industry Civic and Social Associations that is subdivided into Civic and Social Associations with Restaurants and Bars and Civic and Social Associations without Restaurants and Bars.

The industry group Other Membership Organizations comprises establishments that have an active membership structure to promote causes or represent the interests of the members at large. The industry group includes the following industries: Business Associations, Professional Membership Organizations, Labor Unions and Similar Labor Organizations, Political Organizations, and All Other Membership Organizations.

TABLE 1

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
813	Religious, Grantmaking, Civic and Other Membership Organizations			
8131	Religious Organizations			
81311	Religious Organizations	E	8661	Religious Organizations.
8132	Grantmaking and Giving Services			
81321	Grantmaking and Giving Services			
813211	Grantmaking Foundations	E	6732	Educational, Religious, and Charitable Trust.
813212	Voluntary Health Organizations	N	*8399	Social Services, NEC (voluntary health organizations).
813219	Other Grantmaking and Giving Services	N	*8399	Social Services, NEC (except grantmaking and voluntary health organizations).

TABLE 1—Continued

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means ''part of''. The abbreviation NEC is used for Not Elsewhere Classified.

	1997 NAICS and description	Status code	1987 SIC code	1987 SIC description
8133	Social Advocacy Organizations			
81331	Social Advocacy Organizations			
813311	Human Rights Organizations	N	*8399	Social Services, NEC (human rights organizations).
813312	Environment, Conservation and Wildlife Organizations.	N	*8399	Social Services, NEC (environment, conservation, and wildlife advocacy).
			*8699	Membership Organizations, NEC (humane societies).
813319	Other Social Advocacy Organizations	N	*8399	Social Services, NEC (except human rights, environment, conservation and wildlife organizations).
8134	Civic and Social Associations			
81341	Civic and Social Associations			
813411	Civic and Social Organizations, with Restaurants and Bars.	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations).
			*8699	Membership Organizations, NEC (farm granges with restaurant and bars).
813412	Civic and Social Organizations, without Restaurants and Bars.	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations).
			*8699	Membership Organizations, NEC (farm granges without restaurant, and bars).
8139	Other Membership Organizations			
81391	Business Associations	R	8611	Business Associations.
			*8699	Membership Organizations, NEC (farm business organizations).
81392	Professional Membership Organizations	E	8621	Professional Membership Organizations.
81393	Labor Unions and Similar Labor Organizations	E	8631	Labor Unions and Similar Labor Organizations.
81394	Political Organizations	E	8651	Political Organizations.
81399	All Other Membership Organizations	R	*8699	Membership Organizations, NEC (except farm business organizations, farm granges, and environmental, conservation, and wildlife organizations).

TABLE 2

The abbreviation ''pt'' means ''part of''. @ means a time series break has been created that is greater than 3% of the 1992 revenues for the 1989 SIC industry.

1987 SIC code	1987 SIC description	1997 U.S. description
6732	Education, Religious, and Charitable Trusts	Grantmaking Foundations.
8399	Social Services, NEC	
	Voluntary Health Organizations	Voluntary Health Organizations.
	Grantmaking and Giving	Other Grantmaking and Giving Services.
	Human Rights Organizations	Human Rights Organizations.
	Environment, Conservation, and Wildlife Organizations	Environment, Conservation and Wildlife Organizations (pt).
	All Other Social Advocacy Organizations	Other Social Advocacy Organizations.
8611	Business Associations	Business Associations (pt).
8621	Professional Membership Organizations	Professional Membership Organizations.
8631	Labor Unions and Similar Labor Organizations	Labor Unions and Similar Labor Organizations.
8641	Civic, Social, and Fraternal Associations	
	With Restaurants and Bars	Civic and Social Associations with Restaurants and Bars (pt.).
	Without Restaurants and Bars	Civic and Social Associations without Restaurants and Bars (pt.).
	Homeowner and Condominium Associations, Except Property Management.	Condominium Associations (pt).
8651	Political Organizations	Political Organizations.
8661	Religious Organizations	Religious Organizations.
8699 @	Membership Organizations, Not Elsewhere Classified	All Other Membership Organizations.
	Farm Granges With Restaurants and Bars	Civic and Social Associations with Restaurants and Bars (pt.).
	Farm Granges Without Restaurants and Bars	Civic and Social Associations without Restaurants and Bars (pt).
	Farm Business Organizations	Business Associations (pt).
	Environmental, Conservation, and Wildlife Organizations	Environment, Conservation, and Wildlife Organizations (pt).
	Except Farm Granges, Farm Business Organizations and Environmental Conservation and Wildlife Organizations.	All Other Membership Organizations.

Description of Changes to the U.S. System

There are seven new industries in this 1997 subsector. Five of these industries were created from 1987 SIC 8399, Social Services, NEC. These new industries are:

Voluntary Health Organizations
Other Grantmaking and Giving Services
Human Rights Organizations
Environment, Conservation and Wildlife Organizations
Other Social Advocacy Organizations
Civic and Social Associations, with Restaurants and Bars
Civic and Social Organizations, without Restaurants and Bars

Two new industries were created from parts of 1987 SIC 8641, Civic, Social and Fraternal Organizations and 1987 SIC 8699, Membership Organization, NEC. These new industries are:

Civic and Social Organizations with Restaurants and Bars
Civic and Social Organizations without Restaurants and Bars

In addition, a number of activities were moved from this subsector or to different industries within the subsector. These are:

Homeowner, tenant, and condominium associations from part of 1987 SIC 8641, Civic, Social, and Fraternal Associations to the Real Estate subsector.

Farm business organizations from part of 1987 SIC 8699, Membership Organizations, NEC to Business Associations.

Farm granges from part of 1987 SIC 8699, Membership Organizations, NEC to Civic and Social Associations with Restaurants and Bars and Civic and Social Associations without restaurants and bars.

Part III—Proposed Hierarchy for NAICS, including Sectors and Subsectors

NAICS code	Sector and subsector
11	Agriculture, Forestry, Hunting and Fishing.
111	Crop Production.
112	Animal Production.
113	Forestry and Logging.
114	Fishing, Hunting and Trapping.
115	Support Activities for Agriculture and Forestry.
21	Mining.
211	Oil and Gas Extraction.
212	Mining, Except Oil and Gas.
213	Support Activities for Mining.
22	Utilities.
221	Utilities.
23	Construction.
236	Building, Developing and General Contracting.
237	Heavy Construction.
238	Special Trade Contractors.
31–33	Manufacturing.
311	Food Manufacturing.
312	Beverage and Tobacco Product Manufacturing.
313	Textile Mills.
314	Textile Product Mills.
315	Apparel Manufacturing.
316	Leather and Allied Product Manufacturing.
321	Wood Product Manufacturing, Except Furniture.
322	Paper Manufacturing.
323	Printing and Related Support Activities.
324	Petroleum and Coal Product Manufacturing.
325	Chemical Manufacturing.
326	Rubber and Plastics Product Manufacturing.
327	Nonmetallic Mineral Product Manufacturing.
331	Primary Metal Manufacturing.
332	Fabricated Metal Product Manufacturing.
333	Machinery Manufacturing.
334	Computer and Electronic Product Manufacturing.
335	Electrical Equipment, Appliance and Component Manufacturing.
336	Transportation Equipment Manufacturing.
337	Furniture Manufacturing.
339	Miscellaneous Manufacturing.
43	Wholesale Trade.
431	Wholesale Trade, Durable Goods.
432	Wholesale Trade, Nondurable Goods.
44, 45	Retail Trade.
441	Motor Vehicle and Parts Dealers.
442	Furniture and Home Furnishings Stores.
443	Electronics and Appliance Stores.
444	Building Materials and Garden Equipment and Supplies Dealers.
445	Food and Beverage Stores.
446	Health and Personal Care Stores.
447	Gasoline Stations.
448	Clothing and Accessories Stores.
451	Sports, Hobby, Book and Music Stores.
452	General Merchandise Stores.
453	Miscellaneous Store Retailers.
454	Nonstore Retailers.
48, 49	Transportation.
481	Air Transportation.
482	Rail Transportation.
483	Water Transportation.
484	Truck Transportation.
485	Transit and Ground Passenger Transportation.
486	Pipeline Transportation.
487	Scenic and Sightseeing Transportation.
488	Support Activities for Transportation.
491	Postal Service.
492	Couriers.
51	Information.
511	Publishing.
512	Motion Picture and Sound Recording.
513	Broadcasting and Telecommunications.
514	Information Services and Data and Transaction Processing.
52	Finance and Insurance.
521	Monetary Authorities—Central Bank.
522	Credit Intermediation and Related Activities.
523	Securities, Commodity Contracts and Other Intermediation and Related Activities.
524	Insurance Carriers and Related Activities.
53	Real Estate and Rental and Leasing.
531	Real Estate.
533	Rental and Leasing Services.
534	Lessors of Other Non-Financial Assets.
56	Professional, Scientific and Technical Services.
561	Professional, Scientific and Technical Services.
57	Management, Support, Waste Management and Remediation Services.
571	Management and Support Services.
572	Waste Management and Remediation Services.
61	Educational Services.
611	Educational Services.
62	Health and Social Assistance.
621	Ambulatory Health Care Services.
622	Hospitals.
623	Nursing and Residential Care Facilities.
624	Social Assistance.
71	Arts, Entertainment and Recreation.
711	Performing Arts, Spectator Sports and Related Industries.
712	Museums, Historical Sites and Similar Institutions.
713	Recreation, Amusement and Gambling Industries.
72	Food Services, Drinking Places, and Accommodations.
721	Accommodations.
722	Food Services and Drinking Places.
81	Other Services, Except Public Administration.
811	Repair and Maintenance.
812	Personal and Laundry Services.
813	Religious, Grantmaking, Civic and Other Membership Organizations.
814	Private Households.
93	Public Administration.
931	Executive, Legislative, Public Finance and General Government.
932	Justice, Public Order and Safety.
933	Administration of Human Resource Programs.
934	Administration of Environmental Quality Programs.
935	Administration of Housing Programs, Urban Planning and Community Development.

NAICS code	Sector and subsector
936	Administration of Economic Programs.
937	National Security and International Affairs.
98	Funds, Trusts, and Other Financial Vehicles (U.S. Only).
981	Funds, Trusts, and Other Financial Vehicles (U.S. Only).
99	Unclassified Establishments.
999	Unclassified Establishments.

Part IV Proposed 1997 NAICS Structure, Including Relationship to 1987 SIC

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
11	Agriculture, Forestry, Hunting and Fishing			
111	Crop Production			
1111	Grain and Oilseed Farming			
11111	Wheat Farming	E	0111	Wheat.
11112	Corn Farming	R	0115	Corn.
			*0119	Cash Grains, NEC (popcorn farming).
11113	Rice Farming	E	0112	Rice.
11114	Grain Farming, Except Wheat, Corn, and Rice	R	*0119	Cash Grains, NEC (except popcorn, barley, soybean, and dry pea and bean farming).
11115	Soybean Farming	E	0116	Soybeans.
11116	Oilseed Farming, Except Soybean Farming	N	*0119	Cash Grains, NEC (oilseed, except soybean farming).
11117	Dry Pea and Bean Farming	N	*0119	Cash Grains, NEC (dry pea and bean farms).
1112	Root, Tuber and Peanut Farming			
11121	Potato Farming	E	0134	Irish Potatoes.
11122	Peanut and Other Root and Tuber Farming			
111221	Sugarbeet Farming	N	*0133	Sugarcane and Sugar Beets (sugar beet farming).
111222	Peanut Farming	N	*0139	Field Crops Except Cash Grains, NEC (peanut farms).
111229	Other Root and Tuber Farming	N	*0139	Field Crops Except Cash Grains, NEC (root and tuber, except potato and sugar beet farms).
1113	Vegetable and Melon Farming			
11131	Vegetable and Melon Farming	E	0161	Vegetables and Melons
1114	Tree Nut and Fruit Farming			
11141	Orange Groves	N	*0174	Citrus Fruits (orange groves and farms).
11142	Other Citrus Groves	R	*0174	Citrus Fruits (except, orange groves and farms).
11143	Tree Nut and Noncitrus Fruit Farming			
111431	Apple Orchards	N	*0175	Deciduous Tree Fruits (apple orchards and farms).
111432	Grape Vineyards	E	0172	Grapes.
111433	Strawberry Farming	N	*0171	Berry Crops (strawberry farms).
111434	Other Berry Farming	R	*0171	Berry Crops (except strawberry farms).
111435	Tree Nut Farming	E	0173	Tree Nuts.
111439	Other Noncitrus Fruit Farming	R	*0175	Deciduous Tree Fruits (except apple orchards and farms).
			0179	Fruit and Tree Nuts, NEC.
1115	Greenhouse, Nursery and Floriculture Production			
11151	Food Crops Grown Under Cover			
111511	Mushroom Production	N	*0182	Food Crops Grown Under Cover (mushrooms, growing of).
111519	Other Food Crops Grown Under Cover	R	*0182	Food Crops Grown Under Cover (except mushroom, growing of).
11152	Nursery and Floriculture Production			
111521	Nursery and Tree Production	N	*0181	Ornamental Floriculture and Nursery Products (nursery farming).
			*0811	Timber Tracts (short rotation woody crops).
111522	Floriculture Production	N	*0181	Ornamental Floriculture and Nursery Products (floriculture farming).
1119	Other Crop Farming			
11191	Tobacco Farming	E	0132	Tobacco.
11192	Cotton Farming	E	0131	Cotton.
11193	Sugarcane Farming	N	*0133	Sugarcane and Sugar Beets (sugarcane farms).
11196	Hay Farming	N	*0139	Field Crops, Except Cash Grains, NEC (hay farms).
11199	All Other Crop Farming	R	*0139	Field Crops, Except Cash Grains, NEC (except root, tuber, peanut, and hay farms).
			0191	General Farms, Primarily Crop
			*0831	Forest Products (maple sap, gathering of)
			*0919	Miscellaneous Marine Products (plant aquaculture)
			*2099	Food Preparations, NEC (reducing maple sap to maple syrup)
112	Animal Production			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
1121	Cattle Ranching and Farming			
11211	Beef Cattle Ranching and Farming, Including Feedlots			
112111	Beef Cattle Ranching and Farming	R	0212	Beef Cattle, Except Feedlots (cattle farms).
			*0241	Dairy Farms (dairy heifer replacement farms).
112112	Cattle Feedlots	E	0211	Beef Cattle Feedlots (cattle farms).
11212	Dairy Cattle and Milk Production	R	0241	Dairy Farms
11213	Dual Purpose Cattle Ranching and Farming	L		
1122	Hog and Pig Farming			
11221	Hog and Pig Farming	E	0213	Hogs.
1123	Poultry Production			
11231	Chicken Egg Production	E	0252	Chicken Eggs.
11232	Broilers and Other Meat Type Chicken Production	E	0251	Broiler, Fryers, and Roaster Chickens.
11234	Turkey Production	E	0253	Turkey and Turkey Eggs.
11235	Poultry Hatcheries and Other Poultry Production			
112351	Poultry Hatcheries	E	0254	Poultry Hatcheries.
112359	Other Poultry Production	E	0259	Poultry and Eggs, NEC.
1124	Sheep and Goat Farming			
11241	Sheep Farming	N	*0214	Sheep and Goats (sheep farms).
11242	Goat Farming	N	*0214	Sheep and Goats (goat farms).
1125	Animal Aquaculture			
11251	Animal Aquaculture			
112511	Finfish Production	N	*0273	Animal Aquaculture (finfish farms).
			*0921	Fish Hatcheries and Preserves (finfish hatcheries).
			0912	Finfish.
112512	Shellfish Production	N	*0273	Animal Aquaculture (shellfish farms).
			*0921	Fish Hatcheries and Preserves (shellfish hatcheries).
			0913	Shellfish.
112519	Other Animal Aquaculture	R	*0273	Animal Aquaculture (except finfish and shellfish).
1129	Other Animal Production			
11291	Apiculture	N	*0279	Animal Specialties, NEC (apiculture).
11292	Horse and Other Equine Production	E	0272	Horse and Other Equine.
11293	Fur-Bearing Animal and Rabbit Production	E	0271	Fur-Bearing Animals and Rabbits.
11299	All Other Animal Production	R	0219	General Livestock, Except Dairy and Poultry.
			*0279	Animal Specialties, NEC (except apiculture).
			0291	General Farms, Primarily Livestock and Animal Specialties.
113	Forestry and Logging			
1131	Timber Tract Operations			
11311	Timber Tract Operations	R	*0811	Timber Tracts (long term timber farms).
1132	Forest Nurseries and Gathering of Forest Products			
11321	Forest Nurseries and Gathering of Forest Products	E	*0831	Forest Nurseries and Gathering of Forest Products (forest products, except gathering of maple sap).
1133	Logging			
11331	Logging	E	2411	Logging.
114	Fishing, Hunting and Trapping			
1141	Fishing			
11411	Fishing			
114111	Finfish Fishing	E	0912	Finfish.
114112	Shellfish Fishing	E	0913	Shellfish.
114119	Other Marine Fishing	R	0919	Miscellaneous Marine Products (except plant aquaculture).
1142	Hunting and Trapping			
11421	Hunting and Trapping	E	0971	Hunting and Trapping, and Game Propagation.
115	Support Activities for Agriculture and Forestry.			
1151	Support Activities For Crop Production			
11511	Support Activities For Crop Production			
115111	Soil Preparation, Planting, and Cultivating	R	0711	Soil Preparation Services.
			0721	Crop Planting, Cultivating, and Protecting.
115112	Crop Harvesting, Primarily by Machine	E	0722	Crop Harvesting, Primarily by Machine.
115113	Postharvest Crop Activities	E	0723	Crop Preparation Services For Market, Except Cotton Ginning.
115114	Farm Labor Contractors and Crew Leaders	E	0761	Farm Labor Contractors and Crew Leaders.
1152	Support Activities For Animal Production			
11521	Support Activities For Animal Production	N	*0751	Livestock Services, Except Veterinary (except custom slaughtering).
			*0752	Animal Specialty Services, Except Veterinary (horses and equines services and animal production breeding).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*7699	Repair Services, NEC (farriers).
1153	Support Activities for Forestry			
11531	Support Activities for Forestry	E	0851	Forestry Services.
21	Mining			
211	Oil and Gas Extraction			
2111	Oil and Gas Extraction			
21111	Oil and Gas Extraction			
211111	Crude Petroleum and Natural Gas Extraction	E	1311	Crude Petroleum and Natural Gas.
211112	Natural Gas Liquid Extraction	E	1321	Natural Gas Liquids.
212	Mining, Except Oil and Gas			
2121	Coal Mining			
21211	Coal Mining			
212111	Bituminous Coal and Lignite Surface Mining	E	1221	Bituminous Coal and Lignite Surface Mining.
212112	Bituminous Coal Underground Mining	E	1222	Bituminous Coal Underground Mining.
212113	Anthracite Mining	E	1231	Anthracite Mining.
2122	Metal Ore Mining			
21221	Iron Mining	E	1011	Iron Ores
21222	Gold and Silver Mining			
212221	Gold Mining	E	1041	Gold Ores.
212222	Silver Mining	E	1044	Silver Ores.
21223	Copper, Nickel, Lead and Zinc Mining			
212231	Copper and Nickel Mining	R	1021	Copper Ores.
			*1061	Ferroally Ores, Except Vanadium (nickel).
212232	Lead and Zinc Mining	E	1031	Lead and Zinc Ores.
21229	Other Metal Ore Mining.			
212291	Uranium-Radium-Vanadium Ore Mining	E	1094	Uranium-Radium-Vanadium Ores.
212299	Other Metal Ore	R	*1061	Ferroally Ores, Except Vanadium (other ferroalloys except nickel).
			1099	Miscellaneous Metal Ores, NEC.
2123	Non-Metallic Mineral Mining or Quarrying			
21231	Stone, Mining or Quarrying			
212311	Dimension Stone Mining or Quarrying	E	1411	Dimension Stone.
212312	Crushed and Broken Limestone Mining or Quarrying	E	1422	Crushed and Broken Limestone.
212313	Crushed and Broken Granite Mining or Quarrying	E	1423	Crushed and Broken Granite.
212319	Other Crushed and Broken Stone Mining or Quarrying.	R	1429	Crushed and Broken Stone, NEC.
			*1499	Miscellaneous Nonmetallic Minerals, Except Fuels (bituminous limestone and bituminous sandstone).
21232	Sand, Gravel, Clay, Ceramic and Refractory Mineral Mining or Quarrying			
212321	Construction Sand and Gravel Mining	E	1442	Construction Sand and Gravel.
212322	Industrial Sand Mining	E	1446	Industrial Sand.
212323	Kaolin and Ball Clay Mining	E	1455	Kaolin and Ball Clay.
212324	Clay, Ceramic and Refractory Mineral Mining	E	1459	Clay, Ceramic, and Refractory Minerals, NEC.
21239	Other Non-Metallic Mineral Mining or Quarrying			
212391	Potash, Soda, and Borate Mineral Mining	E	1474	Potash, Soda, and Borate Minerals.
212392	Phosphate Rock Mining	E	1475	Phosphate Rock.
212393	Other Chemical and Fertilizer Mineral Mining	E	1479	Chemical and Fertilizer Mineral Mining, NEC.
212399	All Other Non-Metallic Mineral Mining	R	*1499	Miscellaneous Nonmetallic Minerals, Except Fuels (bituminous limestone and bituminous sandstone).
213	Support Activities for Mining			
2131	Support Activities for Mining			
21311	Support Activities for Mining			
213111	Support Activities for Metal Mining	E	1081	Metal Mining Services.
213112	Support Activities for Coal Mining	E	1241	Coal Mining Services.
213113	Drilling Oil and Gas Wells	E	1381	Drilling Oil and Gas Wells.
213114	Support Activities for Oil and Gas Field Exploration	E	1382	Oil and Gas Field Exploration Services.
213115	Other Oil and Gas Field Support Activities	E	1389	Oil and Gas Field Services, NEC.
213116	Support Activities for Non-Metallic Minerals, Except Fuels.	E	1481	Nonmetallic Minerals Services, Except Fuels.
22	Utilities.			
221	Utilities.			
2211	Electric Power Generation, Transmission and Distribution.			
22111	Electric Power Generation.			
221111	Hydroelectric Power Generation	N	*4911	Electric Services (hydroelectric power generation).
			*4931	Electric and Other Services Combined (hydroelectric power generation).
			*4939	Combination Utilities, NEC (hydroelectric power generation).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
221112	Fossil Fuel Electric Power Generation	N	*4911	Electric Services (fossil fuel power generation).
			*4931	Electric and Other Services Combined (fossil fuel power generation).
			*4939	Combination Utilities, NEC (fossil fuel power generation).
221113	Nuclear Electric Power Generation	N	*4911	Electric Services (nuclear electric power generation).
			*4931	Electric and Other Services Combined (nuclear power generation).
			*4939	Combination Utilities, NEC (nuclear power generation).
221119	Other Electric Power Generation	N	*4911	Electric Services (other electric power generation).
			*4931	Electric and Other Services Combined (other electric power generation).
			*4939	Combination Utilities, NEC (other electric power generation).
22112	Electric Power Transmission, Distribution and Control			
221121	Electric Bulk Power Transmission and Control	N	*4911	Electric Services (electric power transmission and control).
			*4931	Electric and Other Services Combined (electric power transmission and control).
			*4939	Combination Utilities, NEC (electric power transmission and control).
221122	Electric Power Distribution	N	*4911	Electric Services (electric power distribution).
			*4931	Electric and Other Services Combined (electric power distribution).
			*4939	Combination Utilities, NEC (electric power distribution).
2212	Natural Gas Distribution			
22121	Natural Gas Distribution	R	*4923	Natural Gas Transmission and Distribution (distribution).
			4924	Natural Gas Distribution.
			4925	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution (natural gas distribution).
			*4932	Gas and Other Services Combined (natural gas distribution).
			*4939	Combination Utilities, NEC (natural gas distribution).
2213	Water, Sewerage and Other Systems			
22131	Water and Irrigation Systems	R	4941	Water Supply.
			4971	Irrigation Systems.
22132	Sewerage Systems	E	4952	Sewerage Systems.
22133	Steam and Air-Conditioning Supply	E	4961	Steam and Air-Conditioning Supply.
23	Construction			
236	Building, Developing and General Contracting			
2361	Land Subdivision and Land Development			
23611	Land Subdivision and Land Development	E	6552	Land Subdividers and Developers, Except Cemeteries.
2362	Residential Building Construction			
23621	Single-Family Housing Construction	R	1521	General contractors-Single- Family Houses.
			*1531	Operative Builders (single-family housing construction).
23622	Multi-Family Housing Construction	R	*1522	General Contractors-Residential Building, Other Than Single-Family (except hotel and motel construction).
			*1531	Operative Builders (multi-family housing construction).
2363	Nonresidential Building Construction			
23631	Manufacturing and Light Industrial Building Construction.	R	*1531	Operative Builders (manufacturing and light industrial building construction).
			*1541	General Contractors-Industrial Buildings and Warehouses (except warehouse construction).
23632	Commercial and Institutional Building Construction	R	*1522	General Contractors-Residential Building Other than Single-Family (hotel and motel construction).
			*1531	Operative Builders (commercial and institutional building construction).
			*1541	General Contractors-Industrial Buildings and Warehouses (warehouse construction).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			1542	General Contractor-Nonresidential Buildings, Other than Industrial Buildings and Warehouses.
237	Heavy Construction			
2371	Highway, Street, Bridge and Tunnel Construction			
23711	Highway and Street Construction	E	1611	Highway and Street Construction, Except Elevated Highways.
23712	Bridge and Tunnel Construction	R	1622	Bridge, Tunnel, and Elevated Highway Construction.
2379	Other Heavy Construction			
23791	Water, Sewer, and Pipeline Construction	N	*1623	Water, Sewer, Pipeline, and Communications and Power Line Construction (water and sewer mains and pipelines construction)
23792	Power and Communication Transmission Line Construction.	N	*1623	Water, Sewer, Pipelines, and Communications and Power Construction (communications and power line construction).
23793	Industrial Nonbuilding Structure Construction	N	*1629	Heavy Construction, NEC (industrial nonbuilding structures construction).
23799	All Other Heavy Construction	R	*1629	Heavy Construction, NEC (except industrial nonbuilding structures construction).
238	Special Trade Contractors			
2381	Plumbing, Heating and Air-Conditioning Contractors			
23811	Plumbing, Heating and Air-Conditioning Contractors	E	1711	Plumbing, Heating and Air-Conditioning.
2382	Painting and Wall Covering Contractors.			
23821	Painting and Wall Covering Contractors	R	1721	Painting and Paper Hanging.
			*1799	Special Trade Contractors, NEC (paint and wallpaper, stripping and wallpaper removal contractors).
2383	Electrical Contractors			
23831	Electrical Contractors	R	*1731	Electrical Work (except burglar and fire alarm installation).
2384	Masonry and Drywall Insulation, and Tile Contractors			
23841	Masonry and Stone	E	1741	Masonry, Stone Setting and Contractors Other Stone Work.
23842	Drywall, Plastering, Acoustical and Insulation Contractors.	R	1742	Plastering, Drywall, Acoustical, and Insulation Work.
			*1743	Terrazzo, Tile, Marble and Mosaic work (fresco work).
			*1771	Concrete Work (stucco construction).
23843	Tile, Marble, Terrazzo and Mosaic Contractors	R	*1743	Terrazzo, Tile, Marble, and Mosaic Work (except fresco work).
2385	Carpentry and Floor Contractors			
23851	Carpentry Contractors	E	1751	Carpentry Work.
23852	Floor Laying and Other Floor Contractors	E	1752	Floor Laying and Other Floor Work, NEC.
2386	Roofing, Siding and Sheet Metal Contractors			
23861	Roofing, Siding and Sheet Metal Contractors	E	1761	Roofing, Siding, and Sheet Metal Work.
2387	Concrete Contractors			
23871	Concrete Contractors	R	*1771	Concrete Work (except stucco construction).
2388	Water Well Drilling Contractors			
23881	Water Well Drilling Contractors	E	1781	Water Well Drilling.
2389	Other Special Trade Contractors			
23891	Structural Steel Erection Contractors	E	1791	Structural Steel Erection.
23892	Glass and Glazing Contractors	R	1793	Glass and Glazing Work.
			*1799	Specialty Trade Contractors, NEC (tinting glass work).
23893	Excavation Contractors	E	1794	Excavation Work.
23894	Wrecking and Demolition Contractors	E	1795	Wrecking and Demolition Work.
23895	Building Equipment and Other Machinery Contractors.	E	1796	Installation of Erection of Building Equipment, NEC.
23899	All Other Special Trade Contractors	R	1799	Special Trade Contractors, NEC (except paint and wallpaper stripping, wall paper removal contractors, and tinting glass work).
			7353	Heavy Construction Equipment Rental and Leasing (with operator).
31–33	Manufacturing			
311	Food Manufacturing			
3111	Animal Food Manufacturing			
31111	Animal Food Manufacturing			
311111	Dog and Cat Food Manufacturing	E	2047	Dog and Cat Food.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
311119	Other Animal Food Manufacturing	R	*2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (except slaughtering animals for pet food).
3112	Grain and Oilseed Milling			
31121	Flour Milling and Malt Manufacturing.			
311211	Flour Milling	R	*2034	Dehydrated Fruits, Vegetables and Soup Mixes (vegetable flour).
			2041	Flour and Other Grain Mill Products
311212	Rice Milling	E	2044	Rice Milling.
311213	Malt Manufacturing	E	2083	Malt.
31122	Starch and Vegetable Fats and Oils Manufacturing			
311221	Wet Corn Milling	E	2046	Wet Corn Milling.
311222	Soybean Processing	E	2075	Soybean Oil Mills.
311223	Other Oilseed Processing	N	2074	Cottonseed Oil Mills.
			2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean.
311225	Edible Fats and Oils Manufacturing	R	*2077	Animal and Marine Fats and Oil, NEC (vegetable oil foots).
			2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC.
31123	Breakfast Cereal Manufacturing	R	*2043	Cereal Breakfast Foods (breakfast cereal).
3113	Sugar and Confectionery Product Manufacturing			
31131	Sugar Manufacturing			
311311	Sugarcane Mills	E	2061	Cane Sugar, Except Refining.
311312	Cane Sugar Refining	E	2062	Cane Sugar Refining.
311313	Beet Sugar Manufacturing	E	2063	Beet Sugar.
31132	Chocolate and Confectionery Manufacturing from Cocoa Beans	E	2066	Chocolate and Cocoa Products.
31133	Confectionery Manufacturing from Purchased Chocolate	N	*2064	Candy and Other Confectionery Products (chocolate confectionery).
31134	Non-Chocolate Confectionery Manufacturing	N	*2064	Candy and Other Confectionery Products (non-chocolate confectionery).
			2067	Chewing Gum.
			*2099	Food Preparations, NEC (marshmallow creme).
3114	Preserved Fruit, Vegetable and Specialty Manufacturing			
31141	Frozen Food Processing			
311411	Frozen Fruit, Juice and Vegetable Processing	E	2037	Frozen Fruits, Fruit Juices, and Vegetables.
311412	Frozen Specialty Processing	E	2038	Frozen Specialties, NEC.
31142	Canning, Pickling and Drying			
311421	Fruit and Vegetable Canning	R	2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies.
			*2035	Pickled Fruits and Vegetables, Vegetable Sauces, and Seasonings and Salad Dressings (pickled fruits and vegetables).
311422	Specialty Canning	R	*2032	Canned Specialties (except canned puddings).
311423	Dried and Dehydrated Food Manufacturing	R	*2034	Dried and Dehydrated Fruits, Vegetables and Soup Mixes (except vegetable flour).
			*2099	Food Preparation, NEC (bouillon).
3115	Dairy Product Manufacturing			
31151	Dairy Product, Except Frozen Dairy Product Manufacturing			
311511	Fluid Milk Manufacturing	E	2026	Fluid Milk.
311512	Creamery Butter Manufacturing	E	2021	Creamery Butter.
311513	Cheese Manufacturing	E	2022	Natural, Processed, and Imitation Cheese.
311514	Dry, Condensed, and Evaporated Milk Manufacturing.	E	2023	Dry, Condensed and Evaporated Dairy Products.
31152	Ice Cream and Frozen Dessert Manufacturing	E	2024	Ice Cream and Frozen Desserts.
3116	Meat and Seafood Product Manufacturing			
31161	Animal Slaughtering and Processing			
311611	Animal Slaughtering, Except Poultry	R	*0751	Livestock Services, Except Veterinary (custom slaughtering).
			2011	Meat Packing Plants.
			*2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (animal slaughtering for pet food).
311612	Meat Processed From Carcasses	R	*2013	Sausages and Other Prepared Meats (meat processing).
			*5147	Meat and Meat Products (boxed beef).
311613	Rendering and Meat By-product Processing	N	*2013	Sausage and Other Prepared Meats (lard).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*2077	Animal and Marine Fats and Oils (animal fats and oils).
311615	Poultry Processing	R	*2015	Poultry Slaughtering and Processing (poultry processing).
31162	Seafood Product Preparation and Packaging.			
311621	Seafood Canning	R	*2077	Animal and Marine Fats and Oils (canned marine fats and oils).
			2091	Canned and Cured Fish and Seafood.
311622	Fresh and Frozen Seafood Processing	R	*2077	Animal and Marine Fats and Oils (fresh and frozen marine fats and oils).
			2092	Prepared Fresh or Frozen Fish and Seafood.
3117	Bakeries and Tortilla Manufacturing			
31171	Bread and Bakery Product Manufacturing			
311711	Commercial Bakeries	R	2051	Bread and Other Bakery Products, Except Cookies and Crackers.
			*2052	Cookies and Crackers (unleavened bread).
311712	Retail Bakeries	N	*5461	Retail Bakeries (bread, cake and related products baked and sold on premise).
311713	Frozen Bakery Product Manufacturing	E	2053	Frozen Bakery Products, Except Bread.
31172	Cookie, Cracker, and Pasta Manufacturing			
311721	Cookie and Cracker Manufacturing	R	*2052	Cookies and Crackers (except unleavened bread and pretzels).
311722	Flour Mixes and Dough Manufacturing from Purchased Flour.	E	2045	Prepared Flour Mixes and Doughs.
311723	Pasta Manufacturing	E	2098	Macaroni, Spaghetti, Vermicelli and Noodles.
31173	Tortilla Manufacturing	N	*2099	Food Preparations, NEC (tortillas).
3119	Miscellaneous Food Manufacturing			
31191	Snack Food Manufacturing			
311911	Roasted Nuts and Peanut Butter Manufacturing	R	2068	Salted and Roasted Nuts and Seeds.
			*2099	Food Preparations, NEC (peanut butter).
311919	Other Snack Food Manufacturing	R	*2052	Cookies and Crackers (pretzels).
			2096	Potato Chips, Corn Chips, and Similar Snacks.
31192	Coffee and Tea Manufacturing	N	*2043	Cereal Breakfast Foods (coffee substitute).
			*2095	Roasted Coffee (roasted coffee).
			*2099	Food Preparations, NEC (tea).
31193	Flavoring Syrup and Concentrate Manufacturing	R	*2087	Flavoring Extracts and Flavoring Syrups (flavoring syrup and concentrate).
31194	Seasoning and Dressing Manufacturing			
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing.	N	*2035	Pickled Fruits and Vegetables, Vegetable Seasonings, and Sauces and Salad Dressings (sauces and salad dressing).
			*2099	Food Preparations, NEC (vinegar).
311942	Spice and Extract Manufacturing	N	*2087	Flavoring Extracts and Flavoring Syrups (flavoring extracts).
			*2095	Roasted Coffee (coffee extracts).
			*2099	Food Preparations, NEC (spices, dip mix, salad dressing mix, and seasoning mix).
			*2899	Chemical Preparations, NEC (salt).
31199	Other Miscellaneous Food Manufacturing			
311991	Perishable Prepared Food Manufacturing	N	*2099	Food Preparations, NEC (perishable prepared food).
311999	All Other Miscellaneous Food Manufacturing	R	*2015	Poultry Slaughtering and Processing (egg processing).
			*2032	Canned Specialties (canned puddings).
			*2087	Flavoring Extracts and Flavoring Syrups (powered drink mix).
			*2099	Food Preparations, NEC (except bouillon, marshmallow cream, peanut butter, perishable prepared foods, tortillas, tea, spices, dip mix, salad dressing mix, seasoning mix, and vinegar).
312	Beverage and Tobacco Product Manufacturing			
3121	Beverage Manufacturing			
31211	Soft Drink and Ice Manufacturing			
312111	Soft Drink Manufacturing	R	*2086	Bottled and Canned Soft Drinks and Carbonated Water (except purified water).
312112	Ice Manufacturing and Water Purification	N	2097	Manufactured Ice.
			*2086	Bottled and Canned Soft Drinks and Carbonated Water (purified water).
31212	Breweries	E	2082	Malt Beverages.
31213	Wineries	E	2084	Wines, Brandy, and Brandy Spirits.
31214	Distilleries			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
312141	Distilled and Blended Liquor Manufacturing	E	2085	Distilled and Blended Liquors.
312142	Ethyl Alcohol Manufacturing	N	*2869	Industrial Organic Chemicals (ethyl alcohol).
3122	Tobacco Manufacturing			
31221	Tobacco Stemming and Redrying	R	*2141	Tobacco Stemming and Redrying (redrying and stemming).
31222	Tobacco Product Manufacturing			
312221	Cigarette Manufacturing	E	2111	Cigarettes.
312229	Other Tobacco Product Manufacturing	N	2121	Cigars.
			2131	Chewing and Smoking Tobacco and Snuff.
			*2141	Tobacco Stemming and Redrying (reconstituted tobacco).
313	Textile Mills			
3131	Fiber, Yarn, and Thread Mills			
31311	Fiber, Yarn, and Thread Mills			
313111	Yarn Spinning Mills	R	2281	Yarn Spinning Mills.
			*2299	Textile Goods, NEC (yarn of flax, hemp, jute, and ramie).
313112	Yarn Texturing, Throwing and Twisting Mills	R	*2282	Yarn Texturing, Throwing, Winding Mills (except spooling purchased yarns).
313113	Thread Mills	R	*2284	Thread Mills (except finishing).
			*2299	Textile Goods, NEC (thread of hemp, linen, and ramie).
3132	Fabric Mills			
31321	Broadwoven Fabric Mills	N	2211	Broadwoven Fabric Mills, Cotton.
			2221	Broadwoven Fabric Mills, Manmade Fiber and Silk.
			*2231	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)(except wool finishing).
			*2299	Textile Goods, NEC (broadwoven fabrics of jute, linen, hemp, and ramie).
31322	Narrow Fabric Mills and Schiffli Machine Embroideries			
313221	Narrow Fabric Mills	R	2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk and Manmade Fiber.
			*2299	Textile Goods, NEC (narrow woven fabric of jute, linen, kemp, and ramie).
313222	Schiffli Machine Embroideries	E	2397	Schiffli Machine Embroideries.
31323	Nonwoven Fabric Mills	R	2297	Nonwoven Fabrics.
			*2299	Textile Goods, NEC (nonwoven felt).
31324	Knit Fabric Mills			
313241	Weft Knit Fabric Mills	R	*2257	Weft Knit Fabric Mills (except finishing).
			*2259	Knitting Mills NEC (finished articles of weft knit fabric).
313249	Other Knit Fabric and Lace Mills	R	*2258	Lace and Warp Knit Fabric Mills (except finishing).
			*2259	Knitting Mills NEC (finished articles of warp knit fabric).
3133	Textile and Fabric Finishing and Fabric Coating Mills			
31331	Textile and Fabric Finishing Mills			
313311	Broadwoven Fabric Finishing Mills	N	*2231	Broadwoven Fabric Mills, Wool (wool broadwoven fabric finishing).
			2261	Finishers of Broadwoven Fabrics of Cotton.
			2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk.
			*2269	Finishers of Textiles, NEC (broadwoven fabric finishing).
			*5131	Piece Goods and Notions (broadwoven converters).
313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric.	N	*2231	Broadwoven Fabric Mills, Wool (wool finishing except broadwoven fabric).
			*2257	Weft Knit Fabric Mills (finishing).
			*2258	Lace and Warp Knit Fabric Mills (finishing).
			*2269	Finishers of Textiles, NEC (except broadwoven fabric finishing).
			*2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills (spooling purchased yarn).
			*2284	Thread Mills (thread finishing).
			*2299	Textile Goods, NEC (finishing hard fiber thread and yarn).
			*5131	Piece Goods and Notions (converters, except broadwoven).
31332	Fabric Coating Mills	R	2295	Coated Fabrics, Not Rubberized.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*3069	Fabricated Rubber Products, NEC (rubberized fabric).
314	Textile Product Mills			
3141	Textile Furnishings Mills			
31411	Carpet and Rug Mills	E	2273	Carpets and Rugs.
31412	Curtain and Linen Mills			
314121	Curtain and Drapery Mills	R	2391	Curtains and Draperies.
			5714	Drapery, Curtain, and Upholstery Stores (custom drapes).
314129	Other Household Textile Product Mills	R	*2392	Housefurnishings, Except Curtains and Draperies Mills (except mops and bags).
3149	Miscellaneous Textile Product Mills			
31491	Textile Bag and Canvas Mills			
314911	Textile Bag Mills	R	*2392	Housefurnishings, Except Curtains and Draperies (blanket, laundry, and wardrobe bags).
			2393	Textile Bags.
314912	Canvas and Related Product Mills	E	2394	Canvas and Related Products.
31499	Other Miscellaneous Textile Product Mills.			
314991	Rope, Cordage and Twine Mills	E	2298	Cordage and Twine.
314992	Tire Cord and Tire Fabric Mills	E	2296	Tire Cord and Fabrics.
314999	All Other Miscellaneous Textile Product Mills	R	*2299	Textile Goods, NEC (other textile products).
			*2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (except apparel contractors).
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (textile products except automotive and apparel trim and printing on apparel).
			*2399	Fabricated Textile Products, NEC (except apparel, automotive seat belts, and seat and tire covers).
315	Apparel Manufacturing			
3152	Men's and Boys' Cut and Sew Apparel Manufacturing.			
31521	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing.	R	*2322	Men's and Boys' Underwear and Nightwear (except contractors).
			*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' robes except contractors).
			*2384	Robes and Dressing Gowns (men's except contractors).
31522	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing.	R	*2311	Men's and Boys' Suits, Coats, and Overcoats (except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' suits and coats except contractors).
			*2385	Waterproof Outerwear (men's and boys' raincoats except contractors).
31523	Men's and Boys' Cut and Sew Shirt, Except Work Shirt Manufacturing.	R	*2321	Men's and Boys' Shirts, Except Work Shirts (except contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts (boys' shirts except contractors).
31524	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing.	R	*2325	Men's and Boys' Trousers and Slacks (except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' trousers, slacks, and jeans except contractors).
31525	Men's and Boys' Cut and Sew Work Clothing Manufacturing.	R	*2326	Men's and Boys' Work Clothing (except contractors).
31526	Men's and Boys' Cut and Sew Other Outerwear Manufacturing.	R	*2329	Men's and Boys' Clothing, NEC (men's and boys' other outerwear except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' other outerwear except contractors).
			*2385	Waterproof Outerwear (except contractors).
3153	Women's and Girls' Cut and Sew Apparel Manufacturing			
31531	Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing.	R	*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (women and girls' except contractors).
			*2342	Brassieres, Girdles, and Allied Garments (except contractors).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*2369	Girls', Children's, and Infants' Outerwear, NEC (girls' robes except contractors).
			*2384	Robes and Dressing Gowns (women's except contractors).
			*2389	Apparel and Accessories, NEC (garters and garter belts).
31532	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing.	R	*2331	Women's, Misses', and Juniors' Blouses and Shirts (except contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' blouses and shirts except contractors).
31533	Women's and Girls' Cut and Sew Dress Manufacturing.	R	*2335	Women's, Misses', and Juniors' Dresses (except contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' dresses except contractors).
31534	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing.	R	*2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats (except contractors) .
			*2369	Girls', Children's, and Infants' Outerwear, NEC (girls' suits, coats, jackets, and skirts except contractors).
			*2385	Waterproof Outerwear (women's and girls' raincoats except contractors).
31539	Women's and Girls' Cut and Sew Other Outerwear Manufacturing.	R	*2339	Women's, Misses', and Juniors' Outerwear, NEC (except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (girls' except contractors).
			*2385	Waterproof Outerwear (other women's and girls' outerwear except contractors).
3154	Other Cut and Sew Apparel Manufacturing			
31541	Infants' Cut and Sew Apparel Manufacturing	R	*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (infants' except contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts (infants' except contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (infants' except contractors).
			*2385	Waterproof Outerwear (infants' other outerwear except contractors).
31542	Fur and Leather Apparel Manufacturing	R	2371	Fur Goods.
			2386	Leather and Sheep-lined Clothing.
31549	All Other Cut and Sew Apparel Manufacturing	R	*2329	Men's and Boys' Outerwear, NEC (athletic uniforms except contractors).
			*2339	Women's, Misses', and Juniors' Outerwear, NEC (athletic uniforms except contractors).
			*2389	Apparel and Accessories, NEC (academic and clerical outerwear, except contractors).
3155	Cut and Sew Apparel Contractors			
31551	Cut and Sew Apparel Contractors			
315511	Men's and Boys' Cut and Sew Apparel Contractors	N	*2311	Men's and Boys' Suits, Coats, and Overcoats (contractors).
			*2321	Men's and Boys' Shirts, Except Work Shirts (contractors).
			*2322	Men's and Boys' Underwear and Nightwear (contractors).
			*2325	Men's and Boys' Trousers and Slacks (contractors).
			*2326	Men's and Boys' Work Clothing (contractors).
			*2329	Men's and Boys' Clothing, NEC (contractors).
			*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses and Shirts (boys' contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (boys' contractors).
			*2384	Robes and Dressing Gowns (men's and boys' contractors).
			*2385	Waterproof Outerwear (men's and boy's contractors).
			*2389	Apparel and Accessories, NEC (contractors).
			*2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (men's and boy's apparel contractors).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
315512	Women's and Girls' Cut and Sew Apparel Contractors.	N	*2331	Women's, Misses', and Juniors' Blouses and Shirts (contractors).
			*2335	Women's, Misses' and Juniors' Dresses (contractors).
			*2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats (contractors).
			*2339	Women's, Misses', and Juniors' Outerwear, NEC (contractors).
			*2341	Women's, Misses', Children's, and Infants' Underwear and Nightwear (contractors).
			*2342	Brassieres, Girdles, and Allied Garments (contractors).
			*2361	Girls', Children's, and Infants' Dresses, Blouses, and Shirts (girls' contractors).
			*2369	Girls', Children's, and Infants' Outerwear, NEC (girls' contractors).
			*2384	Robes and Dressing Gowns (women's and girls' contractors).
			*2385	Waterproof Outerwear (women's and girls' contractors).
			*2389	Apparel and Accessories, NEC (contractors).
			*2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (women's and girls' apparel contractors).
3156	Apparel Knitting Mills			
31561	Hosiery and Socks Mills			
315611	Sheer Hosiery Mills	R	2251	Women's Hosiery, except Socks.
			*2252	Hosiery, NEC (girls' hosiery).
315619	Other Hosiery and Socks Mills	R	*2252	Hosiery, NEC (socks).
31569	Other Apparel Knitting Mills			
315691	Outerwear Knitting Mills	R	2253	Knit Outerwear Mills.
			*2259	Knitting Mills, NEC (gloves and mittens).
315692	Underwear and Nightwear Knitting Mills	R	2254	Knit Underwear and Nightwear Mills.
			*2259	Knitting Mills, NEC (girdles).
3159	Apparel Accessories and Other Apparel Manufacturing			
31591	Apparel Accessories and Other Apparel Manufacturing			
315911	Hat, Cap and Millinery Manufacturing	E	2353	Hats, Caps, and Millinery.
315912	Glove and Mitten Manufacturing	R	2381	Dress and Work Gloves, Except Knit and All-Leather.
			3151	Leather Gloves and Mittens.
315913	Men's and Boys' Neckwear Manufacturing	E	2323	Men's and Boys' Neckwear.
315919	Other Apparel Accessories and Other Apparel Manufacturing	N	*2339	Women's, Misses', and and Juniors' Outerwear, NEC (scarves).
			*2385	Waterproof Outerwear (aprons, bibs, and other miscellaneous waterproof items).
			2387	Apparel Belts.
			*2389	Apparel and Accessories, NEC (handkerchiefs, arm bands, etc.).
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (apparel findings and trimming).
			*2399	Fabricated Textile Products, NEC (apparel and apparel accessories).
316	Leather and Allied Product Manufacturing			
3161	Leather and Hide Tanning and Finishing			
31611	Leather and Hide Tanning and Finishing	R	3111	Leather Tanning and Finishing.
			*3999	Manufacturing Industries, NEC (fur dressing and finishing).
3162	Footwear Manufacturing			
31621	Footwear Manufacturing			
316211	Rubber and Plastics Footwear Manufacturing	E	3021	Rubber and Plastics Footwear.
316212	House Slipper Manufacturing	E	3142	House Slippers.
316213	Men's Footwear Manufacturing, Except Athletic	E	3143	Men's Footwear, except Athletic.
316214	Women's Footwear Manufacturing, Except Athletic	E	3144	Women's Footwear, except Athletic.
316219	Other Footwear Manufacturing	E	3149	Footwear except Rubber, NEC.
3169	Miscellaneous Leather and Allied Product Manufacturing			
31691	Miscellaneous Leather and Allied Product Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
316911	Luggage Manufacturing	E	3161	Luggage.
316912	Women's Handbag and Purse Manufacturing	E	3171	Women's Handbags and Purses.
316913	Personal Leather Good, Except Women's Handbags and Purse Manufacturing	E	3172	Personal Leather Goods, except Women's Handbags and Purses.
316919	Other Miscellaneous Leather Good Manufacturing	R	*3131	Boot and Shoe Cut Stock and Findings (except wood heels and metal buckles).
			3199	Leather Goods, NEC.
321	Wood Product Manufacturing, Except Furniture			
3211	Sawmill Product and Wood Preservation Manufacturing			
32111	Sawmill Product and Wood Preservation Manufacturing			
321113	Sawmills	R	2421	Sawmills and Planing Mills, General.
			2429	Special Product Sawmills, NEC.
321114	Wood Preserving	E	2491	Wood Preserving.
3212	Laminated Wood Product Manufacturing			
32121	Laminated Wood Product Manufacturing			
321211	Hardwood Veneer and Plywood Manufacturing	E	2435	Hardwood Veneer and Plywood.
321212	Softwood Veneer and Plywood Manufacturing	E	2436	Softwood Veneer and Plywood.
321213	Structural Wood Member Manufacturing, Except Trusses.	R	*2439	Structural Wood Members, NEC (except trusses).
321217	Reconstituted Wood Product Manufacturing	E	2493	Reconstituted Wood Products.
3219	Other Wood Product Manufacturing			
32191	Wood Construction Product Manufacturing			
321911	Wood Window and Door Manufacturing	N	*2431	Millwork (wood windows and doors).
321912	Hardwood Dimension Mills	R	*2426	Hardwood Dimension and Flooring Mills (except flooring).
321913	Millwork Manufacturing, Including Flooring	R	*2426	Hardwood Dimension and Flooring Mills (hardwood flooring).
			*2431	Millwork (except wood doors and windows).
321914	Truss Manufacturing	N	*2439	Structural Wood Members, NEC (trusses).
32192	Wood Container and Package Product Manufacturing	N	2441	Nailed and Lock Corner Wood Boxes and Shook.
			2448	Wood Pallets and Skids.
			2449	Wood Containers, NEC.
			*2499	Wood Products, NEC (wood tubs and vats, jewelry and cigar boxes).
32199	All Other Wood Product Manufacturing			
321991	Manufactured Home (Mobile Home) Manufacturing	E	2451	Mobile Homes.
321992	Prefabricated Wood Building and Component Manufacturing	E	2452	Prefabricated Wood Buildings and Components.
321999	All Other Miscellaneous Wood Product Manufacturing	R	*2426	Hardwood Dimension and Flooring Mills (wood stock and turnings).
			*2499	Wood Products, NEC (other wood products).
			*3053	Gaskets, Packing, and Sealing Devices (cork gaskets, packaging, and sealing devices).
			*3131	Boot and Shoe Cut Stock and Findings (wood heels).
			*3993	Signs and Advertising Specialties (wood signs).
			*3999	Manufacturing Industries, NEC (burnt wood articles and other wood products).
322	Paper Manufacturing			
3221	Pulp, Paper and Paperboard Mills			
32211	Pulp Mills	R	*2611	Pulp Mills (pulp producing mills only).
32212	Paper Mills			
322121	Paper Mills, Except Newsprint Mills	R	*2611	Pulp Mills (pulp mills producing paper).
			*2621	Paper Mills (except newsprint mills).
322122	Newsprint Mills	N	*2621	Paper Mills (newsprint mills).
32213	Paperboard Mills	E	2631	Paperboard Mills.
3222	Converted Paper Product Manufacturing			
32221	Paperboard Container Manufacturing			
322211	Corrugated and Solid Fiber Box Manufacturing	E	2653	Corrugated and Solid Fiber Boxes.
322212	Folding Paperboard Box Manufacturing	E	2657	Folding Paperboard Boxes, Including Sanitary.
322213	Setup Paperboard Box Manufacturing	E	2652	Setup Paperboard Boxes.
322214	Fiber Can, Tube, Drum, and Similar Product Manufacturing.	E	2655	Fiber Cans, Tubes, Drums, and Similar Products.
322215	Non-Folding Sanitary Food Container Manufacturing	R	2656	Sanitary Food Containers, Except Folding.
			*2679	Converted Paper and Paperboard Products, NEC (egg cartons and other containers from purchased paper).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
32222	Paper Bag and Coated and Treated Paper Manufacturing			
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing.	R	*2671	Packaging Paper and Plastics Film, Coated and Laminated (single-web paper, paper multiweb laminated rolls and sheets for packaging uses).
322222	Coated and Laminated Paper Manufacturing	R	2672	Coated and Laminated Paper, NEC.
			*2679	Converted Paper and Paperboard Products, NEC (wallpaper and gift wrap paper).
322223	Plastics, Foil, and Coated Paper Bag Manufacturing	R	*2673	Plastics, Foil, and Coated Paper Bags (coated or multiweb laminated bags).
322224	Uncoated Paper and Multiwall Bag Manufacturing	E	2674	Uncoated Paper and Multiwall Bags.
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses.	N	*3497	Metal Foil and Leaf (laminated aluminum foil rolls and sheets for flexible packaging uses).
32223	Stationery Product Manufacturing			
322231	Die-Cut Paper and Paperboard Office Supply Manufacturing.	N	*2675	Die-Cut Paper and Paperboard and Cardboard (file folders, tabulating cards, and other paper and paperboard office supplies).
			*2679	Converted Paper and Paperboard Products, NEC (paper supplies for business machines and other paper office supplies).
322232	Envelope Manufacturing	E	2677	Envelopes.
322233	Stationery, Tablet, and Related Product Manufacturing.	E	2678	Stationery, Tablets, and Related Products.
32229	Other Converted Paper Product Manufacturing			
322291	Sanitary Paper Product Manufacturing	E	2676	Sanitary Paper Products.
322292	Surface-Coated Paperboard Manufacturing	N	*2675	Die-Cut Paper and Paperboard and Cardboard (pasted, lined, laminated, or surface-coated paperboard).
322298	All Other Converted Paper Product Manufacturing	R	*2675	Die-Cut Paper and Paperboard and Cardboard (die-cut paper and paperboard products, except office supplies).
			*2679	Converted Paper and Paperboard Products, NEC (other converted paper and paperboard products such as paper filters, crepe paper, and laminated and tiled wallboard).
323	Printing and Related Support Activities			
3231	Printing and Related Support Activities			
32311	Printing			
323111	Printing on Apparel	N	*2396	Automotive Trimmings, Apparel Findings, and Related Products (printing and embossing on fabric articles).
323112	Manifold Business Form Printing	E	2761	Manifold Business Forms.
323113	Book Printing	E	2732	Book Printing.
323114	Commercial Lithographic Printing	R	*2752	Commercial Printing, Lithographic (except quick printing).
			*2771	Greeting Cards (lithographic printing of greeting cards).
			*2782	Blankbooks, Loose-leaf Binders and Devices (lithographic printing of checkbooks).
			*3993	Signs and Advertising Specialties (lithographic printing of advertising specialties).
			*3999	Manufacturing Industries, NEC (lithographic printing of eyeglass frames for the trade).
323115	Commercial Gravure Printing	R	2754	Commercial Printing, Gravure.
			*2771	Greeting Cards (gravure printing of greeting cards).
			*2782	Blankbooks, Loose-leaf Binders and Devices (gravure printing of checkbooks).
			*3993	Signs and Advertising Specialties (gravure printing of advertising specialties).
			*3999	Manufacturing Industries, NEC (gravure printing of eyeglass frames for the trade).
323116	Commercial Screen Printing	N	*2759	Commercial Printing, NEC (screen printing).
			*2771	Greeting Cards (screen printing of greeting cards).
			*2782	Blankbooks, Loose-leaf Binders and Devices (screen printing of checkbooks).
			*3993	Signs and Advertising Specialties (screen printing of advertising specialties).
			*3999	Manufacturing Industries, NEC (screen printing of eyeglass frames for the trade).
323117	Commercial Flexographic Printing	N	*2759	Commercial Printing, NEC (flexographic printing).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*2771	Greeting Cards (flexographic printing of greeting cards).
			*2782	Blankbooks, Loose-leaf Binders and Devices (flexographic printing of checkbooks).
			*3993	Signs and Advertising Specialties (flexographic printing of advertising specialties).
			*3999	Manufacturing Industries, NEC (flexographic printing of eyeglass frames for the trade).
323118	Other Commercial Printing	R	*2759	Commercial Printing, NEC (other commercial printing except quick printing).
			*2771	Greeting Cards (other printing of greeting cards).
			*2782	Blankbooks, Loose-leaf Binders and Devices (other printing of checkbooks).
			*3993	Signs and Advertising Specialties (other printing of advertising specialties for the trade).
			*3999	Manufacturing Industries, NEC (other printing of eyeglass frames for the trade).
323119	Bankbook, Loose-leaf Binder and Device Manufacturing.	R	*2782	Blankbooks, Loose-leaf Binders and Devices (except checkbooks).
32312	Support Services for Printing.			
323121	Tradebinding and Related Work	E	2789	Bookbinding and Related Work.
323122	Prepress Services	R	2791	Typesetting.
			2796	Platemaking and Related Services.
324	Petroleum and Coal Product Manufacturing			
3241	Petroleum and Coal Product Manufacturing			
32411	Petroleum Refineries	E	2911	Petroleum Refining.
32412	Asphalt Paving and Roofing and Saturated Material Manufacturing			
324121	Asphalt Paving Mixture and Block Manufacturing	E	2951	Asphalt Paving Mixtures and Blocks.
324122	Asphalt Felt and Coating Manufacturing	E	2952	Asphalt Felts and Coatings.
32419	Other Petroleum and Coal Product Manufacturing.			
324191	Lubricating Oil and Grease Manufacturing	E	2992	Lubricating Oils and Greases.
324199	All Other Petroleum and Coal Product Manufacturing.	R	2999	Products of Petroleum and Coal, NEC.
			*3312	Blast Furnaces and Steel Mills (coke ovens).
325	Chemical Manufacturing			
3251	Basic Chemical Manufacturing			
32511	Petrochemical Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (aromatics).
			*2869	Industrial Organic Chemicals, NEC (aliphatics).
32512	Industrial Gases Manufacturing	R	2813	Industrial Gases.
			*2869	Industrial Organic Chemicals, NEC (fluorocarbon gases).
32513	Dye and Pigment Manufacturing			
325131	Inorganic Dye and Pigment bone and Manufacturing	N	*2816	Inorganic Pigments (except lamp black).
			*2819	Industrial Inorganic Chemicals, NEC (inorganic dyes).
325132	Organic Dye and Pigment Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (organic dyes and pigments).
32518	Other Inorganic Chemical Manufacturing			
325181	Alkalies and Chlorine Manufacturing	E	2812	Alkalies and Chlorine.
325182	Carbon Black Manufacturing	R	*2816	Inorganic pigments (bone and lamp black).
			2895	Carbon Black.
325188	All Other Inorganic Chemical Manufacturing	R	*2819	Industrial Inorganic Chemicals, NEC (except activated carbon and charcoal, alumina, and inorganic industrial dyes).
			*2869	Industrial Organic Chemicals, NEC (carbon bisulfide).
32519	Other Organic Chemical Manufacturing			
325191	Gum and Wood Chemical Manufacturing	E	2861	Gum and Wood Chemicals.
325192	Cyclic Crude and Intermediate Manufacturing	R	*2865	Cyclic Organic Crudes and Intermediates and Organic Dyes and Pigments (except aromatics and organic dyes and pigments).
325199	All Other Organic Chemical Manufacturing	R	*2869	Industrial Organic Chemicals, NEC (except aliphatics, carbon bisulfide, ethyl alcohol, fatty acid esters, and fluorocarbon gases).
3252	Resin, Synthetic Rubber, Artificial and Synthetic Fiber and Filament Manufacturing			
32521	Resin and Synthetic Rubber Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
325211	Plastics Material and Resin Manufacturing	E	2821	Plastics Materials, Synthetic and Resin, and Nonvulcanizable Elastomers.
325212	Synthetic Rubber Manufacturing	E	2822	Synthetic Rubber.
32522	Artificial and Synthetic Fiber and Filament Manufacturing			
325221	Cellulosic Manmade Fiber Manufacturing	E	2823	Cellulosic Manmade Fibers.
325222	Noncellulosic Organic Fiber Manufacturing	E	2824	Manmade Organic Fibers, Except Cellulosic.
3253	Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing			
32531	Fertilizer Manufacturing			
325311	Nitrogenous Fertilizer Manufacturing	E	2873	Nitrogenous Fertilizers.
325312	Phosphatic Fertilizer Manufacturing	E	2874	Phosphatic Fertilizers.
325314	Fertilizer, Mixing Only, Manufacturing	E	2875	Fertilizers, Mixing Only.
32532	Pesticide and Other Agricultural Chemical Manufacturing.	E	2879	Pesticides and Agricultural Chemicals, NEC.
3254	Pharmaceutical and Medicine Manufacturing			
32541	Pharmaceutical and Medicine Manufacturing			
325411	Medicinal and Botanical Manufacturing	E	2833	Medicinal Chemicals and Botanicals Products.
325412	Pharmaceutical Preparation Manufacturing	R	2834	Pharmaceutical Preparations.
			*2835	In-Vitro and In-Vivo Diagnostic Substances (except in-vitro diagnostic).
325413	In-Vitro Diagnostic Substance Manufacturing	N	*2835	In-Vitro and In-Vivo Diagnostic Substances (in-vitro diagnostic substances).
325414	Biological Product Manufacturing, Except Diagnostic	E	2836	Biological Products, Except Diagnostic Substance.
3255	Paint, Coating, Adhesive, and Sealant Manufacturing			
32551	Paint and Coating Manufacturing	R	2851	Paints, Varnishes, Lacquers, Enamels and Allied Products.
			*2899	Chemicals and Chemical Preparations, NEC (frit).
32552	Adhesive and Sealant Manufacturing	E	2891	Adhesives and Sealants.
3256	Soap, Cleaning Compound and Toilet Preparation Manufacturing			
32561	Soap and Cleaning Compound Manufacturing			
325611	Soap and Other Detergent Manufacturing	R	2841	Soaps and Other Detergents, Except Specialty Cleaners.
			*2844	Toilet Preparations (toothpaste).
325612	Polish and Other Sanitation Good Manufacturing	E	2842	Specialty Cleaning, Polishing, and Sanitary Preparations.
325613	Surface Active Agent Manufacturing	E	2843	Surface Active Agents, Finishing Agents, Sulfanated Oils, and Assistants.
32562	Toilet Preparation Manufacturing	R	*2844	Perfumes, Cosmetics, and Other Toilet Preparations (except toothpaste).
3259	Miscellaneous Chemical Product Manufacturing			
32591	Printing Ink Manufacturing	R	2893	Printing Ink.
			*2899	Chemical Preparations, NEC (writing inks).
			*3952	Lead Pencils and Art Goods (drawing inks and india ink).
32592	Explosive Manufacturing	E	2892	Explosives.
32599	Other Miscellaneous Chemical Product Manufacturing			
325991	Custom Compounding of Purchased Resin	E	3087	Custom Compounding of Purchased Plastics Resin.
325992	Photographic Film, Paper, Plate and Chemical Manufacturing.	N	*3861	Photographic Equipment and Supplies (photographic films, paper, plates chemicals).
325998	All Other Miscellaneous Chemical Product Manufacturing.	R	*2819	Industrial Inorganic Chemicals, NEC (activated carbon and charcoal).
			*2869	Industrial Organic Chemicals, NEC (fatty acid esters).
			*2899	Chemicals and Chemical Preparations, NEC (except frit, salt, and writing and drawing ink).
			*3999	Manufacturing Industries, NEC (matches).
326	Rubber and Plastics Product Manufacturing			
3261	Rubber Product Manufacturing			
32611	Tire and Tube Manufacturing			
326111	Tire and Inner Tube Manufacturing	E	3011	Tires and Inner Tubes.
326112	Tire Rebuilding	N	*7534	Tire Retreading and Repair Shops (rebuilding).
32612	Rubber and Plastics Hose and Belting Manufacturing.	E	3052	Rubber and Plastics Hose and Belting.
32619	Other Rubber Product Manufacturing			
326191	Mechanical Rubber Product Manufacturing	E	3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
326199	All Other Rubber Product Manufacturing	R	*3053	Gaskets, Packings and Sealing Devices (rubber gaskets, packings and sealing devices).
			*3069	Fabricated Rubber Products, NEC (except rubberized fabric and rubber resilient floor covering).
3262	Plastics Product Manufacturing			
32621	Unsupported Plastics Film, Sheet and Bag Manufacturing			
326211	Unsupported Plastics Bag Manufacturing	N	*2673	Plastics, Foil, and Coated Paper Bags (plastics bags).
326212	Unsupported Plastics Packaging Film and Sheet Manufacturing.	N	*2671	Packaging Paper and Plastics Film, Coated, and Laminated (plastics packaging film and sheet).
326213	Unsupported Plastics Film and Sheets, Except Packaging Manufacturing.	E	3081	Unsupported Plastics Film and Sheet.
32622	Unsupported Profile Shape, Plastics Pipe and Fitting Manufacturing			
326221	Unsupported Plastics Profile Shape Manufacturing	R	3082	Unsupported Plastics Profile Shapes.
			*3089	Plastics Product, NEC (plastics sausage casings).
326222	Plastics Pipe and Pipe Fitting Manufacturing	R	3084	Plastics Pipe.
			*3089	Plastics Products, NEC (pipe fittings).
32623	Laminated Plastics Plate, Sheet and Shape Manufacturing.	E	3083	Laminated Plastics Plate, Sheet and Profile Shapes.
32624	Polystyrene Foam Product Manufacturing	N	*3086	Plastics Foam Products (polystyrene foam products).
32625	Urethane Foam Product Manufacturing	N	*3086	Plastics Foam Products (urethane foam products).
32626	Plastics Bottle Manufacturing	E	3085	Plastics Bottles.
32629	Other Plastics Product Manufacturing.			
326291	Plastics Plumbing Fixture Manufacturing	E	3088	Plastics Plumbing Fixtures.
326292	Resilient Floor Covering Manufacturing	R	*3069	Fabricated Rubber Products, NEC (rubber resilient floor coverings).
			3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC.
326299	All Other Plastics Product Manufacturing	R	*3053	Gaskets, Packing and Sealing Devices (plastics gaskets, packing and sealing devices).
			*3993	Signs and Advertising Specialties (non-electric plastics signs).
			*3089	Plastics Products, NEC (except plastics pipe fittings and plastics sausage casings).
			*3999	Manufacturing Industries, NEC (plastics products such as combs, hair curlers, etc.).
327	Nonmetallic Mineral Product Manufacturing			
3271	Clay Product and Refractories Manufacturing			
32711	Pottery, Ceramic and Plumbing Fixture Manufacturing			
327111	Vitreous China Plumbing Fixture and China and Earthenware Fitting and Bathroom Accessory Manufacturing.	E	3261	Vitreous China Plumbing and China and Earthenware Fittings and Bathroom Accessories.
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing.	N	3262	Vitreous China Table and Kitchen Articles.
			3263	Fine Earthenware (Whiteware) Table and Kitchen Articles.
			3269	Pottery Products, NEC.
327113	Porcelain Electrical Supply Manufacturing	E	3264	Porcelain Electrical Supplies.
32712	Clay Building Material and Refractories Manufacturing			
327121	Brick and Structural Clay Tile Manufacturing	E	3251	Brick and Structural Clay Tile.
327122	Ceramic Wall and Floor Tile Manufacturing	E	3253	Ceramic Wall and Floor Tile.
327123	Other Structural Clay Product Manufacturing	E	3259	Structural Clay Products, NEC.
327124	Clay Refractory Manufacturing	E	3255	Clay Refractories.
327125	Nonclay Refractory Manufacturing	E	3297	Nonclay Refractories.
3272	Glass, Glass Product and Glass Container Manufacturing			
32721	Glass and Glass Product Manufacturing			
327211	Flat Glass Manufacturing	E	3211	Flat Glass.
327212	Other Pressed and Blown Glass and Glassware Manufacturing.	E	3229	Pressed and Blown Glass and Glassware, NEC.
327213	Glass Product Manufacturing Made of Purchased Glass.	E	3231	Glass Products Made of Purchased Glass.
32722	Glass Container Manufacturing	E	3221	Glass Containers.
3273	Cement and Concrete Product Manufacturing			
32731	Hydraulic Cement Manufacturing	E	3241	Cement, Hydraulic.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
32732	Ready-Mix Concrete Manufacturing	E	3273	Ready-Mixed Concrete.
32733	Concrete Pipe, Brick and Block Manufacturing			
327331	Concrete Block and Brick Manufacturing	E	3271	Concrete Block and Brick.
327332	Concrete Pipe Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete pipe).
32739	Other Precast Concrete Product Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete products, except dry mix concrete and pipe).
3274	Lime, Gypsum and Gypsum Product Manufacturing			
32741	Lime Manufacturing	E	3274	Lime.
32742	Gypsum and Gypsum Product Manufacturing	R	3275	Gypsum Products.
			*3299	Nonmetallic Mineral Products, NEC (moldings, ornamental and architectural plaster work).
3279	Miscellaneous Nonmetallic Mineral Product Manufacturing			
32791	Abrasive Product Manufacturing	R	*3291	Abrasive Products (except steel wool with or without soap).
32799	Other Miscellaneous Nonmetallic Mineral Product Manufacturing			
327991	Cut Stone and Stone Product Manufacturing	E	3281	Cut Stone and Stone Products.
327992	Ground or Treated Mineral and Earth Manufacturing	E	3295	Minerals and Earths, Ground or Otherwise Treated.
327993	Mineral Wool Manufacturing	E	3296	Mineral Wool.
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing.	R	*3272	Concrete Products, Except Block and Brick (dry mixture concrete).
			*3292	Asbestos Products (except brake pads and linings)
			*3299	Nonmetallic Mineral Products, NEC (except moldings, ornamental and architectural plaster work).
331	Primary Metal Manufacturing			
3311	Iron and Steel Mills and Ferroalloy Manufacturing			
33111	Iron and Steel Mills and Ferroalloy Manufacturing			
331111	Iron and Steel	N	*3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills (except coke ovens not integrated with steel mills).
			*3399	Primary Metal Products, NEC (ferrous powder, paste, flakes, etc.).
331112	Electrometallurgical Ferroalloy Product Manufacturing.	R	*3313	Electrometallurgical Products, Except Steel (ferroalloys).
3312	Steel Products Made from Purchased Steel			
33121	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel.	E	3317	Steel Pipe and Tubes.
33122	Rolling and Drawing of Purchased Steel			
331221	Cold-Rolled Steel Shape Manufacturing	E	3316	Cold-Rolled Steel Sheet, Strip and Bars.
331222	Steel Wire Drawing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (steel wire drawing).
3313	Smelting, Refining, Rolling, Drawing and Extruding of Aluminum			
33131	Smelting, Refining, Rolling, Drawing and Extruding of Aluminum			
331311	Alumina Manufacturing	N	*2819	Industrial Inorganic Chemicals, NEC (alumina).
331312	Primary Refining of Aluminum	E	3334	Primary Production of Aluminum.
331314	Secondary Smelting of Aluminum	N	*3341	Secondary Smelting and Refining of Nonferrous Metals (aluminum).
			*3399	Primary Metal Products, NEC (aluminum powder, paste, flakes, etc.).
331315	Aluminum Sheet, Plate and Foil Manufacturing	E	3353	Aluminum Sheet, Plate, and Foil.
331316	Aluminum Extruded Product Manufacturing	E	3354	Aluminum Extruded Products.
331319	Other Aluminum Rolling and Drawing	R	3355	Aluminum Rolling and Drawing, NEC.
			*3357	Drawing and Insulating of Nonferrous Wire (aluminum wire drawing).
3314	Smelting, Refining, Rolling, Drawing and Extruding of Other Nonferrous Metal			
33141	Smelting and Refining of Nonferrous Metal Except Aluminum			
331411	Primary Smelting and Refining of Cooper	E	3331	Primary Smelting and Refining of Copper.
331412	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum.	E	3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum.
331413	Secondary Smelting and Refining of Nonferrous Metals.	R	*3313	Electrometallurgical Products, Except Steel (nonferrous alloys).
			*3341	Secondary Smelting and Refining of Nonferrous Metals (except aluminum).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*3399	Primary Metal Products, NEC (nonferrous powders, flakes, paste, etc., except aluminum).
33142	Rolling, Drawing and Extruding Copper			
331421	Rolling, Drawing and Extruding Copper, Except Wire.	E	3351	Rolling, Drawing, and Extruding of Copper.
331422	Drawing of Copper Wire	N	*3357	Drawing and Insulating of Nonferrous Wire (copper wire drawing).
33143	Rolling, Drawing, and Extruding of Nonferrous Metals Except Copper or Aluminum.	R	3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum.
			*3357	Drawing and Insulating of Nonferrous Wire (wire drawing except copper or aluminum).
3315	Metal Castings			
33151	Ferrous Castings			
331511	Gray, Malleable and Ductile Iron Foundries	R	3321	Gray and Ductile Iron Foundries.
			3322	Malleable Iron Foundries.
331512	Steel Investment Foundries	E	3324	Steel Investment Foundries.
331513	Steel Foundries, Except Investment	E	3325	Steel Foundries, NEC.
33152	Nonferrous Castings			
331521	Aluminum Die-Castings	E	3363	Aluminum Die-Castings.
331522	Nonferrous Die-Castings, Except Aluminum	E	3364	Nonferrous Die-Castings, Except Aluminum.
331524	Aluminum Foundries	E	3365	Aluminum Foundries.
331525	Copper Foundries	E	3366	Copper Foundries.
331526	Nonferrous Foundries, Except Aluminum and Copper.	E	3369	Nonferrous Foundries, Except Aluminum and Copper.
332	Fabricated Metal Product Manufacturing			
3321	Forging and Stamping			
33211	Forging and Stamping			
332111	Iron and Steel Forging	E	3462	Iron and Steel Forgings.
332112	Nonferrous Forging	E	3463	Nonferrous Forgings.
332114	Custom Roll Forming	N	*3449	Miscellaneous Structural Metal Work (custom roll forming).
332115	Crown and Closure Manufacturing	E	3466	Crowns and Closures.
332116	Metal Stamping	N	*3469	Metal Stampings, NEC (except kitchen utensils, pots and pans for cooking and coins).
332117	Powder Metallurgy Part Manufacturing	N	*3499	Fabricated Metal Products, NEC (powder metallurgy).
3322	Cutlery and Hand Tool Manufacturing			
33221	Cutlery and Hand Tool Manufacturing			
332211	Cutlery and Flatware Manufacturing, Except Precious.	N	3421	Cutlery.
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (cutlery and flatware except precious).
332212	Hand and Edge Tool Manufacturing	R	3423	Hand and Edge Tools, Except Machine Tools and Handsaws.
			*3523	Farm Machinery and Equipment (hand hair clippers for animals).
			*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (nonpowered lawnmowers).
			*3545	Cutting Tools, Machine Tools Accessories, and Machinist Precision Measuring Devices (precision measuring devices).
			*3799	Transportation Equipment, NEC (wheelbarrows).
			*3999	Manufacturing Industries, NEC (tape measures).
332213	Saw Blade and Handsaw Manufacturing	E	3425	Saw Blades and Handsaws.
332214	Kitchen Utensil, Pot and Pan Manufacturing	N	*3469	Metal Stampings, NEC (kitchen utensils, pots, and pans for cooking).
3323	Architectural and Structural Metal Manufacturing			
33231	Plate Work and Fabricated Structural Product Manufacturing			
332311	Prefabricated Metal Buildings and Component Manufacturing.	E	3448	Prefabricated Metal Building and Components.
332312	Fabricated Structural Metal Manufacturing	R	3441	Fabricated Structural Metal.
			*3449	Miscellaneous Structural Metal Work (fabricated bar joists and concrete reinforcing bars).
332313	Plate Work Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (fabricated plate work and metal weldments).
33232	Ornamental and Architectural Metal Product Manufacturing			
332321	Metal Door, Sash, Frame, Molding and Trim Manufacturing.	R	3442	Metal Doors, Sash, Frames, and Molding Trim.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*3449	Miscellaneous Structural Metal Work (curtain wall).
332322	Sheet Metal Work Manufacturing	R	*3444	Sheet Metal Work (ducts, flumes, flooring, siding, dampers, etc.).
332323	Ornamental and Architectural Metal Work Manufacturing.	R	3446	Architectural and Ornamental Metal Work.
			*3449	Miscellaneous Structural Metal Work (metal plaster bases).
			*3523	Farm Machinery and Equipment (corrals, stalls, and holding gates).
3324	Boiler, Tank, and Shipping Container Manufacturing			
33241	Power Boiler and Heat Exchanger Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (power boilers and heat exchangers).
33242	Metal Tank Manufacturing (Heavy Gauge)	N	*3443	Fabricated Plate Work (Boiler Shops) (heavy gauge tanks).
33249	Metal Can, Box, and Other Metal Container (Light Gauge) Manufacturing			
332491	Metal Can Manufacturing	E	3411	Metal Cans.
332499	Other Metal Container Manufacturing	R	3412	Metal Shipping Barrels, Drums, Kegs, and Pails.
			*3429	Hardware, NEC (vacuum and insulated bottles, jugs, and chests).
			*3444	Sheet Metal Work (metal bins and vats).
			*3499	Fabricated Metal Products, NEC (metal boxes).
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (metal air cargo containers).
			*5085	Industrial Supplies (reconditioning barrels and drums).
3325	Hardware Manufacturing			
33251	Hardware Manufacturing	R	*3429	Hardware, NEC (hardware, except hose nozzles, and vacuum and insulated bottles, jugs and chests).
			*3499	Fabricated Metal Products, NEC (safe and vault locks).
3326	Spring,Wire and Turned Product Manufacturing			
33261	Spring and Wire Product Manufacturing			
332611	Steel Spring Manufacturing, Except Wire	E	3493	Steel Springs, Except Wire.
332612	Wire Spring Manufacturing	R	*3495	Wire Springs (except watch Manufacturing and clock springs).
332618	Other Fabricated Wire Product Manufacturing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (nails, spikes, paper clips and wire not made in wiredrawing plants).
			*3399	Primary Metal Products, NEC (nonferrous nails, brads, staples, etc.).
			3496	Miscellaneous Fabricated Wire Products.
33262	Turned Product Manufacturing			
332621	Precision Turned Product Manufacturing	E	3451	Screw Machine Products.
332622	Bolt, Nut, Screw, Rivet and Washer Manufacturing	E	3452	Bolts, Nuts, Screws, Rivets, and Washers.
3327	Machine Shops and Coating, Engraving, Heat Treating and Allied Activities			
33271	Machine Shops	N	*3599	Industrial and Commercial Machinery and Equipment, NEC (machine shops).
33272	Coating, Engraving, Heat Treating and Allied Activities			
332721	Metal Heat Treating	E	3398	Metal Heat Treating.
332722	Metal Coating, Engraving and Allied Services to Manufacturing, Except Jewelry and Silverware.	R	*3479	Coating, Engraving, and Engraving and Allied Services, NEC (except jewelry engraving and etching).
332723	Electroplating, Plating, Polishing, Anodizing and Coloring.	R	*3399	Primary Metal Products, NEC (laminating steel).
			3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.
3329	Other Fabricated Metal Product Manufacturing			
33291	Metal Valve Manufacturing			
332911	Industrial Valve Manufacturing	E	3491	Industrial Valves.
332912	Fluid Power Valve and Hose Fittings Manufacturing	R	3492	Fluid Power Valves and Hose Fitting.
			*3728	Aircraft Parts and Auxiliary Equipment, NEC (fluid power aircraft subassemblies).
332913	Plumbing Fixture Fitting and Trim Manufacturing	R	*3432	Plumbing Fixture Fittings and Trim (except shower rods).
332919	Other Metal Valve and Pipe Fitting Manufacturing	R	*3429	Hardware, NEC (hose nozzles).
			*3494	Valves and Pipe Fittings, NEC (except metal pipe hangers and supports).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*3499	Fabricated Metal Products, NEC (metal aerosol valves).
33299	All Other Fabricated Metal Product Manufacturing			
332991	Ball and Roller Bearing Manufacturing	E	3562	Ball and Roller Bearings.
332992	Small Arms Ammunition Manufacturing	E	3482	Small Arms Ammunition.
332993	Ammunition Manufacturing, Except Small Arms	E	3483	Ammunition, Except for Small Arms.
332994	Small Arms Manufacturing	E	3484	Small Arms.
332995	Other Ordnance and Accessories, Manufacturing	E	3489	Ordnance and Accessory NEC.
332996	Fabricated Pipe and Pipe Fitting Manufacturing	E	3498	Fabricated Pipe and Pipe Fittings.
332997	Industrial Pattern Manufacturing	E	3543	Industrial Patterns.
332998	Enameled Iron and Metal Sanitary Ware Manufacturing.	E	3431	Enameled Iron and Metal Sanitary Ware.
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.	R	*3053	Gaskets, Packing, and Sealing Devices (metal gaskets, packing and sealing Product devices).
			*3291	Abrasive Products (steel wool with or without soap).
			*3432	Plumbing Fixture Fittings and Trim (metal shower rods).
			*3494	Valves and Pipe Fittings, NEC (metal pipe hangers and supports).
			*3497	Metal Foil and Leaf (foil and foil containers).
			*3499	Fabricated Metal Products, NEC (other metal products).
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (metal pallets).
			*3599	Industrial and Commercial Machinery and Equipment, NEC (flexible metal hose).
			*3993	Signs and Advertising Specialties (non-electric metal signs).
			*3999	Manufacturing Industries, NEC (other miscellaneous metal products, such as combs, hair curlers, etc.).
333	Machinery Manufacturing			
3331	Agriculture, Construction, and Mining Machinery Manufacturing		.....	
33311	Agricultural Implement Manufacturing			
333111	Farm Machinery and Equipment Manufacturing	R	*3523	Farm Machinery and Equipment (except corrals, stalls, holding gates, hand clippers for animals, and farm conveyors/elevators).
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing.	R	*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (except nonpowered lawnmowers).
33312	Construction Machinery Manufacturing	R	*3531	Construction Machinery and Equipment (except railway track maintenance equipment; winches, aerial work platforms; and automotive wreckers hoists).
33313	Mining and Oil and Gas Field Machinery Manufacturing			
333131	Mining Machinery and Equipment Manufacturing	E	3532	Mining Machinery and Equipment Equipment, Except Oil and Gas Field Machinery and Equipment.
333132	Oil and Gas Field Machinery and Equipment Manufacturing.	E	3533	Oil and Gas Field Machinery and Equipment.
3332	Industrial Machinery Manufacturing			
33321	Sawmill and Woodworking Machinery Manufacturing	E	3553	Woodworking Machinery.
33322	Rubber and Plastics Industry Machinery Manufacturing.	N	*3559	Special Industry Machinery, NEC (rubber and plastics manufacturing machinery).
33329	Other Industrial Machinery Manufacturing			
333291	Paper Industry Machinery Manufacturing	E	3554	Paper Industries Machinery.
333292	Textile Machinery Manufacturing	E	3552	Textile Machinery.
333293	Printing Machinery and Equipment Manufacturing	E	3555	Printing Trades Machinery and Equipment.
333294	Food Product Machinery Manufacturing	E	3556	Food Products Machinery.
333295	Semiconductor Machinery Manufacturing	N	*3559	Special Industry Machinery, NEC (semiconductor machinery manufacturing).
333298	All Other Industrial Machinery Manufacturing	R	*3559	Special Industry Machinery, NEC (except rubber and plastics manufacturing machinery, semiconductor manufacturing machinery, and automotive maintenance equipment).
			*3639	Household Appliances, NEC (household sewing machines).
3333	Commercial and Service Industry Machinery Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
33331	Commercial and Service Industry Machinery Manufacturing			
333311	Automatic Vending Machine Manufacturing	E	3581	Automatic Vending Machines.
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing.	E	3582	Commercial Laundry, Drycleaning and Pressing Machines.
333313	Office Machinery Manufacturing	N	*3578	Calculating and Accounting Machinery, Except Electronic Computers (except point of sales terminals and funds transfer devices).
			*3579	Office Machines, NEC (except timeclocks, time stamps, pencil sharpeners, stapling machines, etc.).
333314	Optical Instrument and Lens Manufacturing	E	3827	Optical Instruments and Lenses.
333315	Photographic and Photocopying Equipment Manufacturing.	N	*3861	Photographic Equipment and Supplies (except photographic film, paper, plates and chemicals).
333319	Other Commercial and Service Industry Machinery Manufacturing.	R	*3559	Special Industry Machinery, NEC (automotive maintenance equipment).
			3589	Service Industry Machinery, NEC.
			*3599	Industrial and Commercial Machinery and Equipment, NEC (carnival amusement park equipment).
			*3699	Electrical Machinery, Equipment and Supplies, NEC (electronic teaching machines and flight simulators).
3334	Heating, Ventilation, Air-Conditioning and Commercial Refrigeration Manufacturing			
33341	Heating, Ventilation, Air-Conditioning and Commercial Refrigeration Manufacturing			
333411	Air Purification Equipment Manufacturing	N	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (air purification equipment).
333412	Industrial and Commercial Fan and Blower Manufacturing.	R	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (fans and blowers).
333414	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces.	R	3433	Heating Equipment, Except Electric and Warm Air Furnaces.
			*3634	Electric Housewares and Fans (wall and baseboard heating units for permanent installation).
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	R	*3443	Fabricated Plate Work (Boiler Shops) (metal cooling towers).
			*3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (except water coolers).
3335	Metalworking Machinery Manufacturing			
33351	Metalworking Machinery Manufacturing			
333511	Industrial Mold Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (industrial molds).
333512	Machine Tool Manufacturing, Metal Cutting Types	E	3541	Machine Tools, Metal Cutting Type.
333513	Machine Tool Manufacturing, Metal Forming Types	E	3542	Machine Tools, Metal Forming type.
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing.	R	*3544	Special Dies and Tools, Die Set, Jigs and Fixtures, and Industrial Molds (except molds).
333515	Cutting Tool and Machine Tool Accessory Manufacturing.	R	*3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (except precision measuring device).
333516	Rolling Mill Machinery and Equipment Manufacturing.	E	3547	Rolling Mill Machinery and Equipment.
333518	Other Metalworking Machinery Manufacturing	E	3549	Metalworking Machinery, NEC.
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing			
33361	Engine, Turbine and Power Transmission Equipment Manufacturing			
333611	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Unit Manufacturing.	E	3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units.
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing.	E	3566	Speed Changers, Industrial High-Speed Drives, and Gears.
333613	Mechanical Power Equipment Manufacturing	E	3568	Mechanical Power Transmission Equipment, NEC.
333618	Other Engine Equipment Manufacturing	R	*3519	Internal Combustion Engines, NEC (except stationary engine radiators).
			*3699	Electrical Machinery, Equipment and Supplies, NEC (outboard electric motors).
3339	Other General Purpose Machinery Manufacturing			
33391	Pump and Compressor Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
333911	Pump and Pumping Equipment Manufacturing	R	3561	Pumps and Pumping Equipment.
			*3743	Railroad Equipment (locomotive fuel lubricating or cooling medium pumps).
333912	Air and Gas Compressor Manufacturing	E	3563	Air and Gas Compressors.
333913	Measuring and Dispensing Pump Manufacturing	E	3586	Measuring and Dispensing Pumps.
33392	Material Handling Equipment Manufacturing			
333921	Elevator and Moving Stairway Manufacturing	E	3534	Elevators and Moving Stairways.
333922	Conveyor and Conveying Equipment Manufacturing	R	*3523	Farm Machinery and Equipment (farm conveyors and elevators).
			3535	Conveyors and Conveying Equipment.
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing.	R	3536	Overhead Traveling Cranes, Hoists, and Monorail Systems.
			*3531	Construction Machinery and Equipment (winches, aerial work platforms, and automobile wrecker hoists).
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing.	R	*3537	Industrial Trucks, Tractors, Trailers, and Stackers and Stacker (except metal pallets and metal air cargo containers).
33399	All Other General Purpose Machinery Manufacturing.			
333991	Power-Driven Hand Tool Manufacturing	E	3546	Power-Driven Handtools.
333992	Welding and Soldering Equipment Manufacturing	R	*3548	Electric and Gas Welding and Soldering Equipment (except transformers for arc-welding).
333993	Packaging Machinery Manufacturing	E	3565	Packaging Machinery.
333994	Industrial Process Furnace and Oven Manufacturing	E	3567	Industrial Process Furnaces and Ovens.
333995	Fluid Power Cylinder and Actuator Manufacturing	E	3593	Fluid Power Cylinders and Actuators.
333996	Fluid Power Pump and Motor Manufacturing	E	3594	Fluid Power Pumps and Motors.
333997	Scale and Balance Manufacturing, Except Laboratory.	E	3596	Scales and Balances, Except Laboratory.
333999	All Other General Purpose Machinery Manufacturing	R	*3599	Industrial and Commercial Machinery and Equipment, NEC (other industrial and commercial machinery and equipment).
			3569	General Industrial Machinery and Equipment, NEC.
334	Computer and Electronic Product Manufacturing			
3341	Computer and Peripheral Equipment Manufacturing			
33411	Computer and Peripheral Equipment Manufacturing			
334111	Electronic Computer Manufacturing	E	3571	Electronic Computers.
334112	Computer Storage Device Manufacturing	E	3572	Computer Storage Devices.
334113	Computer Terminal Manufacturing	E	3575	Computer Terminals.
334119	Other Computer Peripheral Equipment Manufacturing.	R	3577	Computer Peripheral Equipment, NEC.
			*3578	Calculating and Accounting Machines, Except Electronic Computers (point of sale terminals and fund transfer devices).
			*3699	Electrical Machinery, Equipment and Supplies, NEC (bar code scanners).
3342	Communication Equipment Manufacturing			
33421	Telephone Apparatus	R	*3661	Telephone and Telegraph Manufacturing Apparatus (except telephone transformers and consumer external modems).
33422	Broadcast and Studio Equipment for Radio, TV, and Cable Manufacturing	R	3663	Radio and Television Broadcasting and Communication Equipment.
			*3679	Electronic Components, NEC (communication equipment).
33429	Other Communication Equipment Manufacturing	E	3669	Communications Equipment, NEC.
3343	Audio and Video Equipment Manufacturing			
33431	Audio and Video Manufacturing Equipment	E	3651	Household Audio and Video Equipment.
3344	Semiconductor and Electronic Component Manufacturing			
33441	Semiconductor and Electronic Component Manufacturing			
334411	Electron Tube Manufacturing	E	3671	Electron Tubes.
334412	Printed Circuit Board Manufacturing	E	3672	Printed Circuit Boards.
334413	Semiconductor and Related Device Manufacturing	E	3674	Semiconductors and Related Devices.
334414	Electronic Capacitor Manufacturing	E	3675	Electronic Capacitors.
334415	Electronic Resistor Manufacturing	E	3676	Electronic Resistors.
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing	R	*3661	Telephone and Telegraph Apparatus (telephone transformers).
			3677	Electronic Coils, Transformers, and Other Inductors.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (portable instrument transformers).
334417	Electronic Connector Manufacturing	E	3678	Electronic Connectors.
334419	Other Electronic Component Manufacturing	R	*3661	Telephone and Telegraph Apparatus (consumer external modems).
			*3679	Electronic Components, NEC (other electronic components including loaded PC boards).
3345	Navigational, Measuring, Medical, and Control Instrument Manufacturing			
33451	Navigational, Measuring, Medical, and Control Instrument Manufacturing			
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	R	*3842	Orthopedic, Prosthetic and Surgical Appliances and Supplies (electronic hearing aids).
			3845	Electromedical and Electrotherapeutic Apparatus.
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instrument Manufacturing	E	3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instruments.
334512	Automatic Control for Regulating Residential and Commercial Environment and Appliances Manufacturing	E	3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances.
334513	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Product Manufacturing	E	3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Product.
334514	Totalizing Fluid Meter and Counting Device Manufacturing	E	3824	Totalizing Fluid Meters and Counting Devices.
334515	Instruments for Measuring and Testing of Electricity and Electrical Signal Manufacturing	R	*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (except portable instrument transformers).
334516	Analytical Instrument Manufacturing	E	3826	Laboratory Analytical Instruments.
334517	X-Ray Apparatus and Tubes and Related Irradiation Apparatus Manufacturing.	E	3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus.
334518	Watch, Clock, and Part Manufacturing	R	*3495	Wire Springs (clock and watch springs).
			*3579	Office Machines, NEC (time clocks and other time recording devices).
			3873	Watches, Clocks, Clockwork Operated Devices, and Parts.
334519	Other Measuring and Controlling Device Manufacturing	R	*3829	Measuring and Controlling Devices, NEC (except medical thermometers).
3346	Manufacturing and Reproduction of Magnetic and Optical Media			
33461	Manufacturing and Reproduction of Magnetic and Optical Media			
334611	Reproduction of Software	N	*7372	Prepackaged Software (reproduction of software).
334612	Prerecorded Compact Disk (Except Software), Tape and Record Manufacturing	N	*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (reproduction of all other media except video).
			*7819	Services Allied to Motion Picture Production (reproduction of video).
334613	Magnetic and Optical Recording Media Manufacturing	E	3695	Magnetic and Optical Recording Media.
335	Electrical Equipment, Appliance and Component Manufacturing			
3351	Electric Lighting Equipment and Sign Manufacturing			
33511	Electric Lamp Bulb and Part Manufacturing	E	3641	Electric Lamp Bulbs and Tubes.
33512	Electric Sign and Lighting Fixture Manufacturing			
335121	Electric Sign Manufacturing	N	*3993	Signs and Advertising Specialties (electric signs).
335122	Residential Electric Lighting Fixture Manufacturing	E	3645	Residential Electric Lighting Fixtures.
			*3999	Manufacturing Industries, NEC (lamp shades of paper or textile)
335123	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.	E	3646	Commercial, Industrial and Institutional Electric Lighting Fixtures.
335129	Other Lighting Equipment Manufacturing	R	3648	Lighting Equipment, NEC.
			*3699	Electrical Machinery, Equipment, and Supplies, NEC(Christmas tree lighting sets and electric insect lamps).
3352	Household Appliance Manufacturing			
33521	Small Electrical Appliance Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
335211	Electric Houseware and Fan Manufacturing	R	*3634	Electric Housewares and Fans (except wall and baseboard heating units for permanent installation).
335212	Household Vacuum Cleaner Manufacturing	R	3635	Household Vacuum Cleaners.
			*3639	Household Appliances, NEC (floor waxing and floor polishing machines).
33522	Major Appliance Manufacturing			
335221	Household Cooking Appliance Manufacturing	E	3631	Household Cooking Equipment.
335222	Household Refrigerator and Home and Farm Freezer Manufacturing.	R	*3585	Refrigeration and Heating Equipment (water coolers).
			3632	Household Refrigerators and Home and Farm Freezers.
335224	Household Laundry Equipment Manufacturing	E	3633	Household Laundry Equipment.
335228	Other Household Appliance Manufacturing	R	*3639	Household Appliances, NEC (except floor waxing and floor polishing machines, and household sewing machines).
3353	Electrical Equipment Manufacturing			
33531	Electrical Equipment Manufacturing			
335311	Power, Distribution and Specialty Transformer Manufacturing.	R	*3548	Electric and Gas Welding and Soldering Equipment (transformers for arc-welders).
			3612	Power, Distribution, and Speciality Transformers.
335312	Motor and Generator Manufacturing	R	3621	Motors and Generators.
			*7694	Armature Rewinding Shops (remanufacturing).
335313	Switchgear and Switchboard Apparatus Manufacturing.	E	3613	Switchgear and Switchboard Apparatus.
335314	Relay and Industrial Control Manufacturing	E	3625	Relays and Industrial Controls.
3359	Other Electrical Equipment and Component Manufacturing			
33591	Accumulator and Battery Manufacturing			
335911	Storage Battery Manufacturing	E	3691	Storage Batteries.
335912	Dry and Wet Primary Battery Manufacturing	E	3692	Primary Batteries, Dry and Wet.
33592	Communication and Energy Wire Manufacturing			
335921	Fiber Optic Cable Manufacturing	N	*3357	Drawing and Insulating of Manufacturing Nonferrous Wire (fiber optic cable-insulating only).
335929	Other Communication and Energy Wire Manufacturing.	N	*3357	Drawing and Insulating of Nonferrous Wire (communication and energy wire, except fiber optic-insulating only).
33593	Accessories and Conductors for Carrying Current Manufacturing			
335931	Current-Carrying Wiring Device Manufacturing	E	3643	Current-Carrying Wiring Devices.
335932	Noncurrent-Carrying Wiring Device Manufacturing	E	3644	Noncurrent-Carrying Wiring Devices.
33599	All Other Electrical Equipment and Component Manufacturing			
335991	Carbon and Graphite Product Manufacturing	E	3624	Carbon and Graphite Products.
335999	All Other Electrical Industrial Equipment and Supply Manufacturing.	R	3629	Electrical Industgrial Apparatus, NEC.
			*3699	Electrical Machinery, Equipment, and Supplies, NEC (other electrical industrial apparatus).
336	Transportation Equipment Manufacturing			
3361	Motor Vehicle Manufacturing			
33611	Passenger Car and Light Truck Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (passenger car and light duty trucks).
33612	Heavy Duty Truck Manufacturing	N	*3711	Motor Vehicles and Passenger Manufacturing Car Bodies (heavy duty trucks).
3362	Truck and Bus Body and Trailer Manufacturing			
33621	Truck and Bus Body and Trailer Manufacturing			
336211	Truck and Bus Body Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (kit car and other passenger car bodies).
			3713	Truck and Bus Bodies.
			*3714	Motor Vehicle Parts and Accessories (dumptruck lifting mechanisms and fifth wheels).
336212	Truck Trailer Manufacturing	E	3715	Truck Trailers.
336213	Motor Home Manufacturing	E	3716	Motor Homes.
336214	Travel Trailer and Camper Manufacturing	R	3792	Travel Trailers and Campers.
			*3799	Transportation Equipment, NEC (automobile, boat, utility and light truck trailers).
3363	Motor Vehicle Part Manufacturing			
33631	Motor Vehicle Gasoline Engine and Engine Part Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing.	E	3592	Carburetors, Pistons, Piston Rings, and Valves.
336312	Engine and Engine Part Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (gasoline engines and engine parts including rebuilt).
33632	Motor Vehicle Electrical and Electronic Equipment Manufacturing			
336321	Vehicular Lighting Equipment Manufacturing	E	3647	Vehicular Lighting Equipment.
336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing.	R	*3679	Electronic Components, NEC (electronic control modular chips for motor vehicles).
			3694	Electrical Equipment for Internal Combustion Engines.
			*3714	Motor Vehicle Parts and Accessories (wiring harness sets, other than ignition; block heaters and battery heaters; instrument board assemblies; permanent defrosters; windshield washer-wiper mechanisms; cruise control mechanisms; and other electrical equipment for internal combustion engines).
33633	Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing.	N	*3714	Motor Vehicle Parts and Accessories (steering and suspension parts).
33634	Motor Vehicle Brake System Manufacturing	N	*3292	Asbestos Products (asbestos brake linings and pads).
			*3714	Motor Vehicle Parts and Accessories (brake and brake systems, including assemblies).
33635	Motor Vehicle Transmission and Power Train Part Manufacturing.	N	*3714	Motor Vehicle Parts and Accessories (transmissions and power train parts, including rebuilding).
33636	Motor Vehicle Fabric Accessory and Seat Manufacturing.	N	*2396	Automotive Trimmings, Apparel Findings, and Related Products (textile motor vehicle trimmings).
			*2399	Fabricated Textile Products, NEC (seat belts, and seat and tire covers).
			*2531	Public Building and Related Furniture (seats for motor vehicles).
33637	Motor Vehicle Metal Stamping	E	3465	Automotive Stampings.
33639	Other Motor Vehicle Part Manufacturing	R	*3519	Internal Combustion Engines, NEC (stationary engine radiators).
			*3599	Industrial and Commercial Machinery and Equipment, NEC (gasoline, oil and intake filters for internal combustion engines, except for motor vehicles).
			*3714	Motor Vehicle Parts and Accessories (except truck and bus bodies, trailers, engine and engine parts, motor vehicle electrical and electronic equipment, motor vehicle steering and suspension components, motor vehicle brake systems, and motor vehicle transmission and power train parts).
3364	Aerospace Product and Part Manufacturing			
33641	Aerospace Product and Part Manufacturing			
336411	Aircraft Manufacturing	E	3721	Aircraft.
336412	Aircraft Engine and Engine Part Manufacturing	E	3724	Aircraft Engines and Engine Parts.
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing.	R	*3728	Aircraft Parts and Auxiliary Equipment, NEC (except fluid power aircraft subassemblies).
336414	Guided Missile and Space Vehicle Manufacturing	E	3761	Guided Missiles and Space Vehicles.
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Part Manufacturing.	E	3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts.
336419	Other Guided Missile and Space Vehicle Part and Auxiliary Equipment Manufacturing.	E	3769	Guided Missile and Space Vehicle Parts and Equipment Auxiliary.
3365	Railroad Rolling Stock Manufacturing			
33651	Railroad Rolling Stock Manufacturing	R	*3531	Construction Machinery and Equipment (railway track maintenance equipment).
			*3743	Railroad Equipment (except locomotive fuel lubricating or cooling medium pumps).
3366	Ship and Boat Building			
33661	Ship and Boat Building			
336611	Ship Building and Repairing	E	3731	Ship Building and Repairing.
336612	Boat Building	R	*3732	Boat Building and Repairing (boat building).
3369	Miscellaneous Transportation Equipment Manufacturing			
33691	Miscellaneous Transportation Equipment Manufacturing			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
336911	Motorcycle, Bicycle and Part Manufacturing	R	*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (metal tricycles).
			3751	Motorcycles, Bicycles and Parts.
336912	Military Armored Vehicle, Tank and Tank Component Manufacturing.	R	*3711	Motor Vehicles and Passenger Car Bodies (military armored vehicles).
			3795	Tanks and Tank Components.
336919	Other Miscellaneous Transportation Equipment Manufacturing.	R	*3799	Transportation Equipment, NEC (except automobile, boat, utility light truck trailers, and wheelbarrows).
337	Furniture Manufacturing			
3371	Furniture Manufacturing			
33711	Mattress Manufacturing	E	2515	Mattresses, Foundations, and Convertible Beds.
33712	Blind and Shade Manufacturing	E	2591	Drapery Hardware and Window Blinds and Shades.
33713	Wood Furniture Manufacturing			
337131	Wood Household Furniture Manufacturing, Except Upholstered.	R	*2426	Hardwood Dimension and Flooring Mills (wooden chair frames and chair seats).
			*2499	Wood Products, NEC (wood laundry hampers).
			2511	Wood Household Furniture, Except Upholstered.
			2517	Wood Television, Radio, Phonograph and Sewing Machine Cabinets.
			*5712	Furniture Stores (custom made wood household furniture except cabinets).
337132	Upholstered Wood Household Furniture Manufacturing.	R	2512	Wood Household Furniture, Upholstered.
			*2426	Hardwood Dimension and Flooring Mills (chair frames).
			*5712	Furniture (custom made upholstered wood household furniture except cabinets).
337133	Wood Kitchen Cabinet Manufacturing	R	2434	Wood Kitchen Cabinets.
			*5712	Furniture Stores (custom wood cabinets).
337134	Wood Office and Public Building Furniture Manufacturing.	R	*2426	Hardwood Dimension and Flooring Mills (office chair frames and chair seats).
			2521	Wood Office Furniture.
			*2531	Public Building and Related Furniture (wood furniture for public buildings).
			*2599	Furniture and Fixtures, NEC (wood industrial work benches and stools, and other wood furniture such as ship furniture).
			*3952	Lead Pencils, Crayons, and Artists' Materials (wood drafting tables and boards).
337135	Wood Office and Fixture, Partition, Shelving and Locker Manufacturing.	R	*2541	Wood Office and Store Fixtures, Partitions, Shelving and Lockers (except custom architectural woodwork, millwork, and fixtures).
337136	Custom Architectural Woodwork, Millwork and Fixtures.	N	*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (architectural woodwork, millwork, and fixtures).
33714	Metal Furniture Manufacturing			
337143	Metal Household Furniture Manufacturing	R	2514	Metal Household Furniture.
			*3499	Fabricated Metal Products, NEC (metal furniture frames and parts, household).
337144	Metal Office and Public Building Furniture Manufacturing.	R	*2522	Office Furniture, Except Wood (metal office furniture).
			*2531	Public Building and Related Furniture (metal furniture for public buildings).
			*2599	Furniture and Fixtures, NEC (metal industrial work benches and stools, and other metal furniture such as ship furniture).
			*3499	Fabricated Metal Products, NEC (metal furniture frames and parts, office).
			*3952	Lead Pencils, Crayons, and Artists' Materials (metal drafting tables and boards).
			*3999	Manufacturing Industries, NEC (barber and beauty chairs).
337145	Metal Office and Fixture, Partition, Shelving and Locker Manufacturing.	R	*2542	Office and Store Fixtures, Partitions, Shelving and Lockers, Except Wood (metal office and store fixtures, partitions, shelving, and lockers).
33719	Other Furniture Manufacturing	R	*2499	Wood Products, NEC (laundry hampers made from rattan, reed or willow).
			2519	Household Furniture, NEC.
			*2522	Office Furniture, Except Wood (office furniture not made of wood or metal).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*2531	Public Building and Related Furniture (other furniture not made of wood or metal for public buildings).
			*2542	Office and Store Fixtures, Partitions, Shelving and Lockers, Except Wood (office and store fixtures, partitions, shelving, and lockers not made of metal).
			*2599	Furniture and Fixtures, NEC (other furniture or fixtures).
339	Miscellaneous Manufacturing			
3391	Medical Equipment and Supply Manufacturing.			
33911	Medical Equipment and Supply Manufacturing.			
339111	Laboratory Apparatus and Furniture Manufacturing	E	3821	Laboratory Apparatus and Furniture.
339112	Surgical and Medical Instrument Manufacturing	E	3841	Surgical and Medical Instruments and Apparatus.
339113	Surgical Appliance and Supply Manufacturing	R	*2599	Furniture and Fixtures, NEC (hospital beds).
			*3829	Measuring and Controlling Devices, NEC (medical thermometers).
			*3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies (except electronic hearing aids).
339114	Dental Equipment and Supply Manufacturing	E	3843	Dental Equipment and Supplies.
339115	Opthalmic Good Manufacturing	E	3851	Opthalmic Goods.
339116	Dental Laboratories	E	8072	Dental Laboratories.
339117	Eyeglass and Contact Lens Manufacturing	E	*5995	Optical Goods Stores (grinding of lenses to prescription, except one hour labs).
3392	Cotton Ginning			
33921	Cotton Ginning	E	0724	Cotton Ginning.
3399	Other Miscellaneous Manufacturing			
33991	Jewelry and Silverware Manufacturing			
339911	Jewelry Manufacturing, Including Precious Metal	R	*3469	Metal Stamping, NEC (stamping coins).
			*3479	Coating, Engraving, and Allied Services, NEC (jewelry engraving and etching, including precious metal).
			3911	Jewelry, Precious Metal
339912	Silverware and Plated Ware Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (silver and plated ware engraving and etching).
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (except nonprecious metal cutlery and flatware)
339913	Jewelers' Material and Lapidary Work Manufacturing.	E	3915	Jewelers' Findings and Materials, and Lapidary Work.
339914	Costume Jewelry and Novelty Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (costume jewelry engraving and etching).
			*3499	Fabricated Metal Products, NEC (trophies of nonprecious metals)
			3961	Costume Jewelry and Costume Novelties, Except Precious Metal.
33992	Sporting and Athletic Good Manufacturing	E	3949	Sporting and Athletic Goods, NEC.
33993	Doll, Toy and Game Manufacturing			
339931	Doll and Stuffed Toy Manufacturing	E	3942	Dolls and Stuffed Toys.
339932	Game, Toy and Children's Vehicle Manufacturing	R	*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (except metal tricycles).
33994	Office Supply , Except Paper, Manufacturing			
339941	Pen and Mechanical Pencil Manufacturing	E	3951	Pens, Mechanical Pencils, and Parts.
339942	Lead Pencil and Art Good Manufacturing	R	*2531	Public Buildings and Related Furniture (blackboards).
			*3579	Office Machines, NEC (pencil sharpeners, staplers and other office equipment).
			*3952	Lead Pencils, Crayons, and Artists' Materials (except drawing and india ink, and drafting tables and boards).
339943	Marking Device Manufacturing	E	3953	Marking Devices.
339944	Carbon Paper and Inked Ribbon Manufacturing	E	3955	Carbon Paper and Inked Ribbons.
33999	All Other Miscellaneous Manufacturing			
339991	Musical Instrument Manufacturing	E	3931	Musical Instruments.
339992	Fastener, Button, Needle and Pin Manufacturing	R	3965	Fasteners, Buttons, Needles, and Pins.
			*3131	Boat and Shoe Cut Stock and Findings (metal buckles).
339993	Broom, Brush and Mop Manufacturing	R	3991	Brooms and Brushes.
			*2392	Housefurnishings, Except Curtains and Draperies (mops, floor and dust).
339994	Burial Casket Manufacturing	E	3995	Burial Caskets.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
339999	All Other Miscellaneous Manufacturing	R	*2499	Wood Products, NEC (mirror and picture frames).
			*3999	Manufacturing Industries, NEC (other miscellaneous products not specially provided for previously).
43	Wholesale Trade			
431	Wholesale Trade, Durable Goods			
4311	Motor Vehicles and Motor Vehicle Parts and Supplies			
43111	Automobiles and Other Motor Vehicles	E	5012	Automobiles and Other Motor Vehicles.
43112	Motor Vehicles Supplies and New Parts	R	*5013	Motor Vehicle Supplies and New Parts (except parts sold via retail methods).
43113	Tires and Tubes	R	*5014	Tires and Tubes (except tires sold via retail method).
43114	Motor Vehicle Parts, Used	E	5015	Motor Vehicle Parts, Used.
4312	Furniture and Home Furnishings			
43121	Furniture	R	*5021	Furniture (except furniture sold via retail method).
43122	Home Furnishings	R	*5023	Homefurnishings (except homefurnishings sold via retail method).
4313	Lumber and Other Construction Materials			
43111	Lumber, Plywood, Millwork and Wood Panels	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (except construction materials sold via retail method).
			*5211	Lumber and Other Building Materials Dealers—Retail (construction materials sold by establishments ''known as retail in the trade'' selling via wholesale method).
43132	Brick, Stone and Related Construction Materials	R	*5032	Brick, Stone, and Related Construction Materials (except construction materials sold via retail method).
43133	Roofing, Siding and Insulation Materials	E	5033	Roofing, Siding, and Insulation Materials.
43139	Other Construction Materials	R	*5039	Construction Materials, NEC (sold via wholesale method).
4314	Professional and Commercial Equipment and Supplies			
43141	Photographic Equipment and Supplies	E	5043	Photographic Equipment and Supplies.
43142	Office Equipment	E	5044	Office Equipment.
43143	Computers and Computer Peripherals Equipment and Software.	R	*5045	Computers and Computer Peripherals Equipment and Software (except computers, equipment, and software sold via retail method).
43144	Other Commercial Equipment	E	5046	Commercial Equipment, NEC.
43145	Medical, Dental and Hospital Equipment and Supplies.	R	*5047	Medical, Dental and Hospital Equipment and Supplies (except medical, dental, and hospital equipment and supplies sold via retail method).
43146	Ophthalmic Goods	E	5048	Ophthalmic Goods.
43149	Other Professional Equipment and Supplies	R	*5049	Professional Equipment and Supplies, NEC (except religious and school supplies sold via retail method).
4315	Metals and Minerals, Except Petroleum			
43151	Metals Service Centers and Offices	E	5051	Metals Service Centers and Offices.
43152	Coal and Other Minerals and Ores	E	5052	Coal and Other Mineral and Ores.
4316	Electrical Goods			
43161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials.	R	*5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials (except electrical supplies sold via retail method).
43162	Electrical Appliances, Television and Radio Sets	E	5064	Electrical Appliances, Television and Radio Sets.
43169	Other Electronic Parts and Equipment	E	5065	Electronic Parts and Equipment, NEC.
4317	Hardware, and Plumbing and Heating Equipment and Supplies.			
43171	Hardware	E	5072	Hardware.
43172	Plumbing and Heating Equipment and Supplies (Hydronics).	R	*5074	Plumbing and Heating Equipment and Supplies (Hydronics)(except plumbing equipment sold via retail method).
43173	Warm Air Heating and Air-Conditioning Equipment and Supplies.	E	5075	Warm Air Heating and Air-Conditioning Equipment and Supplies.
43174	Refrigeration Equipment and Supplies	E	5078	Refrigeration Equipment and Supplies.
4318	Machinery, Equipment and Supplies	E	5078	Refrigeration Equipment and Supplies.
43181	Construction and Mining (Except Petroleum) Machinery and Equipment.	E	5082	Construction and Mining (Except Petroleum) Machinery and Equipment.
43182	Farm and Garden Machinery and Equipment	R	*5083	Farm and Garden Machinery and Equipment (except lawn and garden equipment sold via retail method).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
43183	Industrial Machinery and Equipment	R	5084	Industrial Machinery and Equipment.
			*5085	Industrial Supplies (fluid power accessories).
43184	Industrial Supplies	R	*5085	Industrial Supplies (except fluid power accessories and reconditioning barrels).
43185	Service Establishment Equipment and Supplies	R	*5087	Service Establishment Equipment and Supplies (except sales of the service establishment equipment and supplies sold via retail method).
43186	Transportation Equipment and Supplies, Except Motor Vehicles.	E	5088	Transportation Equipment and Supplies, Except Motor Vehicles.
4319	Miscellaneous Durable Goods			
43191	Sporting and Recreational Goods and Supplies	E	5091	Sporting and Recreational Goods and Supplies.
43192	Toys and Hobby Goods and Supplies	E	5092	Toys and Hobby Goods and Supplies.
43193	Recyclable Materials	E	5093	Scrap and Waste Materials.
43194	Jewelry, Watches, Precious Stones, and Precious Metals.	E	5094	Jewelry, Watches, Precious Stones, and Precious Metals.
43199	Other Miscellaneous Nondurable Goods	R	5099	Durable Goods, NEC.
			7822	Motion Picture and Video Tape Distribution (prerecorded video tapes—distribution).
432	Wholesale Trade Nondurable Goods			
4321	Paper and Paper Products			
43211	Printing and Writing Paper	E	5111	Printing and Writing Paper.
43212	Stationery and Office Supplies	R	*5112	Stationery and Office Supplies (except stationery and office supplies sold via retail method).
43213	Industrial and Personal Service Paper	E	5113	Industrial and Personal Service Paper.
4322	Drugs, Drug Proprietaries and Druggists' Sundries			
43221	Drugs, Drug Proprietaries and Druggists' Sundries	E	5122	Drugs, Drug Proprietaries, and Druggists' Sundries.
4323	Apparel, Piece Goods, and Notions			
43231	Piece Goods, Notions and Other Dry Goods	R	*5131	Piece Goods, Notions, and Other Dry Goods (except piece goods coverters).
43232	Men's and Boys' Clothing and Furnishings	E	5136	Men's and Boys' Clothing and Furnishings.
43233	Women's, Children's, and Infants' and Accessories	E	5137	Women's, Children's, and Infants' Clothing and Accessories.
43234	Footwear	E	5139	Footwear.
4324	Groceries and Related Products			
43241	Groceries, General Line	E	5141	Groceries, General Line.
43242	Packaged Frozen Foods	E	5142	Packaged Frozen Foods.
43243	Dairy Products, Except Dried or Canned	E	5143	Dairy Products, Except Dried or Canned.
43244	Poultry and Poultry Products	E	5144	Poultry and Poultry Products.
43245	Confectionery	E	5145	Confectionery.
43246	Fish and Seafoods	E	5146	Fish and Seafoods.
43247	Meats and Meat Products	R	*5147	Meats and Meat Products (except boxed beef).
43248	Fresh Fruits and Vegetables	E	5148	Fresh Fruits and Vegetables.
43249	Other Groceries and Related Products	E	5149	Groceries and Related Products, NEC.
4325	Farm Product Raw Materials			
43251	Grain and Field Beans	E	5153	Grain and Field Beans.
43252	Livestock	E	5154	Livestock.
43259	Other Farm Product Raw Materials	E	5159	Farm-Product Raw Materials, NEC.
4326	Chemicals and Allied Products			
43261	Plastics Materials and Basic Forms and Shapes	E	5162	Plastics Materials and Basic Forms and Shapes.
43269	Other Chemicals and Allied Products	E	5169	Chemicals and Allied Products, NEC.
4327	Petroleum and Petroleum Products			
43271	Petroleum Bulk Stations and Terminals	R	*5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method).
43272	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.	E	5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.
4328	Beer, Wine, and Distilled Alcoholic Beverages			
43281	Beer and Ale	E	5181	Beer and Ale.
43282	Wine and Distilled Alcoholic Beverages	E	5182	Wine and Distilled Alcoholic Beverages.
4329	Miscellaneous Nondurable Goods			
43291	Farm Supplies	R	*5191	Farm Supplies (except lawn and garden supplies sold via retail method).
43292	Books, Periodicals and Newspapers	E	5192	Books, Periodicals, and Newspapers.
43293	Flowers, Nursery Stock and Florists' Supplies	E	*5193	Flowers, Nursery Stock, and Florists' Supplies (except nursery stock sold via retail method).
43294	Tobacco and Tobacco Products	E	5194	Tobacco and Tobacco Products.
43295	Paints, Varnishes and Supplies	R	*5198	Paints, Varnishes, and Supplies (except paints, etc. sold via retail method).
			*5231	Paint, Glass and Wallpaper Stores (sold via wholesale method).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
43299	Other Miscellaneous Nondurable Goods	R	*5199	Nondurable Goods, NEC (except specialty advertising).
44, 45	Retail Trade			
441	Motor Vehicle and Parts Dealers.			
4411	Automobile Dealers			
44111	New Car Dealers	E	5511	Motor Vehicle Dealers (New and Used).
44112	Used Car Dealers	E	5521	Motor Vehicle Dealers (Used Only).
4412	Other Motor Vehicle Dealers			
44121	Recreational Vehicle Dealers	E	5561	Recreational Vehicle Dealers.
44122	Motorcycles, Boats and Other Motor Vehicle Dealers			
441221	Motorcycle Dealers	E	5571	Motorcycle Dealers.
441222	Boat Dealers	E	5551	Boat Dealers.
441229	All Other Motor Vehicle Dealers	E	5599	Automotive Dealers, NEC.
4413	Automotive Parts, Tires and Supplies Stores			
44131	Automotive Parts and Supplies Stores	N	*5013	Motor Vehicle Supplies and New Parts (Wholesale) (auto parts sold via retail method).
			*5731	Radio, Television, and Consumer Electronics Stores (automobile radios).
			*5531	Auto and Home Supply Stores (except tires and tubes).
44132	Tire Dealers	N	*5014	Tires and Tubes (Wholesale) (tires and tubes sold via retail method).
			*5531	Auto and Home Supply Stores (tires and tubes).
442	Furniture and Home Furnishings Stores			
4421	Furniture Stores			
44211	Furniture Stores	R	*5021	Furniture (Wholesale) (sold via the retail method).
			*5712	Furniture Stores (except custom furniture and cabinets).
4422	Home Furnishings Stores			
44221	Floor Covering Stores	R	*5023	Homefurnishings (Wholesale) (floor covering sold via retail method).
			5713	Floor Coverings Stores.
44229	Other Home Furnishings Stores			
442291	Window Treatment Stores	N	*5714	Drapery, Curtain, and Upholstery Stores (drapery and curtain stores).
			*5719	Miscellaneous Homefurnishings Stores (blinds and shades).
442299	All Other Home Furnishings Stores	R	*5719	Miscellaneous Homefurnishings Stores (except pottery and crafts made and sold on site and frame shops, and window funishings).
443	Electronics and Appliance Stores			
4431	Electronics and Appliance Stores			
44311	Appliance, Television and Other Electronics Stores			
443111	Household Appliance Stores	R	5722	Household Appliance Stores.
			*5999	Miscellaneous Retail Stores, NEC (personal appliance stores).
			*7623	Refrigeration and Air-Conditioning Service and Repair Shops (sales location providing supporting refrigerator repair services as major source of receipts).
			*7629	Electrical and Electronic Repair Shops, NEC (Services) (Sales location providing supporting appliance repair services as major source of receipts).
443112	Radio, Television and Other Electronics Stores	R	*5731	Radio, Television, and Consumer Electronics Stores (except auto radios).
			*5999	Miscellaneous Retail Stores, NEC (typewriters and telephones).
			*7622	Radio and Television Repair Shops (sales locations providing supporting repair services as major source of receipts).
44312	Computer and Software Stores	R	*5045	Computers and Computer Peripheral Equipment and Software (sold via retail method).
			*7378	Computer Maintenance and Repair (sales locations providing supporting repair services as major source of receipts).
			5734	Computer and Computer Software Stores.
44313	Camera and Photographic Supply Stores	E	5946	Camera and Photographic Supply Stores.
444	Building Materials and Garden Equipment and Supplies Dealers			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
4441	Building Materials and Supplies Dealers			
44411	Home Centers	N	*5211	Lumber and Other Building Materials Dealers (home center stores).
44412	Paint and Wallpaper Stores	R	*5198	Paints, Varnishes, and Supplies (sold via retail method).
			*5231	Paint, Glass, and Wallpaper Stores (paint and wallpaper).
44413	Hardware Stores	E	5251	Hardware Stores.
44419	Other Building Materials Dealers	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (Wholesale) (sold via retail method).
			*5032	Brick, Stone, and Related Construction Materials (Wholesale) (sold via retail method).
			*5039	Construction Materials, NEC (Wholesale) (glass sold via retail method).
			*5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials (Wholesale) (sold via retail method).
			*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (sold via retail method).
			*5211	Lumber and Other Building Materials Dealers (except home centers).
			*5231	Paint, Glass, and Wallpaper Stores (glass).
4442	Lawn and Garden Equipment and Supplies Stores			
44421	Outdoor Power Equipment Stores	N	*5083	Farm and Garden Machinery and and Equipment (Wholesale) (sold via retail method).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (outdoor power equipment).
44422	Nursery and Garden Centers	R	*5191	Farm Supplies (sold via retail method).
			*5193	Flowers, Nursery Stock, and Florists' Supplies (sold via retail method).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (except outdoor power equipment and cut Christmas trees).
445	Food and Beverage Stores			
4451	General Food Stores			
44511	Supermarkets and Grocery Stores	N	*5411	Grocery Stores (except convenience stores).
44512	Convenience Stores	N	*5411	Grocery Stores (convenience stores without gas).
4452	Specialty Food Stores			
44521	Meat Markets	R	*5421	Meat and Fish (Seafood) Including Freezer Provisioners (meat except freezer provisioners).
			*5499	Miscellaneous Food Stores (poultry and poultry products).
44522	Fish and Seafood Markets	N	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (seafood).
44523	Fruit and Vegetable Markets	E	5431	Fruit and Vegetable Markets.
44529	Other Specialty Food Stores.			
445291	Baked Goods Stores	R	*5461	Retail Bakeries (selling Goods only).
445292	Candy, Nut, and Confectionery Stores	R	*5441	Candy, Nut and Confectionery Stores (selling only).
445299	All Other Specialty Food Stores	R	*5499	Miscellaneous Food Stores (except food supplements).
			5451	Dairy Products Stores.
4453	Beer, Wine and Liquor Stores			
44531	Beer, Wine and Liquor Stores	E	5921	Liquor Stores.
446	Health and Personal Care Stores			
4461	Health and Personal Care Stores.			
44611	Drug Stores and Pharmacies	E	5912	Drug Stores and Proprietary Stores.
44612	Cosmetics, Beauty Supplies and Perfume Stores	N	*5087	Service Establishment Equipment and Supplies (beauty and barber supplies sold via retail method).
			*5999	Miscellaneous Retail Stores, NEC (cosmetics and perfumes).
44613	Optical Goods Stores	R	*5995	Optical Goods Stores (except grinding prescription lenses).
44619	Other Health and Personal Care Stores			
446191	Food (Health) Supplement Stores	N	*5499	Miscellaneous Food Stores (food supplements).
46199	All Other Health and Personal Care Stores	N	*5047	Medical, Dental, and Hospital Equipment and Supplies (sold via retail method).
			*5999	Miscellaneous Retail Stores, NEC (hearing aids and artificial limbs).
447	Gasoline Stations			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
4471	Gasoline Stations			
44711	Gasoline Stations with Convenience Stores	N	*5541	Gasoline Service Station (gasoline station with convenience store).
			*5411	Grocery Stores (convenience store with gas).
44719	Other Gasoline Stations	N	*5541	Gasoline Service Station (gasoline station without convenience store).
448	Clothing and Accessories Stores.			
4481	Clothing Stores.			
44811	Men's Clothing Stores	R	*5611	Men's and Boys' Clothing and Accessory Stores (clothing stores).
44812	Women's Clothing Stores	E	5621	Women's Clothing Stores.
44813	Children's and Infants' Clothing Stores	E	5641	Children's and Infants' Wear Stores.
44814	Family Clothing Stores	E	5651	Family Clothing Stores.
44819	Other Clothing Stores	R	*5632	Women's Accessory and Specialty Stores (specialty clothing)
			*5699	Miscellaneous Apparel and Accessory Stores (miscellaneous apparel)
4482	Jewelry and Accessories Stores			
44821	Jewelry Stores	R	*5999	Miscellaneous Retailer, NEC (rough gems).
			5944	Jewelry Stores.
44822	Luggage and Leather Goods Stores	E	5948	Luggage and Leather Goods Stores.
44823	Accessories Stores	N	*5611	Men's and Boys' Clothing and Accessory Stores (accessories).
			*5632	Women's Accessory and Specialty Stores (accessories).
			*5699	Miscellaneous Apparel and Accessory Stores (accessories).
4483	Shoe Stores			
44831	Shoe Stores	E	5661	Shoe Stores.
451	Sports, Hobby, Book and Music Stores			
4511	Sports, Hobby and Music Stores			
45111	Sporting Goods Stores	R	*7699	Repair Shops and Related Services, NEC (bicycle sales locations providing supporting repair services as major source of receipts).
			5941	Sporting Goods Stores and Bicycle Shops.
45112	Hobby, Toy and Game Stores	E	5945	Hobby, Toy, and Game Stores.
45113	Sewing, Needlework and Piece Goods Stores	R	*5714	Drapery, Curtain, and Upholstery Stores (upholstery materials).
			5949	Sewing, Needlework, and Piece Goods Stores.
45114	Musical Instrument and Supply Stores	E	5736	Musical Instruments Stores.
4512	Books, Periodicals and Music Stores			
45121	Book Stores and News Dealers			
451211	Book Stores	E	5942	Book Stores.
451212	News Dealers and Newsstands	E	5994	News Dealers and Newsstands.
45122	Prerecorded Tape, Compact Disk and Record Stores.	E	5735	Record and Prerecorded Tape Stores.
452	General Merchandise Stores			
4521	Department Stores.			
45211	Department Stores	E	5311	Department Stores.
4522	Other General Merchandise Stores			
45221	Warehouse Clubs and Other General Merchandise Stores with Food.	N	*5399	Miscellaneous General Merchandise Stores (warehouse clubs and supermarket/general merchandise combination).
			*5411	Grocery Stores (grocery stores and supermarkets selling substantial amounts of nonfood items).
45229	All Other General Merchandise Stores	R	*5399	Miscellaneous General Merchandise Stores (except warehouse club and supermarket/general merchandise combination).
			5331	Variety Stores.
453	Miscellaneous Store Retailers			
4531	Florists			
45311	Florists	E	5992	Florists.
4532	Office Supply and Stationery and Gift Stores			
45321	Office Supply and Stationery Stores	R	*5049	Professional Equipment and Supplies, NEC (school and church supplies sold via retail method).
			*5112	Stationery and Office Supplies (sold via retail method).
			5943	Stationery Stores.
45322	Gift, Novelty and Souvenir Stores	E	5947	Gift, Novelty, and Souvenir Shops.
4533	Used Merchandise Stores			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
45331	Used Merchandise Stores	R	*5932	Used Merchandise Stores (except pawn shops).
4539	Other Miscellaneous Store Retailers			
45391	Pet and Pet Supply Stores	N	*5999	Miscellaneous Retail Stores, NEC (pet and pet supplies).
45392	Art Dealers	N	*5999	Miscellaneous Retail Stores, NEC (art dealer).
45393	Manufactured (Mobile) Home Dealers	E	5271	Mobile Home Dealers.
45399	All Other Miscellaneous Store Retailers.			
453991	Tobacco Stores	E	5993	Tobacco Stores and Stands.
453999	All Other Miscellaneous Store Retailers	R	*5999	Miscellaneous Retail Stores, NEC (except art, pet and pet supplies, hearing aids, artificial limbs, cosmetics, live Christmas trees, telephones, typewriters, personal appliances and rough gems).
			*5261	Retail Nurseries, Lawn and Garden Supply Stores (cut Christmas trees).
454	Nonstore Retailers			
4541	Electronic Shopping and Mail-Order Houses			
45411	Electronic Shopping and Mail-Order Houses	E	5961	Catalog and Mail-Order Houses.
4542	Vending Machine Operators			
45421	Vending Machine Operators	E	5962	Automatic Merchandise Operators Machine Operators.
4543	Direct Selling Establishments			
45431	Fuel Dealers			
454311	Heating Oil Dealers	R	*5171	Petroleum Bulk Stations and Terminals (heating oil sold to final consumer).
			5983	Fuel Oil Dealers.
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	R	*5171	Petroleum Bulk Stations and Terminals (LP gas sold to final consumer).
			5984	Liquefied Petroleum Gas (Bottled Gas) Dealers.
454319	Other FuelDealers	E	5989	Fuel Dealers, NEC.
45439	Other Direct Selling Establishments	R	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (freezer provisioners).
			*5963	Direct Selling Establishments (except mobile food services).
48, 49	Transportation			
481	Air Transportation			
4811	Scheduled Air Transportation			
48111	Scheduled Air Transportation.			
481111	Scheduled Passenger Air Transportation	N	*4512	Air Transportation, Scheduled (passenger).
481112	Scheduled Freight Air Transportation	N	*4512	Air Transportation, Scheduled (freight).
4812	Nonscheduled Air Transportation			
48121	Nonscheduled Chartered Air Transportation			
481211	Nonscheduled Chartered Passenger Air Transportation.	N	*4522	Air Transportation, Nonscheduled (passenger).
481212	Nonscheduled Chartered Freight Air Transportation	N	*4522	Air Transportation, Nonscheduled (freight).
48122	Nonscheduled Specialty Air Transportation	N		Establishments that use small, general purpose aircraft to provide a variety of specialized flying services, with none of them predominating, such as the following:
			*0721	Crop Planting, Cultivating, and Protecting (crop dusting).
			*0851	Forestry Services (aerial forest fighting).
			*1382	Oil and Gas Field Exploration Services (aerial geophysical exploration).
			*4522	Air Transportation, Nonscheduled (mixed operations).
			*7319	Advertising, NEC (aerial advertising).
			*7335	Commercial Photography (aerial photography).
			*7997	Membership Sports and Recreation Clubs (membership aviation clubs).
			*8299	Schools and Educational Services, NEC (flight school).
			*8713	Surveying Services (aerial surveying).
482	Rail Transportation			
4821	Rail Transportation			
48211	Rail Transportation			
482111	Line-Haul Railroads	E	4011	Railroads, Line-Haul Operating.
482112	Short Line Railroads	N	*4013	Railroad Switching and Terminal Establishments (belt line and logging railroads).
483	Water Transportation			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
4831	Deep Sea, Coastal and Great Lakes Water. Transportation			
48311	Deep Sea, Coastal and Great Lakes Water Transportation			
483111	Deep Sea Freight Transportation	E	4412	Deep Sea Foreign Transportation of Freight.
483112	Deep Sea Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (deep sea activities).
483113	Coastal and Great Lakes Freight Transportation	R	4424	Deep Sea Domestic Transportation of Freight.
			4432	Freight Transportation on the Great Lakes—St. Lawrence Seaway.
			*4492	Towing and Tugboat Services (coastal barge operations).
483114	Coastal and Great Lakes Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (coastal activities).
			*4482	Ferries (coastal and Great Lakes).
4832	Inland Water Transportation			
48321	Inland Water Transportation			
483211	Inland Water Freight	R	4449	Water Transportation of Transportation Freight, NEC.
			*4492	Towing and Tugboat Services (inland barge operations).
483212	Inland Water Passenger Transportation	R	*4482	Ferries (inland).
			*4489	Water Transportation of Passengers, NEC (water taxi).
484	Truck Transportation			
4841	General Freight Trucking			
48411	General Freight Trucking, Local	N	*4212	Local Trucking without Storage (general freight).
			*4214	Local Trucking with Storage (general freight).
48412	General Freight Trucking, Long-Distance			
484121	General Freight Trucking, Long-Distance, Truckload	N	*4213	Trucking, Except Local (general freight, truckload).
484122	General Freight Trucking, Long-Distance, Less Than Truckload.	N	*4213	Trucking, Except Local (general freight, less than truckload).
4842	Specialized Freight Trucking			
48421	Used Household and Office Goods Moving	N	*4212	Local Trucking Without Storage (household goods moving).
			*4213	Trucking, Except Local (household goods moving).
			*4214	Local Trucking With Storage (household goods moving).
48422	Specialized Freight (Except Used Goods) Trucking, Local.	N	*4212	Local Trucking without Storage (specialized freight).
			*4214	Local Trucking with Storage (specialized freight).
48423	Specialized Freight (Except Used Goods) Trucking, Long-Distance.	N	*4213	Trucking, Except Local (specialized freight).
485	Transit and Ground Passenger Transportation			
4851	Urban Transit Systems			
48511	Urban Transit Systems			
485111	Mixed Mode Transit Systems	N	*4111	Local and Suburban Transit (mixed mode).
485112	Commuter Rail Systems	N	*4111	Local and Suburban Transit (commuter rail).
485113	Bus and Motor Vehicle Transit Systems	N	*4111	Local and Suburban Transit (bus and motor vehicle).
485119	Other Urban Transit Systems	N	*4111	Local and Suburban Transit (other than mixed mode, commuter rail, and bus and motor vehicle).
4852	Interurban and Rural Bus Lines			
48521	Interurban and Rural Bus Lines	E	4131	Intercity and Rural Bus Transportation.
4853	Taxi and Limousine Service			
48531	Taxi Service	E	4121	Taxicabs.
48532	Limousine Service	N	*4119	Local Passenger Transportation, NEC (limousine rental with driver and automobile rental with driver).
4854	School and Employee Bus Industry			
48541	School and Employee Bus Industry	R	*4151	School Buses
			4119	Local Passenger Transportation, NEC (employee transportation).
4855	Charter Bus Industry			
48551	Charter Bus Industry	R	4141	Local Charter Bus Service.
			4142	Bus Charter Services, Except Local.
4859	Other Transit and Ground Passenger Transportation			
48591	Other Transit and Ground Passenger Transportation			
485911	Special Needs Transportation	N	*4119	Local Passenger Transportation, NEC (special needs transportation).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
485919	All Other Transit and Ground Passenger Transportation.	R	*4111	Local and Suburban Transit (airport transportation service).
			*4119	Local Passenger Transportation, NEC (hearse rental with driver and carpool and vanpool operation).
486	Pipeline Transportation			
4861	Pipeline Transportation of Crude Oil			
48611	Pipeline Transportation of Crude Oil	E	4612	Crude Petroleum Pipelines.
4862	Pipeline Transportation of Natural Gas			
48621	Pipeline Transportation of Natural Gas	R	4922	Natural Gas Transmission.
			*4923	Natural Gas Transmission and Distribution (transmission).
4869	Other Pipeline Transportation			
48691	Pipeline Transportation of Refined Petroleum Products.	E	4613	Refined Petroleum Pipelines.
48699	All Other Pipeline Transport	E	4619	Pipelines, NEC.
487	Scenic and Sightseeing Transportation.			
4871	Scenic and Sightseeing Transportation, Land			
48711	Scenic and Sightseeing Transportation, Land	N	*4119	Local Passenger Transportation, NEC (sightseeing buses and cable and cog railways, except scenic).
			*4789	Transportation Services, NEC (horse-drawn cabs and carriages).
			*7999	Amusement and Recreation Services, NEC (scenic railroads).
4872	Scenic and Sightseeing Transportation, Water.			
48721	Scenic and Sightseeing Transportation, Water	N	*4489	Water Transportation of Passengers, NEC (airboats, excursion boats, and sightseeing boats).
4879	Scenic and Sightseeing Transportation, Other			
48791	Scenic and Sightseeing Transportation, Other	N	*4522	Air Transportation, Non-Scheduled (sightseeing planes).
			*7999	Amusement and Recreation Services, NEC (aerial tramways, scenic and amusement).
488	Support Activities for Transportation.			
4881	Support Activities for Air Transportation			
48811	Airport Operations			
488111	Air Traffic Control	N	*4581	Airports, Flying Fields, and Airport Terminal Services (private air traffic control).
			*9621	Regulation and Administration of Transportation Programs (government air traffic control).
488112	Air Operations, Except Air Traffic Control	N	*4581	Airports, Flying Fields, and Airport Terminal Services (airfreight handling at airports, hangar operations, airport terminal services, aircraft storage, airports, and flying fields).
			*4959	Sanitary Services, NEC (vacuuming of runways).
48819	Other Support Activities for Air Transportation	N	*4581	Airports, Flying Fields, and Airport Terminal Services (aircraft servicing and repairing).
4882	Support Activities for Rail Transportation.			
48821	Support Activities for Rail Transportation	R	*4013	Railroad Switching and Terminal Establishments (all but short line railroads).
			*4741	Rental of Railroad Cars (grain leveling in railroad cars, grain trimming for railroad equipment, precooling of fruits and vegetables in connection with transportation, and railroad car cleaning, icing, ventilating, and heating).
			*4789	Transportation Services, NEC (car loading and unloading; cleaning of railroad ballasts; dining, parlor, sleeping, and other car operations; and railroad maintenance).
4883	Support Activities for Water Transportation.			
48831	Port and Harbor Operations	N	*4491	Marine Cargo Handling (dock and pier operations).
			*4499	Water Transportation Services, NEC (seaway and lighthouse operations).
48832	Marine Cargo Handling	R	*4491	Marine Cargo Handling (all but dock and pier operations).
48833	Navigational Services to Shipping	N	*4492	Towing and Tugboat Services (all but barge operations).
			*4499	Water Transportation Services, NEC (piloting vessels in and out of harbors and marine salvage).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
48839	Other Support Activities for Water Transportation	R	*4499	Water Transportation Services, NEC (all but seaway and lighthouse operations, piloting vessels in and out of harbors, and marine salvage).
			*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (marine cargo checkers).
			*7699	Repair Shops and Related Services, NEC (ship scaling).
4884	Support Activities for Road Transportation.			
48841	Motor Vehicle Towing	N	*7549	Automotive Services, Except Repair and Carwashes (towing).
48849	Other Support Activities for Road Transportation	R	4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation.
			4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation.
			*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (all but marine cargo checkers).
4885	Freight Transportation Arrangement.			
48851	Freight Transportation Arrangement	R	*4731	Arrangement of Transportation of Freight and Cargo (except freight rate auditors and tariff consultants).
4886	Storage Facilities			
48861	Refrigerated Storage Facilities	R	4222	Refrigerated Warehousing and Storage.
			*4226	Special Warehousing and Storage, NEC (fur storage).
48862	Farm Product Storage Facilities	E	4221	Farm Product Warehousing and Storage.
48869	Other Storage Facilities			
488691	General Storage Facilities	R	4225	General Warehousing and Storage (all but self-storage miniwarehouse warehousing).
488699	All Other Storage Facilities	R	4226	Special Warehousing and Storage, NEC (all but fur storage).
4889	Other Support Activities. for Transportation			
48891	Other Support Activities for Transportation.			
488911	Packing and Crating	E	4783	Packing and Crating.
488919	All Other Support Activities for Transportation	R	*4729	Arrangement of Passenger Transportation, NEC (arrangement of carpools and vanpools).
			*4789	Transportation Services, NEC (pipeline terminals and stockyards for transportation).
491	Postal Service			
4911	Postal Service			
49111	National Post Office	E	4311	United States Postal Service.
49112	Contract Postal Operations, Excluding Bulk Mail Transportation.	N	*7389	Business Services, NEC (Post Office contract operations).
492	Couriers			
4921	Couriers			
49211	Couriers	R	*4215	Courier Services, Except by Air (hub and spoke intercity delivery).
			4513	Air Courier Services.
4922	Local Messengers and Local Delivery			
49221	Local Messengers and Local Delivery	N	*4215	Courier Services, Except by Air (local delivery).
51	Information.			
511	Publishing			
5111	Newspaper, Periodical, Book and Database Publishing			
51111	Newspaper Publishing	E	2711	Newspapers: Publishing or Publishing and Printing.
51112	Periodical Publishing	E	2721	Periodicals: Publishing or Publishing and Printing.
51113	Book Publishing	E	2731	Books: Publishing or Publishing and Printing.
51114	Database Publishing	N	*2741	Miscellaneous Publishing (database publishers).
51119	Other Publishing.			
511191	Greeting Card Publishing	E	*2771	Greeting Cards.
511199	All Other Publishing	R	*2741	Miscellaneous Publishing (except database publishing).
5112	Software Publishing			
51121	Software Publishing	R	*7372	Prepackaged Software (software publishing).
512	Motion Picture and Sound Recording			
5121	Motion Picture and Video Industries			
51211	Motion Picture and Video Industries	E	7812	Motion Picture and Video Tape Production.
51212	Motion Picture and Video Distribution	E	7822	Motion Picture and Video Tape Distribution (except video tape and cassette wholesalers).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
51213	Teleproduction and Other Post-Production Services	N	*7819	Services Allied to Motion Picture Production (teleproduction and post-production services).
51214	Motion Picture and Video Exhibition			
512141	Motion Picture Theaters, Except Drive-Ins	E	7832	Motion Picture Theaters, Except Drive-In.
512142	Drive-In Motion Picture Theaters	E	7833	Drive-In Motion Picture Theaters.
51219	Other Motion Picture and Video Industries.	N	*7819	Services Allied to Motion Picture Production (except casting bureaus, wardrobe and equipment rental, talent payment services, teleproduction and other post-productions services).
			7829	Services Allied to Motion Picture Distribution.
5122	Sound Recording Industries			
51221	Record Production Companies	N	*8999	Services, NEC (music royalties, sheet and record).
51222	Integrated Record Companies	N	*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (integrated record companies, except duplication only).
51223	Music Publishing	N	*8999	Services, NEC (music publishing).
51224	Sound Recording Studios	N	*7389	Business Services, NEC (recording studios).
51229	Other Sound Recording Industires	N	*7389	Business Services, NEC (audio taping services).
			*7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (producers of radio programs).
513	Broadcasting and Telecommunications			
5131	Radio and Television Broadcasting			
51311	Radio Broadcasting			
513111	Radio Networks	N	*4832	Radio Broadcasting Stations (networks).
513112	Radio Stations	N	*4832	Radio Broadcasting Stations (except networks).
51312	Television Broadcasting	N	4833	Television Broadcasting Stations.
5132	Cable Networks and Program Distribution			
51321	Cable Networks	N	*4841	Cable and Other Pay Television Services (cable. networks)
51322	Cable and Program	N	*4841	Cable and Other Pay Distribution Television Services (except cable networks).
5133	Telecommunications			
51331	Wired	N	*4813	Telephone Communications, Telecommunications Except Radiotelephone (except resellers).
			4822	Telegraph and Other Message Communications.
51332	Wireless Telecommunications Carriers, Except Satellite			
513321	Paging	N	*4812	Radiotelephone Communications (paging carriers).
513322	Cellular and Other	N	*4812	Radiotelephone Communications (cellular carriers).
			*4899	Communications Services, NEC (radio dispatch).
51333	Telecommunications Resellers	N	*4812	Radio Communications (paging and cellular resellers). Resellers and cellular resellers)
			*4813	Telephone Communications, Except Radiotelephone (resellers).
51334	Satellite Telecommunications	N	*4899	Communications Services, NEC (satellite communications).
51339	Other Telecommunications	N	*4899	Communications Services, NEC (except radio dispatch, satellite communications).
514	Information Services and Data Processing			
5141	Information Services			
51411	News Syndicates	E	7383	News Syndicates.
51412	Libraries and Archives	E	8231	Libraries.
51419	Other Information Services.			
514191	On-Line Information Services	E	7375	Information Retrieval.
514199	All Other Information Services	N	*8999	Services, NEC (miscellaneous Information providers).
5142	Data Processing			
51421	Data Processing	E	7374	Computer Processing and Data Preparation and Processing Services.
52	Finance and Insurance			
521	Monetary Authorities - Central Bank			
5211	Monetary Authorities - Central Bank			
52111	Monetary Authorities - Central Bank	E	6011	Federal Reserve Banks.
522	Credit Intermediation and Related Activities			
5221	Depository Credit Intermediation			
52211	Commercial Banking	R	*6021	National Commercial Banks (banking).
			*6022	State Commercial Banks (banking).
			6029	Commercial Banks, NEC.
			*6081	Branches and Agencies of Foreign Banks (banking).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
52212	Savings Institutions	R	6035	Savings Institutions, Federally Chartered.
			6036	Savings Institutions, Not Federally Chartered.
52213	Credit Unions	R	6061	Credit Unions, Federally Chartered.
			6062	Credit Unions, Not Federally Chartered.
52219	Other Depository Credit Intermediation	N	*6099	Functions Related to Intermediation Depository Banking, NEC (money order issuance).
5222	Non-Depository Credit Intermediation			
52221	Credit Card Issuing	N	*6021	National Commercial Banks (credit card issuing).
			*6022	State Commercial Banks (credit card issuing).
			*6141	Personal Credit Institutions (credit card issuing).
52222	Sales Financing	N	*6141	Personal Credit Institutions (installment sales finance).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (business sales finance).
			*6159	Miscellaneous Business Credit Institutions (finance leasing).
52229	Other Non-Depository Credit Intermediation			
522291	Consumer Credit	R	*6141	Personal Credit Institutions (except installment sales finance and credit card issuing).
522292	Real Estate Credit	R	*6162	Mortgage Bankers and Loan Correspondents (mortgage bankers and originators).
522293	International Trade	N	*6081	Branches and Agencies of Financing Foreign Banks (international trade financing).
		N	6082	Foreign Trade and International Banking Institutions.
		N	*6111	Federal and Federally-Sponsored Credit Agencies (trade banks).
			*6159	Miscellaneous Business Credit Institutions (trade banks).
522294	Secondary Market Financing	N	*6111	Federal and Federally Sponsored Credit Agencies (except trade banks).
522299	All Other Non-Depository Credit Intermediation	N	*5932	Used Merchandise Stores Depository Credit (pawnshops).
			*6081	Branches and Agencies of Foreign Banks (agencies).
			*6111	Federal and Federally-Sponsored Credit Agencies (except trade banks and secondary market financing).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (except credit card service and business sales finance).
			*6159	Miscellaneous Business Credit Institutions (except trade banks and finance leasing).
5223	Activities Related to Credit Intermediation			
52231	Mortgage and Other Loan Brokers	E	6163	Loan Brokers.
52232	Financial Transactions Processing, Reserve, and Clearing House Activities.	N	6019	Central Reserve Depository Institutions, NEC.
			*6099	Functions Related to Depository Banking, NEC (electronic funds transfer networks and clearing house associations).
			*6153	Short-Term Business Credit Institutions, Except Agricultural (credit card service).
			*7389	Business Services, NEC (credit card service).
52239	Other Activities Related to Credit Intermediation	N	*6099	Functions Related to Depository Banking, NEC (except money orders, electronic funds transfer networks and clearing houses, foreign currency exchanges, escrow and fiduciary agencies and deposit brokers).
			*6162	Mortgage Bankers and Loan Correspondents (mortgage servicing).
523	Securities, Commodity Contracts and Other Intermediation and Related Activities			
5231	Securities and Commodity Contracts Intermediation and Brokerage			
52311	Investment Banking and Securities Dealing	N	*6211	Security Brokers, Dealers, and Flotation Companies (securities dealers and underwriters).
52312	Securities Brokerage	N	*6211	Security Brokers, Dealers, and Flotation Companies (security brokers).
52313	Commodity Contracts Dealing	N	*6099	Functions Related to depository Banking, NEC (foreign currency exchange).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*6221	Commodity Contracts Brokers and Dealers (commodity dealers).
52314	Commodity Brokerage	N	*6221	Commodity Contracts Brokers and Dealers (commodity brokers).
5232	Securities and Commodity Exchanges			
52321	Securities and Commodity Exchanges	E	6231	Security and Commodity Exchanges.
5239	Other Financial Investment Activities			
52391	Miscellaneous Intermediation	N	*6211	Securities Brokers, Dealers and Flotation Companies (except securities and commodity dealers).
			*6799	Investors, NEC (venture capital companies).
52392	Portfolio Management	N	*6282	Investment Advice (portfolio managers).
			*6371	Pension, Health, and Welfare Funds (managers).
			*6733	Trust, Except Educational, Religious, and Charitable (managers).
			*6799	Investors, NEC (pool operators).
52393	Investment Advice	R	*6282	Investment Advice (except portfolio managers).
52399	All Other Financial Investment Activities			
523991	Trust, Fiduciary and Custody Activities	N	*6021	National Commercial Banks (trust services).
			*6022	State Commercial Banks (trust services).
			6091	Nondeposit Trust Facilities.
			*6099	Functions Related to Depository Banking, NEC (escrow and fiduciary agencies).
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (securities custodians).
			*6733	Trusts, Except Educational, Religious, and Charitable (administrators of private estates).
523999	Miscellaneous Financial Investment Activities	R	*6099	Functions Related to Depository Banking, NEC (deposit brokers).
			*6211	Security Brokers, Dealers, and Flotation Companies (dealers, except security and commodity).
			*6289	Services Allied With the Exchange of Securities or Commodities, NEC (except security custodians).
			*6792	Oil Royalty Traders (investors on own account).
524	Insurance Carriers and Related Activities			
5241	Insurance Carriers			
52411	Direct Life Insurance Carriers	R	*6311	Life Insurance (life insurers—direct).
52412	Direct Non-Life Insurance Carriers			
524121	Property and Casualty Insurance Carriers	R	*6331	Fire, Marine, and Casualty Insurance (fire, marine, and casualty insurers—direct).
			*6351	Surety Insurance (financial responsibility insurers—direct).
524122	Health and Medical Insurance Carriers	R	*6324	Hospital and Medical Service Plans (health and medical insurers—direct).
			*6321	Accident and Health Insurance (health and medical insurers—direct).
524123	Title Insurance Carriers	R	*6361	Title Insurance (title insurers—direct).
524129	Other Direct Non-Life Insurance Carriers	E	6399	Insurance Carriers, NEC.
52413	Reinsurance Carriers	N	*6311	Life Insurance (reinsurers).
			*6321	Accident and Health Insurance (reinsurers).
			*6324	Hospital and Medical Service Plans (reinsurers).
			*6331	Fire, Marine, and Casualty Insurance (reinsurers).
			*6351	Surety Insurance (reinsurers).
			*6361	Title Insurance (reinsurers).
5242	Agencies, Brokerages and Other Insurance Related Activities			
52421	Insurance Agencies and Brokerages	R	*6411	Insurance Agents, Brokers and Service (insurance agents and brokers).
52429	Other Insurance Related Activities			
524291	Claims Adjusters	N	*6411	Insurance Agents, Brokers and Service (insurance claims adjusters).
524292	Third Party Administration for Insurance and Pension Funds.	N	*6371	Pension, Health, and Welfare Funds (administrators).
			*6411	Insurance Agents, Brokers and Service (processors).
524299	All Other Activities Related to Insurance	N	*6411	Insurance Agents, Brokers and Service (except processors, agents and brokers, and claims adjusters).
525	Funds, Trusts and Other Financial Vehicles (U.S. Only)			
5251	Holding Companies			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
52511	Holding Companies			
525111	Bank Holding Companies	E	6712	Offices of Bank Holding Companies.
525119	Other Holding Companies	E	6719	Offices of Holding Companies, NEC.
5252	Insurance and Employee Benefit Funds			
52521	Pension Funds	N	*6371	Pension, Health, and Welfare Funds (pension funds).
52522	Health and Welfare Funds	N	*6371	Pension, Health, and Welfare Funds (health and welfare funds).
52523	Insurance and Other Employee Benefit Funds	N	*6321	Accident and Health Insurance (self insurers).
			*6324	Hospital and Medical Service Plans (self insurers).
			*6331	Fire, Marine, and Casualty Insurance (self insurers).
			*6733	Trusts, Except Educational, Religious, and Charitable (vacation funds for employees).
5259	Other Investment Pools and Funds			
52591	Open-End Investment Funds	E	6722	Management Investment Offices, Open-End.
52592	Personal Trusts, Estates, and Agency Accounts	N	*6733	Trusts, Except Educational, Religious, and Charitable (personal trusts, estates, and agency accounts).
52593	Mortgage Investment Funds	E	6798	Real Estate Investment Trusts (REIT funds).
52599	Other Financial Vehicles	E	6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices.
53	Real Estate and Rental and Leasing			
531	Real Estate			
5311	Lessors of Real Estate			
53111	Lessors of Residential Buildings and Dwellings	R	6513	Operators of Apartment Buildings.
			6514	Operators of Dwellings Other Than Apartment Buildings.
53112	Lessors of Nonresidential Buildings, Except Miniwarehouses.	N	6512	Operators of Nonresidential Buildings.
53113	Lessors of Miniwarehouses and Self Storage Units	E	*4225	General Warehousing and Storage (miniwarehouses and self-storage units).
53119	Lessors of Other Real Estate Property	R	6515	Operators of Residential Mobile Home Sites.
			6517	Lessors of Railroad Property.
			6519	Lessors of Real Property, NEC.
5312	Activities Related to Real Estate.			
53121	Real Estate Property Managers			
531211	Condominium Management, Cooperative Housing, and Homeowners' Associations.	N	*6531	Real Estate Agents and Managers (condominium and cooperative management).
			*8641	Civic, Social, and Fraternal Associations (condominium and homeowners associations, except property management).
531212	Other Residential Property Managers	N	*6531	Real Estate Agents and Managers (managers—residential, real estate).
531213	Other Nonresidential Property Managers	N	*6531	Real Estate Agents and Managers (managers—nonresidential, real estate).
53122	Offices of Real Estate Agents and Brokers	N	*6531	Real Estate Agents and Managers (agents and brokers).
53123	Offices of Real Estate Appraisers	N	*6531	Real Estate Agents and Managers (appraisers).
53129	Other Activities Related to Real Estate			
531291	Title Abstract Offices	E	6541	Title Abstract Offices.
531299	All Other Activities Related to Real Estate	N	*6531	Real Estate Agents and Managers (except real estate managers, agents and brokers, and appraisers).
533	Rental and Leasing Services			
5331	Rental and Leasing of Automotive Equipment Without Drivers			
53311	Rental and Leasing of Passenger Cars Without Drivers			
533111	Rental of Passenger Cars Without Drivers	E	7514	Passenger Car Rental.
533112	Leasing of Passenger Cars Without Drivers	R	7515	Passenger Car Leasing.
53312	Rental and Leasing of Trucks Without Drivers, Utility Trailers and Recreational Vehicles.	N	7513	Truck Rental and Leasing Without Drivers
			7519	Utility Trailers and Recreational Vehicle Rental.
5332	Rental and Leasing of Consumer Goods			
53321	Rental of Consumer Electronics, Appliances and Home and Garden Tools			
533211	Rental of Consumer Electronics and Appliances	N	*7359	Equipment Rental and Leasing, NEC (appliances, TV, VCR, and electronic equipment rental).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
533212	Rental and Leasing of Home and Garden Equipment.	N	*7359	Equipment Rental and Leasing, NEC (home and garden tool rental).
53322	Rental of Formal Wear and Costumes	N	*7299	Miscellaneous Personal Services, NEC (formal wear and costume rental).
			*7819	Services Allied to Motion Picture Production (wardrobe rental for motion picture film production).
53323	Rental of Video Tapes	E	7841	Video Tape Rental.
53329	Other Rental and Leasing of Consumer Goods			
533291	Rental and Leasing of Home Health Furniture and Equipment.	N	*7352	Medical Equipment Rental and Leasing (home health furniture and equipment rental and leasing).
533292	Rental of Recreational Goods	N	*7999	Amusement and Recreation Services, NEC (canoe, pleasure boats, bicycles, motorcycles, moped, go carts, etc. rental).
533299	All Other Rental and Leasing of Consumer Goods	R	*7299	Miscellaneous Personal Services, NEC (locker rental, except cold storage).
			*7359	Equipment Rental and Leasing, NEC (except transportation equipment, industrial equipment, and consumer electronics, appliances and home and garden equipment).
5333	Rental and Leasing of Machinery and Equipment			
53331	Rental and Leasing of Heavy Construction, Transportation, Mining and Forestry Machinery and Equipment			
533311	Rental and Leasing of Commercial Air, Rail, and Water Transportation Equipment.	N	*4499	Water Transportation Services, NEC (boat and ship rental, commercial).
			*4741	Rental of Railroad Cars (rental of railroad cars).
			*7359	Equipment Rental and Leasing, NEC (airplane rental and leasing).
533312	Rental and Leasing of Heavy Construction, Mining and Forestry Machinery and Equipment.	R	*7353	Heavy Construction Equipment Rental and Leasing (without operators).
			*7359	Equipment Rental and Leasing, NEC (oil field and well drilling equipment).
53332	Rental and Leasing of Office Machinery and Equipment.	N	*7359	Equipment Rental and Leasing (office machine rental and leasing).
			7377	Computer Rental and Leasing.
53339	Rental and Leasing of Other Machinery and Equipment.	N	*7352	Medical Equipment Rental and Leasing (medical machinery and equipment).
			*7359	Equipment Rental and Leasing, NEC (industrial truck and equipment rental and leasing).
			*7819	Services Allied to Motion Picture Production (motion picture equipment rental).
			*7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (theatrical equipment rental).
534	Lessors of Other Non-Financial Assets			
5341	Lessors of Other Non-Financial Assets.			
53411	Lessors of Other Non-Financial Assets		*6792	Oil Royalty Traders (except investors on own account).
			6794	Patent Owners and Lessors.
56	Professional, Scientific and Technical Services			
561	Professional, Scientific and Technical Services			
5611	Legal Services			
56111	Offices of Lawyers	E	8111	Legal Services.
56112	Offices of Notaries	L	.....	Null Set for U.S.
56119	Other Legal Services	N	*7389	Business Services, NEC (process services, patent agents, notaries public, paralegal services).
5612	Accounting, Tax Preparation, Bookkeeping and Payroll Services.			
56121	Offices of Accountants			
561211	Offices of Certified Public Accountants	N	*8721	Accounting, Auditing, and Bookkeeping Services (certified public accountants).
561212	Offices of Accountants, Except Certified	N	*8721	Accounting, Auditing, and Bookkeeping Services (accountants, except certified public accountants).
56122	Tax Preparation, Bookkeeping and Payroll Services			
561221	Tax Preparation Services	E	7291	Tax Return Preparation Services.
561222	Bookkeeping and Billing Services	N	*8721	Accounting, Auditing, and Bookkeeping Services (bookkeeping and billing).
561223	Payroll Services	N	*7819	Services Allied to Motion Picture Production (talent payment services).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*8721	Accounting, Auditing, and Bookkeeping Services (payroll services).
5613	Architectural, Engineering and Related Services			
56131	Architectural Services	E	8712	Architectural Services.
56132	Engineering Services	E	8711	Engineering Services.
56133	Drafting Services	N	*7389	Business Services, NEC (drafting service).
56134	Building Inspection Services	N	*7389	Business Services, NEC (home and building inspection services).
56135	Landscape Architecture Services	E	0781	Landscape Counseling and Planning.
56136	Surveying and Mapping Services	N	*7389	Business Services, NEC (map making services).
			*8713	Surveying Services (except geophysical surveying).
56137	Geophysical Surveying Services	N	*8713	Surveying Services (geophysical surveying).
56138	Testing Laboratories	R	*8734	Testing Laboratories (except veterinary testing laboratories).
5614	Specialized Design Services			
56141	Interior Design Services	N	*7389	Business Services, NEC (interior design).
56142	Industrial Design Services	N	*7389	Business Services, NEC (industrial design).
56143	Graphic Design Services	R	7336	Commercial Art and Graphic Design.
			*8099	Health and Allied Services, NEC (medical artists).
56149	Other Specialized Design Services			
561491	Land Use Planners Services	N	*8748	Business Consulting Services, NEC (planners of land use).
561499	All Other Design Services	N	*7389	Business Services, NEC (fashion, furniture, and other design services).
5615	Computer Systems Design and Related Services			
56151	Computer Systems Design and Related Services			
561511	Custom Computer Programming Services	E	7371	Computer Programming Services.
561512	Systems Design Services	N	7373	Computer Integrated Systems Design.
			*7379	Computer Related Services, NEC (computer systems consultants).
561513	Computer Facilities Management Services	E	7376	Computer Facilities Management Services.
561519	Other Computer Systems Design and Related Services	R	*7379	Computer Related Services, NEC (except computer systems consultants).
5616	Management, Scientific and Technical Consulting Services			
56161	Management Consulting Services			
561611	Administrative and General Management	N	*8742	Management Consulting Services (administrative management and general management consulting).
561612	Human Resources Consulting	N	*8742	Management Consulting Services (human resources and personnel management consulting).
			*7361	Employment Agencies (executive placement services).
561613	Marketing Consulting	N	*8742	Management Consulting Services (marketing consulting).
561614	Process, Physical, Distribution and Logistics Consulting.	N	*8742	Management Consulting Services (manufacturing management, physical distribution, and site location consulting).
561619	Other Management Consulting Services	N	*4731	Arrangement of Transportation of Freight and Cargo (freight rate-auditors and tariff consulting).
			*8748	Business Consulting Services, NEC (safety consulting).
56162	Environmental Consulting	N	*8999	Services, NEC (environmental consultants).
56169	Other Scientific and Technical Consulting Services	N	*8748	Business Consulting Services, NEC (economic, radio, and traffic consultants).
			*8999	Services, NEC (nuclear consultants, geologists, physicists and actuarial consulting).
5617	Scientific Research and Development Services			
56171	Research and Development in the Physical and Engineering Sciences.	N	*8731	Commercial Physical and Biological Research (physical and engineering sciences).
			*8733	Noncommercial Research Organizations (physical and engineering services).
56172	Research and Development in the Life Sciences	N	*8731	Commercial Physical and Biological Research (life sciences).
			*8733	Noncommercial Research Organizations (life sciences).
56173	Research and Development in the Social Sciences and Humanities.	N	*8732	Commercial Economic, Sociological, and Educational Research (social sciences and humanities).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*8733	Noncommercial Research Organizations (social sciences and humanities).
5618	Advertising and Related Services			
56181	Advertising Agencies	E	7311	Advertising Agencies.
56182	Public Relations Services	E	8743	Public Relations Services.
56183	Media Buying Agencies	N	*7319	Advertising, NEC (media buying services).
56184	Media Representatives	E	7313	Radio, Television, and Publishers' Advertising Representatives.
56185	Display Advertising	N	7312	Outdoor Advertising Services.
			*7319	Advertising, NEC (display advertising, except outdoor).
56186	Direct Mail Advertising	E	7331	Direct Mail Advertising Services.
56187	Advertising Material Distributors	N	*7319	Advertising, NEC (advertising materials distributor).
56189	Other Services Related to Advertising	N	*7319	Advertising, NEC (except media buying, display advertising, except outdoor, and advertising material distributors).
			*5199	Nondurable Goods, NEC (advertising specialities goods distributors).
5619	Other Professional, Scientific and Technical Services			
56191	Market Research and Public Opinion Polling	N	*8732	Commercial Economic, Sociological, and Educational Research (market research and opinion research).
56192	Photography Services			
561921	Photography Studios, Portrait	E	7221	Photographic Studios, Portrait.
561922	Commercial Photography	R	7335	Commercial Photography.
			*8099	Health and Allied Services, NEC (medical photography).
56193	Translation and Interpretation Services	N	*7389	Business Services, NEC (translation and interpretation services).
56194	Veterinary Services	E	0741	Veterinary Services for Livestock.
			0742	Veterinary Services for Animal Specialties.
56199	All Other Professional, Scientific and Technical Services.	N	*7389	Business Services (appraisers, except insurance and real estate, and miscellaneous professional, scientific, and technical services).
57	Management, Support, Waste Management, and Remediation Services			
571	Management and Support Services			
5711	Management and Facilities Support Services.			
57111	Management Services	R	*8741	Management Services (except construction management).
57112	Facilities Support Management Services	E	8744	Facilities Support Management Services.
5712	Employment Services			
57121	Employment Placement Agencies	R	*7361	Employment Agencies (except executive placing services).
			*7819	Services Allied to Motion Pictures Production (casting bureaus).
			*7922	Theatrical Producers and Miscellaneous Theatrical Services (casting agencies).
57122	Temporary Help Services	N	*7363	Help Supply Services (except employee leasing service).
57123	Employee Leasing Services	N	*7363	Help Supply Services (except temporary help service).
5713	Administrative Support Services.			
57131	Document Preparation Services	N	*7338	Secretarial and Court Reporting (except court reporting).
57132	Telephone Call Centers			
571321	Telephone Answering Services	N	*7389	Business Services, NEC (telephone answering).
571322	Telemarketing Bureaus	N	*7389	Business Services, NEC (telemarketing bureaus and telephone soliciting).
57133	Business Service Centers.			
571331	Photocopying and Duplicating Services	R	*2752	Commercial Printing, Lithographic (electrostatic, digital, and nonimpact quick printing).
			*2759	Commercial Printing, NEC (quick printing).
			7334	Photocopying and Duplicating Services.
571332	Private Mail Centers	N	*7389	Business Services, NEC (private mail box centers and mail box rental).
57134	Collection Agencies	R	*7322	Adjustment and Collection Services (except adjustment bureaus).
57135	Credit Bureaus	E	7323	Credit Reporting Services.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
57139	Other Administrative Support Services			
571391	Repossession Services	N	*7322	Adjustment and Collection (adjustment bureaus).
			*7389	Business Services, NEC (recovery and repossession services).
571392	Court Reporting and Stenotype Services	N	*7338	Secretarial and Court Reporting (except secretarial).
571399	All Other Administrative Support Services	N	*7389	Business Services, NEC (administrative support services except telephone answering, telemarketing bureaus, private mail centers and repossession services).
5714	Travel Arrangement and Reservation Services			
57141	Travel Agencies	E	4724	Travel Agencies.
57142	Tour Operators	E	4725	Tour Operators.
57149	Other Travel Arrangement and Reservation Services			
571491	Convention and Visitors Bureaus	N	*7389	Business Services, NEC (convention and visitors bureaus, tourist information bureaus).
571499	All Other Travel Arrangement and Reservation Services.	N	*4729	Arrangement of Passenger Transportation, NEC (except arrangement of vanpools and carpools).
			*7389	Business Services, NEC (reservation systems: hotel & restaurants).
			*7999	Amusement and Recreation Services, NEC (ticket agencies).
5715	Security and Investigation Services.			
57151	Investigation, Guard and Armored Car Services.			
571511	Investigation Services	N	*7381	Detective, Guard, and Armored Car Services (detective services).
571512	Security Guards and Patrol Services	N	*7381	Detective, Guard, and Armored Car Services (guard services).
571513	Armored Car Services	N	*7381	Detective, Guard, and Armored Car Services (armored car services).
57152	Security Systems Services			
571521	Security Systems Services, Except Locksmiths	R	7382	Security Systems Services.
			*1731	Electrical Work (burglar and fire alarm installation).
571522	Locksmiths	N	*7699	Repair Shops and Related Services, NEC (locksmith shops).
5716	Services to Buildings and Dwellings			
57161	Exterminating and Pest Control Services	R	*4959	Sanitary Services, NEC (malaria control and mosquito eradication).
			*7342	Disinfecting and Pest Control Services (exterminating and pest control).
57162	Janitorial Services	R	*7342	Disinfecting and Pest Control Services (except exterminating).
			7349	Building Cleaning and Maintenance Services, NEC.
			*4581	Airports, Flying Fields, and Airport Terminal Services (airplane cleaning and janitorial services).
57163	Landscaping Care and Maintenance Services			
571631	Lawn and Garden Services	E	0782	Lawn and Garden Services.
			*4959	Sanitary Services, NEC (snowplowing and street sweeping).
571632	Ornamental Shrub and Tree Services	E	0783	Ornamental Shrub and Tree Services.
57164	Carpet and Upholstery Cleaning Services	E	7217	Carpet and Upholstery Cleaning.
57169	Other Services to Buildings and Dwellings	N	*7389	Business Services, NEC (swimming pool cleaning and maintenance).
			*7699	Repair Shops and Related Services, NEC (furnace, duct, chimney cleaning and furnace cleaning services).
5719	Miscellaneous Support Services			
57191	Packaging and Labeling Services	N	*7389	Business Services, NEC (packaging and labeling services).
57192	Convention and Trade Show Organizers	N	*7389	Business Services, NEC (convention and trade show services).
57199	Other Miscellaneous Support Services	N	*7389	Business Services, NEC (business support services except packaging and labeling, convention and trade shows services, convention and visitor bureaus, tourist information bureaus).
572	Waste Management and Remediation Services			
5721	Waste Collection			
57211	Waste Collection			
572111	Solid Waste Collection	N	*4212	Local Trucking Without Storage (solid waste collection).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*4953	Refuse Systems (solid waste collection).
572112	Hazardous Waste Collection	N	*4212	Local Trucking Without Storage (hazardous waste collection).
			*4953	Refuse Systems (hazardous waste collection).
572119	Other Waste Collection	N	*4212	Local Trucking Without Storage (other waste collection without disposal).
			*4953	Refuse Systems (other waste collection).
5722	Waste Treatment and Disposal			
57221	Waste Treatment and Disposal			
572211	Hazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (hazardous waste treatment and disposal).
572212	Solid Waste Landfill	N	*4953	Refuse Systems (solid waste landfills).
572213	Solid Waste Combustors and Incinerators	N	*4953	Refuse Systems (solid waste combustors and incinerators).
572219	Other Nonhazardous Waste Treatment and Disposal.	N	*4953	Refuse Systems (other nonhazardous waste treatment and disposal).
5729	Remediation Services and Other Waste Management			
57291	Materials Recovery Facilities	N	*4953	Refuse Systems (materials recovery facilities).
57299	Remediation Services and All Other Waste Management			
572991	Remediation Services	N	*4959	Sanitary Services, NEC (remediation services).
572992	Septic Tank and Related Services	N	*7359	Equipment Rental and Leasing, NEC (portable toilet rental).
			*7699	Repair Shops and Related Services, NEC (cesspool cleaning, sewer cleaning and rodding).
572993	All Other Miscellaneous Waste Management	R	*4959	Sanitary Services, NEC (all but remediation services, malaria control, mosquito eradication, snowplowing, street sweeping, and airport runway vacuuming).
61	Educational Services			
611	Educational Services			
6111	Elementary and Secondary Schools			
61111	Elementary and Secondary Schools	E	8211	Elementary and Secondary Schools.
6112	Junior Colleges			
61121	Junior Colleges	E	8222	Junior Colleges and Technical Institutes.
6113	Colleges, Universities and Professional Schools			
61131	Colleges, Universities and Professional Schools	E	8221	Colleges, Universities, and Professional Schools.
6114	Business, Computer, and Management Training Schools			
61141	Business and Secretarial Schools	E	8244	Business and Secretarial Schools.
61142	Computer Training Schools	E	8243	Data Processing Schools.
61143	Professional and Management Development Training Schools.	N	*8299	Schools and Educational Services, NEC (professional and management development training).
6115	Technical and Trade Schools			
61151	Technical and Trade Schools			
611511	Cosmetology and Barber Schools	N	*7231	Beauty Shops (beauty and cosmetology schools).
			*7241	Barber Shops (barber colleges).
611512	Vocational and Technical Schools	N	*8249	Vocational Schools, NEC (vo-tech schools, except high schools).
611513	Aviation and Flight Training	N	*8249	Vocational Schools, NEC (aviation schools, excluding flying instruction).
			*8299	Schools and Educational Services, NEC (flying instruction).
611514	Apprenticeship Training	N	*8249	Vocational Schools, NEC (vocational apprenticeship training).
611519	Other Technical and Trade Schools	N	*8249	Vocational Schools, NEC (except vo-tech schools, aviation and flight training, apprenticeship training, and driving schools).
6116	Miscellaneous Schools and Instruction			
61161	Fine Arts Schools	N	*8299	Schools and Educational Services, NEC (art, drama, and music schools).
			*7911	Dance Studios, Schools, and Halls (dance instructors, and professional and other dance schools).
61162	Athletic Instruction	N	*7999	Amusement and Recreation Services, NEC (baseball, basketball, bowling, gymnastic, judo, karate, parachute, scuba and skin diving, skating, ski, swimming, tennis, and other sports instruction; and sports instructional schools and camps).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
61163	Language Schools	N	*8299	Schools and Educational Services, NEC (language schools).
61169	Other Miscellaneous Schools and Institutions			
611691	Exam Preparation and Tutoring	N	*8299	Schools and Educational Services, NEC (exam preparation and tutoring).
611692	Automobile Driving Schools	N	*8249	Vocational Schools, NEC (truck driving schools).
			*8299	Schools and Educational Services, NEC (automobile driving instruction).
611699	All Other Miscellaneous Schools and Instruction	N	*8299	Schools and Educational Services, NEC (except professional and management training, aviation and flight training, fine arts schools, language schools, exam preparation and tutoring, automobile driving schools, and educational support services).
6117	Educational Support Services			
61171	Educational Support Services	N	*8299	Schools and Educational Services NEC (except instruction).
			*8748	Business Consulting Services, NEC (educational test development and evaluation services, educational testing services, and educational consultants).
62	Health and Social Assistance			
621	Ambulatory Health Care Services			
6211	Offices of Physicians			
62111	Offices of Physicians			
621111	Offices of Physicians Except Mental Health Specialists.	N	*8011	Offices and Clinics of Doctors of Medicine (except mental health specialists).
			*8031	Offices and Clinics of Doctors of Osteopathy (except mental health specialists).
621112	Offices of Physicians, Mental Health Specialists	N	*8011	Offices and Clinics of Doctors of Medicine (mental health specialists).
			*8031	Offices and Clinics of Doctors of Osteopathy (mental health specialists).
6212	Offices of Dentists			
62121	Offices of Dentists	E	8021	Offices and Clinics of Dentists.
6213	Offices of Other Health Practitioners			
62131	Offices of Chiropractors	E	8041	Offices and Clinics of Chiropractors.
62132	Offices of Optometrists	E	8042	Offices and Clinics of Optometrists.
62133	Offices of Mental Health Practitioners, Except Physicians.	N	*8049	Offices and Clinics of Health Practitioners, NEC (mental health practitioners except physicians).
62134	Offices of Physical, Occupational and Speech Therapists and Audiologists.	N	*8049	Offices and Clinics of Health Practitioners, NEC (physical, occupational, speech therapists, and audiologists).
62135	Offices of All Other Health Practitioners			
621351	Offices of Podiatrists	E	8043	Offices and Clinics of Podiatrists.
621359	Miscellaneous Health Practitioners	N	*8049	Offices and Clinics of Health Practitioners, NEC (except mental health practitioners, physical, occupational, speech therapists, and audiologists).
6214	Outpatient Care Facilities			
62141	Family Planning Centers	N	*8093	Speciality Outpatient Facilities, NEC (family planning centers).
			*8099	Health and Allied Services, NEC (childbirth preparation).
62142	Outpatient Mental Health Facilities	N	*8093	Specialty Outpatient Facilities, NEC (mental health facilities).
62149	Other Outpatient Care Facilities			
621491	HMO Medical Centers	N	*8011	Offices and Clinics of Doctors of Medicine (HMO Medical Centers).
621492	Kidney Dialysis Centers	E	8092	Kidney Dialysis Centers.
621493	Ambulatory Surgical and Freestanding Emergency Centers.	N	*8011	Offices and Clinics of Doctors of Medicine (surgical and emergency centers.
621499	All Other Outpatient Care Facilities	N	*8093	Specialty Outpatient Facilities, NEC (except family planning and mental health centers).
6215	Medical and Diagnostic Laboratories			
62151	Medical and Diagnostic Laboratories			
621511	Medical Laboratories	R	*8071	Medical Laboratories (except diagnostic imaging centers).
621512	Diagnostic Imaging Centers	N	*8071	Medical Laboratories (diagnostic imaging centers).
6216	Home Health Care Services			
62161	Home Health Care Services			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
621611	Home Health Agencies	N	*8082	Home Health Care Services (home health agencies).
621619	Other Home Health Care Services	N	*8082	Home Health Care Services (except home health agencies).
6219	Miscellaneous Ambulatory Health Care Services			
62191	Ambulance Services	N	*4119	Local Passenger Transportation, NEC (land ambulance).
			*4522	Air Transportation, Nonscheduled (air ambulance).
62199	Other Miscellaneous Health Care Services			
621991	Blood and Organ Banks	N	*8099	Health and Allied Services, NEC (blood and organ banks).
621999	All Other Miscellaneous Health Care Services	N	*8099	Health and Allied Services, NEC (except blood and organ banks).
622	Hospitals.			
6221	General Medical and Surgical Hospitals			
62211	General Medical and Surgical Hospitals	R	8062	General Medical and Surgical Hospitals.
			*8069	Specialty Hospitals, Except Psychiatric (childrens' hospitals).
6222	Psychiatric and Substance Abuse Hospitals			
62221	Psychiatric and Substance Abuse Hospitals	R	8063	Psychiatric Hospitals.
			*8069	Specialty Hospitals, Except Psychiatric (substance abuse hospitals).
6223	Specialty Hospitals, Except Psychiatric and Substance Abuse Hospitals			
62231	Specialty Hospitals, Except Psychiatric and Substance Abuse Hospitals.	R	*8069	Specialty Hospitals, Except Psychiatric (except childrens' and substance abuse hospitals).
623	Nursing and Residential Care Facilities			
6231	Nursing Care Facilities			
62311	Nursing Care Facilities	N	*8051	Skilled Nursing Care Facilities (except continuing care retirement communities).
			*8052	Intermediate Care Facilities (except continuing care retirement communities and mental retardation facilities).
			*8059	Nursing and Personal Care Facilities, NEC (except continuing care retirement communities).
6232	Mental Health, Mental Retardation, and Substance Abuse Facilities			
62321	Mental Retardation Facilities	N	*8052	Intermediate Care Facilities (mental retardation facilities).
62322	Mental Health and Substance Abuse Facilities	N	*8361	Residential Care (mental health and substance abuse facilities).
6233	Community Care Facilities for the Elderly			
62331	Community Care Facilities for the Elderly			
623311	Continuing Care Retirement Communities	N	*8051	Skilled Nursing Care Facilities (continuing care retirement communities).
			*8052	Intermediate Care Facilities (continuing care retirement communities).
			*8059	Nursing and Personal Care Facilities, NEC (continuing care retirement communities).
623312	Homes for the Elderly	N	*8361	Residential Care (homes for the elderly).
6239	Other Residential Care Facilities			
62391	Other Residential Care Facilities	N	*8361	Residential Care (except mental health and substance abuse facilities, homes for the elderly).
624	Social Assistance			
6241	Individual and Family Services			
62411	Child and Youth Services	N	*8322	Individual and Family Social Services (child and youth services).
62412	Services for the Elderly and Persons with Disabilities.	N	*8322	Individual and Family Social Services (services for the elderly and disabled).
62419	Other Individual and Family Services	N	*8322	Individual and Family Social Services (except services for children, youth, elderly, disabled; food, housing, emergency and relief).
6242	Community Food, Shelter, and Emergency			
62421	Community Food Services	N	*8322	Individual and Family Social Services (food services).
62422	Community Housing Services			
624221	Temporary Shelter	N	*8322	Individual and Family Social Services (temporary shelter).
624229	Other Community Housing Services	N	*8322	Individual and Family Social Services (housing services except temporary shelter).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
62423	Emergency and Other Relief Services	N	*8322	Individual and Family Social Services (emergency and and relief services).
6243	Job Training and Vocational Rehabilitation			
62431	Job Training and Vocational Rehabilitation Services	E	8331	Job Training and Vocational Rehabilitation Services.
6244	Child Day Care Services			
62441	Child Day Care Services	E	8351	Child Day Care Services.
71	Arts, Entertainment and Recreation			
711	Performing Arts, Spectator Sports and Related Industries			
7111	Performing Arts Companies			
71111	Theater Companies	N	*5812	Eating Places (dinner theaters).
			*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theater companies, opera companies).
71112	Dance Companies	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (ballet and dance companies).
71113	Musical Groups and Artists	N	*7929	Bands, Orchestras, Actors, and Entertainment Groups (musical groups and artists and orchestras).
71119	Other Performing Arts Companies	N	*7929	Bands, Orchestras, Actors, and Entertainment Groups, (except musical groups, artists, actors, and actresses).
			*7999	Amusement and Recreation Services, NEC (circus companies).
7112	Spectator Sports			
71121	Spectator Sports			
711211	Sports Clubs	N	*7941	Professional Sports Clubs and Promoters (professional sports clubs).
711212	Race Tracks	N	*7948	Racing, Including Track Operations (track operations).
711219	Other Spectator Sports	N	*7941	Professional Sports Clubs Promoters (except sports clubs, stadium operators, sports promoters and agents).
			*7948	Racing, Including Track Operations (except track operators).
			*7999	Amusement and Recreation Services, NEC (professional athletes).
7113	Promoters of Arts, Sports and Similar Events			
71131	Promoters of Arts, Sports and Similar Events with Facilities	N	*6512	Operators of Nonresidential Buildings (stadium and arena owners).
			*7922	Theatrical Procedures (Except Motion Pictures) and Miscellaneous Theatrical Services (theater operators).
			*7941	Professional Sports Clubs and Promoters (stadium operators).
71132	Promoters of Arts, Sports and Similar Events without Facilities	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical promoters.
			*7941	Professional Sports Clubs and Promoters (sports promoters).
7114	Agents and Managers for Artists, Athletes and Other Entertainers			
71141	Agents and Managers for Artists, Athletes and Other Entertainers	N	*7389	Business Services, NEC (agents and brokers for authors and artists).
			*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical agents).
			*7941	Professional Sports Clubs and Promoters (sports agents).
7115	Independent Artists, Writers, and Performers			
71151	Independent Artists, and Performers	N	*7819	Services Allied to Motion Picture Production (film directors and related motion picture production services, independent).
			*7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Services (actors and actresses).
			*8999	Services, NEC (authors, artists, and related technical services independent).
712	Museums, Historical Sites and Similar Institutions.			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
7121	Museums, Historical Sites and Similar Institutions			
71211	Museums	R	*8412	Museums and Art Galleries (except historic and heritage sites).
71212	Historical Sites	N	*8412	Museums and Art Galleries (historic and heritage sites).
71213	Botanical and Zoological Gardens	R	*8422	Arboreta and Botanical and Zoological Gardens (except nature parks and reserves).
71214	Nature Parks and Similar Institutions	N	*7999	Amusement and Recreation Services, NEC (caverns and miscellaneous commercial parks).
			*8422	Arboreta and Botanical and Zoological Gardens (nature parks and reserves).
713	Recreation, Amusement and Gambling Industries			
7131	Operators of Sports and Recreation Facilities			
71311	Golf Courses	N	7992	Public Golf Courses.
			*7997	Membership Sports and Recreation Clubs (golf clubs).
71312	Skiing Facilities	N	*7999	Amusement and Recreation Services, NEC (skiing facilities).
71313	Marinas	E	4493	Marinas.
71314	Recreational, Sports and Fitness Centers.	N	7991	Physical Fitness Facilities.
			*7997	Membership Sports and Recreation Clubs (recreation clubs with facilities).
			*7999	Amusement and Recreation Services, NEC (non-membership recreation facilities).
71315	Bowling Centers	E	7933	Bowling Centers.
7132	Amusement Facilities			
71321	Amusement and Theme Parks	E	7996	Amusement Parks.
71322	Amusement Arcades and Other Coin Operated Amusement Devices.	R	*7993	Coin-Operated Amusement Devices (except slot machine operators).
7133	Gambling Industries			
71331	Casinos, except Hotel Casinos	N	*7999	Amusement and Recreation Services, NEC (casinos, except hotel casinos).
71339	Other Gambling Industries	N	*7993	Coin-Operated Amusement Devices (slot machine operators).
			*7999	Amusement and Recreation Services, NEC (lottery, bingo, bookie, and other gambling operations).
7139	Other Recreation and Amusement Services			
71399	Other Recreation and Amusement Services	N	*7911	Dance Studios, Schools, and Halls (except instruction).
			*7997	Membership Sports and Recreation Clubs (recreation clubs without facilities).
			*7999	Amusement and Recreation Services, NEC (except circuses, professionals, athletes, caverns and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities, sports instruction, sports equipment rental, and amusement or scenic transport operations).
72	Accommodations, Food Services, and Drinking Places			
721	Accommodations			
7211	Traveler Accommodations			
72111	Hotels and Motels, Except Casino Hotels	R	*7011	Hotels and Motels (hotels and motels, except casino hotels).
			*7041	Organization Hotels and Lodging Houses, on Membership Basis (hotels).
72112	Casino Hotels	N	*7011	Hotels and Motels (casino hotels).
72119	Other Traveler Accommodations			
721191	Bed and Breakfast Inns	N	*7011	Hotels and Motels (bed and breakfast inns).
721199	All Other Traveler Accommodations	N	*7011	Hotels and Motels (except hotels, motels and bed and breakfast inns).
7212	Recreation and Other Accommodations			
72121	Recreational Vehicle Parks and Camps			
721211	Sporting and Recreation Camps	E	7032	Sporting and Recreational Camps.
721212	Recreational Vehicle Parks and Campgrounds	E	7033	Recreational Vehicle Parks and Campgrounds.
72122	Rooming and Boarding Houses	R	7021	Rooming and Boarding Houses.
			*7041	Organization Hotels and Lodging Houses, on Membership Basis (except hotels).
722	Foodservices and Drinking Places			
7221	Full-Service Restaurants			

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
72211	Full-Service Restaurants	N	*5812	Eating Places (full-service restaurants).
7222	Limited-Service Eating Places			
72221	Limited-Service Restaurants and Cafeterias			
722211	Limited-Service Restaurants	N	*5812	Eating Places (limited-service restaurants).
			*5499	Miscellaneous Food Stores (coffee shops making and serving food and beverages for immediate consumption).
722212	Cafeterias	N	*5812	Eating Places (cafeterias).
72222	Refreshment Places	N	*5812	Eating Places (refreshment places).
			*5461	Retail Bakeries (snacks).
7223	Special Foodservices			
72231	Foodservice Contractors	N	*5812	Eating Places (food service contractors).
72232	Caterers	N	*5812	Eating Places (caterers).
72233	Mobile Caterers	N	*5963	Direct Selling Establishments (mobile caterers).
7224	Bars, Taverns, and Other Drinking Places (Alcoholic Beverages)			
72241	Bars, Taverns, and Drinking Places (Alchoholic Beverages).	E	5813	Drinking Places (alcoholic beverages).
81	Other Services, Except Public Administration			
811	Repair and Maintenance			
8111	Automotive Repair and Maintenance			
81111	Automotive Mechanical and Electrical Repair and Maintenance			
811111	General Automotive Repair	E	7538	General Automotive Repair Shops.
811112	Automotive Exhaust System Repair	E	7533	Automotive Exhaust System Repair Shops.
811113	Automotive Transmission Repair	E	7537	Automotive Transmission Repair Shops.
811119	Other Automotive Mechanical and Electrical Repair and Maintenance.	E	7539	Automotive Repair Shops, NEC.
81112	Automotive Body, Paint and Interior Repair			
811121	Automotive Body, Paint and Upholstery Repair and Maintenance.	E	7532	Top, Body, and Upholstery Repair Shops and Paint Shops.
811122	Automotive Glass Replacement Shops	E	7536	Automotive Glass Replacement Shops.
81119	Other Automotive Repair and Maintenance			
811191	Automotive Oil Change and Lubrication Shops	N	*7549	Automotive Services, Except Repair and Carwashes (Lubrication service, automotive).
811192	Car Washes	E	7542	Carwashes.
811199	All Other Automotive Repair and Maintenance	R	*7534	Tire Retreading and Repair Shops (repair).
			*7549	Automotive Services, Except Repair and Carwashes (except lubricating and towing).
8112	Heavy and Industrial Machinery and Equipment Repair and Maintenance			
81121	Heavy and Industrial Machinery and Equipment Repair and Maintenance			
811211	Transportation Equipment Repair and Maintenance	N	*3732	Boat Building and Repairing (boat repair).
			*7699	Repair Shops and Related Services, NEC (other non-automotive transportation equipment).
811219	Other Industrial Machinery and Equipment Repair and Maintenance.	R	*7623	Refrigerator and Air-Conditioning Service and Repair Shops (commercial refrigerator equipment repair).
			*7694	Armature Rewinding Shops (repair).
			*7699	Repair Shops and Related Services, NEC (industrial machines and equipment).
8113	Electronic and Precision Equipment Repair and Maintenance			
81131	Electronic and Precision Equipment Repair and Maintenance			
811311	Consumer Electronics Repair and Maintenance	N	*7622	Radio and Television Repair Shops (stereo, TV, VCR, and radio).
			*7629	Electrical and Electronic Repair Shops, NEC (consumer equipment except computer, TV, stereo, VCR, and radio).
811312	Computer and Office Machine Repair and Maintenance.	N	7378	Computer Maintenance and Repair.
			*7629	Electrical and Electronic Repair Shops, NEC (business and office machine repair, electrical).
			*7699	Repair Shops and Related Services, NEC (typewriter repair).
811313	Communication Equipment Repair and Maintenance	N	*7622	Radio and Television Repair Shops (telecommunication repair).

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*7629	Electrical and Electronic Repair Shops, NEC (telephone set repair).
811319	Other Electronic and Precision Equipment Repair and Maintenance.	N	*7629	Electrical and Electronic Repair Shops, NEC (electrical measuring instrument repair and calibration, medical equipment repair, electrical).
			*7699	Repair Shops and Related Services, NEC (dental instrument repair, laboratory instrument repair, medical equipment and other electronic and precision equipment repair, except typewriters).
8114	Personal or Household Goods Repair and Maintenance			
81141	Home and Garden Equipment and Appliance Repair and Maintenance			
811411	Home and Garden Equipment Repair and Maintenance.	N	*7699	Repair Shops and Related Services, NEC (lawnmower repair shops, sharpening and repairing knives, saws and tools).
811412	Appliance Repair and Maintenance	N	*7623	Refrigeration and Air-Conditioning Service and Repair Shops (except commercial).
			*7629	Electrical and Electronic Repair Shops, NEC (appliance repair, electrical; washing machine repair; electric razor repair).
			*7699	Repair Shops and Related Services, NEC (gas appliance repair service, sewing machine repair, stove repair shops, and other non-electrical appliance).
81142	Reupholstery and Furniture Repair	E	7641	Reupholstery and Furniture Repair.
81143	Footwear and Leather Goods Repair	R	7251	Shoe Repair and Shoeshine Parlors.
			*7699	Repair Shops and Related Services (leather goods repair shops, luggage repair shops, pocketbook repair shops).
81149	Other Personal or Household Goods Repair and Maintenance.	N	*7219	Laundry and Garment Services, NEC (alteration and repair).
			7631	Watch, Clock, and Jewelry Repair.
			7692	Welding Repair.
			*7699	Repair Shops and Related Services, NEC (except industrial, electronic, home and garden, appliance, and leather goods).
812	Personal and Laundry Services.			
8121	Personal Care Services.			
81211	Hair Care and Esthetic Services.			
812111	Barber Shops	R	*7241	Barber Shops (except barber colleges).
812112	Beauty Salons	R	*7231	Beauty Shops (except beauty and cosmetology schools and manicure and pedicure salons).
812113	Nail Salons	N	*7231	Beauty Shops (manicure and pedicure salons).
81219	Other Personal Care Services.			
812191	Diet and Weight Reducing Centers	N	*7299	Miscellaneous Personal Services, NEC (diet and weight reducing services).
812199	Other Personal Care Services	N	*7299	Miscellaneous Personal Services, NEC, (personal care services).
8122	Funeral Services.			
81221	Funeral Homes	R	7261	Funeral Services and Crematories (funeral homes).
81222	Cemeteries and Crematories	R	*6531	Real Estate Agents and Managers (cemetery management).
			6553	Cemetery Subdividers and Developers.
			*7261	Funeral Services and Crematories (except funeral homes).
8123	Laundry Services.			
81231	Coin-Operated Laundries and Drycleaning	E	7215	Coin-Operated Laundry and Drycleaning.
81232	Drycleaning and Laundry Services, Except Coin-Operated			
812321	Laundries, Family and Commercial	E	7211	Power Laundries, Family and Commercial.
812322	Drycleaning Plants	E	7216	Drycleaning Plants, Except Rug Cleaning.
81233	Linen and Uniform Supply.			
812331	Linen Supply	R	7213	Linen Supply.
			*7219	Laundry and Garment Services, NEC, (diaper service).
812332	Industrial Launderers	E	7218	Industrial Launderers.
81239	Other Laundry Services.			
812391	Garment Pressing, and Agents for Laundries	E	7212	Garment Pressing and Agents for Laundries.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
812399	All Other Laundry Services	R	*7219	Laundry and Garment Services, NEC (except diaper service and clothing alteration and repair).
8129	Miscellaneous Personal Services			
81291	Pet Care Services, Except Veterinary Services	R	*0752	Animal Speciality Services, Except Veterinary (pet care services, except veterinary).
			*8734	Testing Laboratories (veterinary testing labs).
81292	Photo Finishing.			
812921	Photo Finishing Laboratories, Except One-Hour	N	*7384	Photofinishing Laboratories (except one-hour).
812922	One-Hour Photo Finishing	N	*7384	Photofinishing Laboratories (one-hour).
81293	Parking Lots and Garages	E	7521	Automobile Parking.
81299	Other Miscellaneous Personal Services	R	*7299	Miscellaneous Personal Services, NEC (except diet and weight reducing services, personal care services, and formal wear and costume rental service).
813	Religious, Grantmaking, Civic and Other Membership Organizations			
8131	Religious Organizations			
81311	Religious Organizations	E	8661	Religious Organizations.
8132	Grantmaking and Giving Services.			
81321	Grantmaking and Giving Services.			
813211	Grantmaking Foundations	E	6732	Educational, Religious, and Charitable Trust.
813212	Voluntary Health Organizations	N	*8399	Social Services, NEC (voluntary health organizations).
813219	Other Grantmaking and Giving Services	N	*8399	Social Services, NEC (except grantmaking and voluntary health organizations).
8133	Social Advocacy Organizations			
81331	Social Advocacy Organizations			
813311	Human Rights Organizations	N	*8399	Social Services, NEC (human rights organizations).
813312	Environment, Conservation and Wildlife Organizations.	N	*8399	Social Services, NEC (environment, conservation, and wildlife advocacy).
			*8699	Membership Organizations, NEC (humane societies).
813319	Other Social Advocacy Organizations	N	*8399	Social Services, NEC (except human rights, environment, conservation and wildlife organizations).
8134	Civic and Social Associations			
81341	Civic and Social Associations			
813411	Civic and Social Organizations, with Restaurants and Bars.	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations).
			*8699	Membership Organizations, NEC (farm granges with restaurant and bars).
813412	Civic and Social Organizations, without Restaurants and Bars.	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations).
			*8699	Membership Organizations, NEC (farm granges without restaurant, and bars).
8139	Other Membership Organizations.			
81391	Business Associations	R	8611	Business Associations.
			*8699	Membership Organizations, NEC (farm business organizations).
81392	Professional Membership Organizations	E	8621	Professional Membership Organizations.
81393	Labor Unions and Similar Labor Organizations	E	8631	Labor Unions and Similar Labor Organizations.
81394	Political Organizations	E	8651	Political Organizations.
81399	All Other Membership Organizations	R	*8699	Membership Organizations, NEC (except farm business organizations, farm granges,and environmental, conservation, and wildlife organizations).
814	Private Households			
8141	Private Households			
81411	Private Households	E	8811	Private Households.
93	Public Administration		.....	Public Administration.
931	Executive, Legislative, Public Finance and General Government			
9311	Executive, Legislative, Public Finance and General Government			
93111	Executive Offices	E	9111	Executive Offices.
93112	Legislative Bodies	E	9121	Legislative Bodies.
93113	Public Finance, Taxation, and Monetary Policy	E	9311	Public Finance, Taxation and Monetary Policy.
93114	Executive and Legislative Offices, Combined	E	9131	Executive and Legislative Office, Combined.
93119	All Other General Government	E	9199	General Government, NEC.
932	Justice, Public Order, and Safety			
9321	Justice, Public Order, and Safety			
93211	Courts	E	9211	Courts.

TABLE 1.—1997 NAICS MATCHED TO 1987 SIC—Continued

1997 NAICS code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
93212	Police Protection	E	9221	Police Protection.
93213	Legal Counsel and Prosecution		9222	Legal Counsel and Prosecution.
93214	Correctional Institutions	E	9223	Correctional Institutions.
93215	Parole Offices and Probation Offices	N	*8322	Individual and Family Social Services (parole and probation offices).
93216	Fire Protection	E	9224	Fire Protection.
93219	All Other Public Order and Safety	E	9229	Public Order and Safety, NEC.
933	Administration of Human Resource Programs.			
9331	Administration of Human Resource Programs.			
93311	Administration of Educational Programs	E	9411	Administration of Educational Programs.
93312	Administration of Public Health Programs	E	9431	Administration of Public Health Programs.
93313	Administration of Social, Human Resource and Income Maintenance Programs.	E	9441	Administration of Social, Human Resource and Income Maintenance Programs.
93314	Administration of Veteran's Affairs, Except Health Insurance.	E	9451	Administration of Veteran's Affairs, Except Health Insurance.
934	Administration of Environmental Quality Programs			
9341	Administration of Environmental Quality Programs			
93411	Air and Water Resource and Solid Waste Management.	E	9511	Air and Water Resource and Solid Waste Management.
93412	Land, Mineral, Wildlife, and Forest Conservation	E	9512	Land, Mineral, Wildlife, and Forest Conservation.
935	Administration of Housing Programs, Urban Planning, and Community Development			
9351	Administration of Housing Programs, Urban Planning, and Community Development			
93511	Administration of Housing Programs	E	9531	Administration of Housing Programs.
93512	Administration of Urban Planning and Community and Rural Development.	E	9532	Administration of Urban Planning and Community and Rural Development.
936	Administration of Economic Programs			
9361	Administration of Economic Programs			
93611	Administration of General Economic Programs	E	9611	Administration of General Economic Programs.
93612	Regulation and Administration of Transportation Programs.	R	9621	Regulations and Administration of Transportation Programs (except air traffic control).
93613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities.	E	9631	Regulation and Administration of Communications, Electric, Gas, and Other Utilities.
93614	Regulation of Agricultural Marketing and Commodities.	E	9641	Regulation of Agricultural Marketing and Commodities.
93615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors.	E	9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors.
937	Space Research and Technology			
9371	Space Research and Technology			
93711	Space Research and Technology	E	9661	Space Research and Technology.
938	National Security and International Affairs			
9381	National Security and International Affairs			
93811	National Security	E	9711	National Security.
93812	International Affairs	E	9721	International Affairs.
99	Unclassified Establishments			
999	Unclassified Establishments			
9999	Unclassified Establishments	E	9999	Nonclassifiable Establishments.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
0111	Wheat	11111	Wheat Farming.
0112	Rice	11113	Rice Farming.
0115	Corn	11112	Corn Farming (pt).
0116	Soybeans	11115	Soybean Farming.
0119	Cash Grains, NEC		
	Dry Pea and Bean Farms	11117	Dry Pea and Bean Farming.
	Oilseed, Except Soybean Farms	11116	Oilseed Farming, Except Soybean Farming.
	Popcorn Farms	11112	Corn Farming (pt).
	Other Farms	11114	Other Grain Farming, Except Wheat, Corn, and Rice.
0131	Cotton	11192	Cotton farming.
0132	Tobacco	11191	Tobacco Farming.
0133	Sugarcane and Sugar Beets		
	Sugarbeets	111221	Sugarbeet Farming.
	Sugarcane	11193	Sugarcane Farming.
0134	Irish Potatoes	11121	Potato Farming.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
0139	Field Crops, Except Cash Grains, NEC		
	Hay Farms	11196	Hay Farming.
	Peanut Farming	111222	Peanut Farming.
	Root and Tuber, Except Potato, Peanut, and Sugar Beet Farms.	111229	Other Root and Tuber Farming.
	Other Field Crop Farms	11199	All Other Crop Farming.
0161	Vegetables and Melons	11131	Other Vegetable and Melon Farming.
0171	Berry Crops		
	Strawberry Farms	111433	Strawberry Farming.
	Other Berry Farms	111434	Other Berry Farming
0172	Grapes	111432	Grape Vineyards.
0173	Tree Nuts	111435	Tree Nut Farming.
0174@	Citrus Fruits		
	Orange Groves and Farms	11141	Orange Groves.
	Other Citrus Groves and Farms	11142	Other Citrus Groves.
0175	Deciduous Tree Fruits		
	Apple Orchard and Farms	111431	Apple Orchards.
	Other Farms	111439	Other Noncitrus Fruit Farming (pt).
0179@	Fruits and Tree Nuts, NEC	111439	Other Noncitrus Fruit Farming (pt).
0181@	Ornamental Floriculture and Nursery Products		
	Floriculture Farming	111522	Floriculture Production.
	Nursery Farming	111521	Nursery and Tree Production (pt).
0182	Food Crops Grown Under Cover		
	Mushroom, Growing Of	111511	Mushroom Production.
	Other Food Crops Grown Under Cover	111519	Other Food Crops Grown Under Cover.
0191@	General Farms, Primarily Crop	11199	All Other Crop Farming (pt).
0211	Beef Cattle Feedlots	112112	Cattle Feedlots.
0212	Beef Cattle, Except Feedlots	112111	Beef Cattle Ranching and Farming (pt).
0213	Hogs	11221	Hog and Pig Farming.
0214	Sheep and Goats		
	Sheep Farms	11241	Sheep Farming.
	Goat Farms	11242	Goat Farming.
0219@	General Livestock, Except Dairy and Poultry	11299	All Other Animal Production (pt).
0241	Dairy Farms		
	Dairy Heifer Replacement Farms	112111	Beef Cattle Ranching and Farming (pt).
	Dairy Farms	11212	Dairy Cattle and Milk Production.
0251	Broiler, Fryers, and Roaster Chickens	11232	Broilers and Other Meat-Type Chicken Production.
0252	Chicken Eggs	11231	Chicken Egg Production.
0253	Turkey and Turkey Eggs	11234	Turkey Production.
0254	Poultry Hatcheries	112351	Poultry Hatcheries.
0259	Poultry and Eggs, NEC	112359	Other Poultry Production.
0271	Fur-Bearing Animals and Rabbits	11293	Fur-Bearing Animal and Rabbit Production.
0272	Horses and Other Equines	11292	Horse and Other Equine Production.
0273	Animal Aquaculture		
	Finfish Farming	112511	Finfish Production (pt).
	Shellfish Farming	112512	Shellfish Production (pt).
	Other Animal Aquaculture	112519	Other Animal Aquaculture (pt).
0279@	Animal Specialities, NEC		
	Apiculture	11291	Apiculture.
	Other	11299	All Other Animal Production (pt).
0291@	General Farms, Primarily Livestock and Animal Specialties.	11299	All Other Animal Production (pt).
0711	Soil Preparation Services	115111	Soil Preparation, Planting and Cultivating (pt).
0721	Crop Planting, Cultivating and Protecting		
	Crop Dusting When Combined With a Variety of Aircraft-Based Services.	48122	Nonscheduled Speciality Air Transportation (pt).
	Other	115111	Soil Preparation, Planting and Cultivating (pt).
0722	Crop Harvesting, Primarily by Machine	115112	Crop Harvesting, Primarily By Machine.
0723	Crop Preparation Services For Market, except Cotton Ginning.	115113	Postharvest Crop Activities.
0724	Cotton Ginning	33921	Cotton Ginning.
0741	Veterinary Service For Livestock	56194	Veterinary Services (pt).
0742	Veterinary Services for Animal Specialties	56194	Veterinary Services (pt).
0751@	Livestock Services, Except Veterinary		
	Custom Slaughtering	311611	Animal Slaughtering, Except Poultry (pt).
	Other Livestock Service, Except Veterinary	11521	Support Activities For Animal Production (pt).
0752@	Animal Specialty Services, Except Veterinary		
	Horses and Equines Services and Animal Production Breeding.	11521	Support Activities For Animal Production (pt).
	Pet Care Services	81291	Pet Care Services, Except Veterinary Services (pt).
0761	Farm Labor Contractors and Crew Leaders	115114	Farm Labor Contractors and Crew Leaders.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
0762@	Farm Management Services		
	Animal Production Management Services	11521	Support Activities For Animal Production (pt).
	Crop Production Management Services	.....	Included with the particular crop production industries they serve such as wheat, rice, corn, etc.
0781	Landscape Counseling and Planning	56135	Landscape Architecture Services.
0782	Lawn and Garden Services	571631	Lawn and Garden Services (pt).
0783	Ornamental Shrub and Tree Services	571632	Ornamental Shrub and Tree Services.
0811@	Timber Tracts.		
	Short Rotation Woody Crops	111521	Nursery and Tree Production (pt).
	Long Term Timber Farming	11311	Timber Tract Operations.
0831@	Forest Nurseries and Gathering of Forest Products		
	Maple Sap	11199	All Other Crop Farming (pt).
	Other Forest Products	11321	Forest Nurseries and Gathering of Forest Products.
0851	Forestry Services.		
	Aerial forest fighting when combined with a variety of aircraft-based services.	48122	Nonscheduled Speciality Air Transportation (pt).
	Other Forestry Services	11531	Support Activities for Forestry.
0912	Finfish	114111	Finfish Fishing (pt).
0913	Shellfish	114112	Shellfish Fishing (pt).
0919	Miscellaneous Marine Products		
	Except Plant Aquaculture	114119	Other Marine Fishing.
	Plant Aquaculture	11199	All Other Crop Farming (plant aquaculture).
0921@	Fish Hatcheries and Preserves		
	Finfish Hatcheries	112511	Finfish Production (pt).
	Shellfish Hatcheries	112512	Shellfish Production (pt).
	Fish Preserves	71214	Nature Parks and Similar Institutions (pt).
0971	Hunting, Trapping, Game Propagation	11421	Hunting and Trapping.
1011	Iron Ores	21221	Iron Mining.
1021	Copper Ores	212231	Copper and Nickel Mining (pt).
1031	Lead and Zinc Ores	212232	Lead and Zinc Mining.
1041	Gold Ores	212221	Gold Mining.
1044	Silver Ores	212222	Silver Mining.
1061	Ferroalloy Ores, Except Vanadium		
	Nickel Ore Mining	212231	Copper and Nickel Mining (pt).
	Other Ferroalloys (except nickel)	212299	Other Metal Ore Mining (pt).
1081	Metal Mining Services	213111	Support Activities for Metal Mining.
1094	Uranium-Radium-Vanadium Ores	212291	Uranium-Radium-Vanadium Ore Mining.
1099	Miscellaneous Metal Ores, NEC	212299	Other Metal Ore Mining (pt).
1221	Bituminous Coal and Lignite Surface Mining	212111	Bituminous Coal and Lignite Surface Mining.
1222	Bituminous Coal Underground Mining	212112	Bituminous Coal Underground Mining.
1231	Anthracite Mining	212113	Anthracite Mining.
1241	Coal Mining Services	213112	Support Activities for Coal Mining.
1311	Crude Petroleum and Natural Gas	211111	Crude Petroleum and Natural Gas Extraction.
1321	Natural Gas Liquids	211112	Natural Gas Liquid Extraction.
1381	Drilling Oil and Gas Wells	213113	Drilling Oil and Gas Wells.
1382	Oil and Gas Field Exploration Services		
	Aerial geophysical exploration combined with a variety of aircraft-based services.	48122	Nonscheduled Speciality Air Transportation (pt).
	Oil and Gas Field Exploration Services	213114	Support Activities for Oil and Gas Field Exploration.
1389	Oil and Gas Field Services, NEC	213115	Other Oil and Gas Field Support Activities.
1411	Dimension Stone	212311	Dimension Stone Mining or Quarry.
1422	Crushed and Broken Limestone	212312	Crushed and Broken Limestone Mining or Quarrying.
1423	Crushed and Broken Granite	212313	Crushed and Broken Granite Mining or Quarrying.
1429	Crushed and Broken Stone, NEC	212319	Other Crushed and Broken Stone Mining or Quarrying (pt).
1442	Construction Sand and Gravel	212321	Construction Sand and Gravel Mining.
1446	Industrial Sand	212322	Industrial Sand Mining.
1455	Kaolin and Ball Clay	212323	Kaolin and Ball Clay Mining.
1459	Clay, Ceramic, and Refractory Minerals, NEC	212324	Clay, Ceramic, and Refractory Mineral Mining.
1474	Potash, Soda, and Borate Minerals	212391	Potash, Soda, and Borate Mineral Mining.
1475	Phosphate Rock	212392	Phosphate Rock Mining.
1479	Chemical and Fertilizer Mineral Mining, NEC	212393	Other Chemical and Fertilizer Mineral Mining.
1481	Nonmetallic Mineral Services Except Fuels	213116	Support Activities for Non-metallic Minerals, Except Fuels.
1499	Miscellaneous Nonmetallic Minerals, Except Fuels		
	Bituminous Limestone and Bituminous Sandstone	212319	Other Crushed and Broken Stone Mining or Quarrying (pt).
	Except Bituminous Limestone and Bituminous Sandstone.	212399	All Other Non-Metallic Mineral Mining.
1521@	General Contractors—Single-Family Houses	23621	Single-Family Housing Construction (pt).
1522@	General Contractors-Residential Buildings, Other Than Single-Family		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Hotel and Motel Construction	23632	Commercial and Institutional Building Construction (pt).
	Except Hotel and Motel Construction	23622	Multi-Family Housing Construction (pt).
1531@	Operative Builders		
	Single-Family Housing	23621	Single-Family Housing Construction (pt).
	Multi-Family Housing	23622	Multi-Family Housing Construction (pt).
	Manufacturing and Light Industrial Buildings	23631	Manufacturing and Light Industrial Building Construction (pt).
	Commercial and Institutional Buildings	23632	Commercial and Institutional Building Construction (pt).
1541@	General Contractors-Industrial Buildings and Warehouses		
	Warehouse Construction	23632	Commercial and Institutional Building Construction (pt).
	Except Warehouse Construction	23631	Manufacturing and Light Industrial Building Construction (pt).
1542@	General Contractors-Nonresidential Buildings, Other than Industrial Buildings and Warehouses.	23632	Commercial and Institutional Building Construction (pt).
1611	Highway and Street Construction, Except Elevated Highways.	23711	Highway and Street Construction.
1622	Bridge, Tunnel, and Elevated Highway Construction	23712	Bridge and Tunnel Construction.
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction		
	Water, Sewer and Pipelines	23791	Water, Sewer and Pipeline Construction.
	Power and Communication Transmission Lines	23792	Power and Communication Transmission Line Construction.
1629	Heavy Construction, NEC		
	Industrial Nonbuilding Structures Construction	23793	Industrial Nonbuilding Structure Construction.
	Except Industrial Nonbuilding Structures Construction	23799	All Other Heavy Construction.
1711	Plumbing, Heating, and Air-Conditioning	23811	Plumbing, Heating and Air-Conditioning Contractors.
1721@	Painting and Paper Hanging	23821	Painting and Wall Covering Contractors (pt).
1731@	Electrical Work		
	Burglar and Fire Alarm Installation	571521	Security Systems Services, Except Locksmiths (pt).
	Except Burglar and Fire Alarm Installation	23831	Electrical Contractors.
1741	Masonry, Stone Setting and Other Stone Work	23841	Masonry and Stone Contractors.
1742	Plastering, Drywall, Acoustical and Insulation Work	23842	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
1743	Terrazzo, Tile, Marble, and Mosaic Work		
	Fresco Work	23842	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
	Except Fresco Work	23843	Tile, Marble, Terrazzo and Mosaic Contractors.
1751	Carpentry Work	23851	Carpentry Contractors.
1752	Floor Laying and Other Floor Work, NEC	23852	Floor Laying and Other Floor Contractors.
1761	Roofing, Siding, and Sheet Metal Work	23861	Roofing, Siding, and Sheet Metal Contractors.
1771@	Concrete Work		
	Stucco Construction	23842	Drywall, Plastering, Acoustical and Insulation Contractors (pt).
	Except Stucco Construction	23871	Concrete Contractors.
1781	Water Well Drilling	23881	Water Well Drilling Contractors.
1791	Structural Steel Erection	23891	Structural Steel Erection Contractors.
1793	Glass and Glazing Work	23892	Glass and Glazing Contractors (pt).
1794	Excavation Work	23893	Excavation Contractors.
1795	Wrecking and Demolition Work	23894	Wrecking and Demolition Contractors.
1796	Installation or Erection of Building Equipment, NEC	23895	Building Equipment and Other Machinery Contractors.
1799@	Special Trade Contractors, NEC		
	Paint and Wallpaper Stripping and Wallpaper Removal Contractors.	23821	Painting and Wall Covering Contractors (pt).
	Tinted Glass Work	23892	Glass and Glazing Contractors (pt).
	All Other Special Trade Contractors	23899	All Other Special Trade Contractors (pt).
2011	Meat Packing Plants	311611	Animal Slaughtering, Except Poultry.
2013@	Sausages and Other Prepared Meats.		
	Meat Processing	311612	Meat Processed From Carcasses (pt).
	Lard	311613	Rendering and Meat By-product Processing (pt).
2015@	Poultry Slaughtering and Processing.		
	Poultry Processing	311615	Poultry Processing.
	Egg Processing	311999	All Other Miscellaneous Food Manufacturing (pt).
2021	Creamery Butter	311512	Creamery Butter Manufacturing.
2022	Natural, Processed, and Imitation Cheese	311513	Cheese Manufacturing.
2023	Dry, Condensed, and Evaporated Dairy Products	311514	Dry, Condensed, and Evaporated Milk Manufacturing.
2024	Ice Cream and Frozen Desserts	31152	Ice Cream and Frozen Dessert Manufacturing.
2026	Fluid Milk	311511	Fluid Milk Manufacturing.
2032	Canned Specialties.		
	Canned Specialties	311422	Specialty Canning (pt).
	Canned Pudding	311999	All Other Miscellaneous Food Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
2033@	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	311421	Fruit and Vegetable Canning (pt).
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes.		
	Dried and Dehydrated Fruit, Vegetable, and Soup Mixes.	311423	Dried and Dehydrated Food Manufacturing (pt).
	Vegetable Flours	311211	Flour Milling (pt).
2035	Pickled Fruits and Vegetables, Vegetables Sauces and Seasonings, and Salad Dressings		
	Pickled Fruits and Vegetables	311421	Fruit and Vegetable Canning (pt).
	Sauces and Salad Dressings	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt).
2037	Frozen Fruits, Fruit Juices, and Vegetables	311411	Frozen Fruit, Juice, and Vegetable Processing.
2038	Frozen Specialties, NEC	311412	Frozen Specialty Processing.
2041	Flour and Other Grain Mill Products	311211	Flour Milling (pt).
2043	Cereal Breakfast Foods		
	Coffee Substitute	31192	Coffee and Tea Manufacturing (pt).
	Breakfast Cereal	31123	Breakfast Cereal Manufacturing.
2044	Rice Milling	311212	Rice Milling.
2045	Prepared Flour Mixes and Doughs	311722	Flour Mixes and Dough Manufacturing from Purchased Flour.
2046	Wet Corn Milling	311221	Wet Corn Milling.
2047	Dog and Cat Food	311111	Dog and Cat Food Manufacturing.
2048	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats		
	Animal Slaughtering for Pet Food	311611	Animal Slaughtering, Except Poultry (pt).
	Except Slaughtering Animals for Pet Food	311119	Other Animal Food Manufacturing.
2051	Bread and Other Bakery Products, Except Cookies and Crackers.	311711	Commercial Bakeries (pt).
2052@	Cookies and Crackers		
	Cookie and Cracker	311721	Cookie and Cracker Manufacturing.
	Pretzels	311919	Other Snack Food Manufacturing (pt).
	Unleavened Bread	311711	Commercial Bakeries (pt).
2053	Frozen Bakery Products, Except Bread	311713	Frozen Bakery Product Manufacturing.
2061	Cane Sugar, Except Refining	311311	Sugarcane Mills.
2062	Cane Sugar Refining	311312	Cane Sugar Refining.
2063	Beet Sugar	311313	Beet Sugar Manufacturing.
2064@	Candy and Other Confectionery Products.		
	Chocolate Confectionery	31133	Confectionery Manufacturing from Purchased Chocolate.
	Non-Chocolate Confectionery Manufacturing	31134	Non-Chocolate Confectionery Manufacturing (pt).
2066	Chocolate and Cocoa Products	31132	Chocolate and Confectionery Manufacturing from Cocoa Beans.
2067@	Chewing Gum	31134	Non-Chocolate Confectionery Manufacturing (pt).
2068@	Salted and Roasted Nuts and Seeds	311911	Roasted Nuts and Peanut Butter Manufacturing (pt).
2074@	Cottonseed Oil Mills	311223	Other Oilseed Processing, (pt).
2075	Soybean Oil Mills	311222	Soybean Processing.
2076@	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybeans.	311223	Other Oilseed Processing (pt).
2077@	Animal and Marine Fats and Oils.		
	Animal Fats and Oils	311613	Rendering and Meat By-product Processing (pt).
	Canned Marine Fats and Oils	311621	Seafood Canning (pt).
	Fresh and Frozen Marine Fats and Oils (pt)	311622	Fresh and Frozen Seafood Processing.
	Vegetable Oil Foots	311225	Edible Fats and Oils Manufacturing (pt).
2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC.	311225	Edible Fats and Oils Manufacturing (pt).
2082	Malt Beverages	31212	Breweries.
2083	Malt	311213	Malt Manufacturing.
2084	Wines, Brandy, and Brandy Spirits	31213	Wineries.
2085	Distilled and Blended Liquors	312141	Distilled and Blended Liquor Manufacturing.
2086	Bottled and Canned Soft Drinks and Carbonated Waters		
	Soft Drinks	312111	Soft Drink Manufacturing.
	Purified Water	312112	Ice Manufacturing and Water Purification (pt).
2087@	Flavoring Extracts and Flavoring Syrups NEC		
	Flavoring Syrup and Concentrate	31193	Flavoring Syrup and Concentrate Manufacturing.
	Flavoring Extracts	311942	Spice and Extract Manufacturing (pt).
	Powdered Drink Mix	311999	All Other Miscellaneous Food Manufacturing (pt).
2091@	Canned and Cured Fish and Seafood	311621	Seafood Canning (pt).
2092@	Prepared Fresh or Frozen Fish and Seafoods	311622	Fresh and Frozen Seafood Processing (pt).
2095@	Roasted Coffee		
	Roasted Coffee	31192	Coffee and Tea Manufacturing (pt).
	Coffee Extracts	311942	Spice and Extract Manufacturing (pt).
2096@	Potato Chips, Corn Chips, and Similar Snacks	311919	Other Snack Food Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
2097	Manufactured Ice	312112	Ice Manufacturing and Water Purification (pt).
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	311723	Pasta Manufacturing.
2099	Food Preparations, NEC		
	Bouillon	311423	Dried and Dehydrated Food Manufacturing.
	Reducing Maple Sap to Maple Syrup	11199	All Other Crop Farming (pt).
	Marshmallow Creme	31134	Non-Chocolate Confectionery Manufacturing (pt).
	Peanut Butter	311911	Roasted Nuts and Peanut Butter Manufacturing (pt).
	Perishable Prepared Food	311991	Perishable Prepared Food Manufacturing.
	Tortillas	31173	Tortilla Manufacturing.
	Tea	31192	Coffee and Tea Manufacturing (pt).
	Vinegar, Dip Mix, Salad Dressing Mix and Seasoning Mix.	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt).
	Spices and Extracts	311942	Spice and Extract Manufacturing (pt).
	Other	311999	All Other Miscellaneous Food Manufacturing (pt).
2111	Cigarettes	312221	Cigarette Manufacturing.
2121	Cigars	312229	Other Tobacco Product Manufacturing (pt).
2131@	Chewing and Smoking Tobacco and Snuff	312229	Other Tobacco Product Manufacturing (pt).
2141@	Tobacco Stemming and Redrying		
	Reconstituted Tobacco	312229	Other Tobacco Product Manufacturing (pt).
	Redrying and Stemming	31221	Tobacco Stemming and Redrying.
2211@	Broadwoven Fabric Mills, Cotton	31321	Broadwoven Fabric Mills (pt).
2221@	Broadwoven Fabric Mills, Manmade Fiber and Silk	31321	Broadwoven Fabric Mills (pt).
2231@	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)		
	Except Finishing	31321	Broadwoven Fabric Mills (pt).
	Wool Broadwoven Fabric Finishing	313311	Broadwoven Fabric Finishing Mills (pt).
	Wool Finishing, Except Broadwoven Fabric	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric.
2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk, and Manmade Fiber.	313221	Narrow Fabric Mills (pt).
2251@	Women's Full-Length and Knee-Length Hosiery, Except Socks.	315611	Sheer Hosiery Mills (pt).
2252@	Hosiery, NEC		
	Girls' Hosiery	315611	Sheer Hosiery Mills (pt).
	Socks	315619	Other Hosiery and Socks Mills
2253@	Knit Outerwear Mills	315691	Outerwear Knitting Mills (pt).
2254	Knit Underwear and Nightwear Mills	315692	Underwear and Nightwear Knitting Mills (pt).
2257@	Weft Knit Fabric Mills		
	Except Finishing	313241	Weft Knit Fabric Mills (pt).
	Finishing	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2258@	Lace and Warp Knit Fabric Mills		
	Except Finishing	313249	Other Knit Fabric and Lace Mills (pt).
	Finishing	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2259@	Knitting Mills, NEC		
	Knit Gloves and Mittens	315691	Outerwear Knitting Mills (pt).
	Girdles	315692	Underwear and Nightwear Knitting Mills (pt).
	Finished Articles of Weft Knit Fabric	313241	Weft Knit Fabric Mills (pt).
	Finished Articles of Warp Knit Fabric	313249	Other Knit Fabric and Lace Mills (pt).
2261@	Finishers of Broadwoven Fabrics of Cotton	313311	Broadwoven Fabric Finishing Mills (pt).
2262@	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk.	313311	Broadwoven Fabric Finishing Mills (pt).
2269@	Finishers of Textiles, NEC		
	Broadwoven Finishing	313311	Broadwoven Fabric Finishing Mills (pt).
	Except Broadwoven Finishing	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2273	Carpets and Rugs	31411	Carpet and Rug Mills.
2281@	Yarn Spinning Mills	313111	Yarn Spinning Mills (pt).
2282@	Yarn Texturizing, Throwing, Twisting, and Winding Mills		
	Except Spooling Purchased Yarn	313112	Yarn Texturing, Throwing and Twisting Mills.
	Spooling Purchased Yarn	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2284@	Thread Mills		
	Except Finishing	313113	Thread Mills (pt).
	Finishing	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2295@	Coated Fabrics, Not Rubberized	31332	Fabric Coating Mills (pt).
2296	Tire Cord and Fabrics	314992	Tire Cord and Tire Fabric Mills.
2297@	Nonwoven Fabrics	31323	Nonwoven Fabric Mills (pt).
2298	Cordage and Twine	314991	Rope, Cordage and Twine Mills.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
2299@	Textile Goods, NEC		
	Broadwoven Fabric of Jute, Linen, Hemp, and Ramie	31321	Broadwoven Fabric Mills (pt).
	Nonwoven Felt	31323	Nonwoven Fabric Mills (pt).
	Finishing Thread and Yarn of Flax, Hemp, Jute, Linen, and Ramie.	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
	Narrow Woven Fabric of Jute, Linen, Hemp, and Ramie.	313221	Narrow Fabric Mills (pt).
	Thread of Hemp, Linen, and Ramie	313113	Thread Mills (pt).
	Yarn of Flax, Hemp, Jute, and Ramie	313111	Yarn Spinning Mills (pt).
	Other Textile Goods	314999	All Other Miscellaneous Textile Product Mills (pt).
2311@	Men's and Boys' Suits, Coats and Overcoats		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31522	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt).
2321@	Men's and Boys' Shirts, Except Work Shirts		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31523	Men's and Boys' Cut and Sew Shirt, Except Work Shirt Manufacturing (pt).
2322@	Men's and Boys' Underwear and Nightwear		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31521	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt).
2323	Men's and Boys' Neckwear	315913	Men's and Boys' Neckwear Manufacturing.
2325@	Men's and Boys' Trousers and Slacks.		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31524	Men's and Boys' Cut And Sew Trouser, Slack, And Jean Manufacturing (pt).
2326@	Men's and Boys' Work Clothing		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31525	Men's and Boys' Cut and Sew Work Clothing Manufacturing.
2329@	Men's and Boys' Clothing, NEC		
	Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31526	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt).
	Athletic Uniforms	31549	All Other Cut and Sew Apparel Manufacturing (pt).
2331@	Women's, Misses', and Juniors' Blouses and Shirts		
	Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31532	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt).
2335@	Women's, Misses' and Junior's Dresses		
	Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31533	Women's and Girls' Cut and Sew Dress Manufacturing (pt).
2337@	Women's, Misses' and Juniors' Suits, Skirts and Coats		
	Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	31534	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt).
2339@	Women's, Misses' and Juniors' Outerwear, NEC		
	Scarves	315919	Other Apparel Accessories and Other Apparel Manufacturing (pt).
	Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Athletic Uniforms	31549	All Other Cut and Sew Apparel Manufacturing (pt).
	All Other, Except	31539	Women's and Girls' Cut and Sew Other Contractors Outerwear Manufacturing (pt).
2341@	Women's, Misses, Children's, and Infants' Underwear and Nightwear		
	Women and Girls' Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Boys' Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Women's and Girls', Except Contractors	31531	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt).
	Boys' Except Contractors	31521	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt).
	Infants'	31541	Infants' Cut and Sew Apparel Manufacturing (pt).
2342@	Brassieres, Girdles, and Allied Garments		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except contractors	31531	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt).
2353	Hats, Caps, and Millinery	315911	Hat, Cap, and Millinery Manufacturing.
2361@	Girls', Children's and Infants' Dresses, Blouses and Shirts		
	Infants' Dresses, Blouses, and Shirts	31541	Infants' Cut and Sew Apparel Manufacturing (pt).
	Boys' Shirts	31523	Men's and Boys' Cut and Sew Shirt, Except Work Shirt Manufacturing (pt).
	Boys' Shirt Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors.
	Girls' Blouses and Shirts	31532	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt).
	Girls' Dresses	31533	Women's and Girls' Cut and Sew Dress Manufacturing (pt).
	Girls' Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2369@	Girls', Children's and Infants' Outerwear, NEC		
	Infants' Outerwear, NEC	31541	Infants' Cut and Sew Apparel Manufacturing (pt).
	Boys' Suits and Coats	31522	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt).
	Boys' Trousers and Slacks	31524	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing (pt).
	Boys' Outerwear, NEC	31526	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt).
	Boys' Robes	31521	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt).
	Boys' Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Girls' Suits, Coats, Skirts, Etc.	31534	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
	Girls' Outerwear, NEC	31539	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt).
	Girls' Robes	31531	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt).
	Girls' Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2371	Fur Goods	31542	Fur and Leather Apparel Manufacturing (pt).
2381@	Dress and Work Gloves, Except Knit and All-Leather	315912	Glove and Mitten Manufacturing (pt).
2384@	Robes and Dressing Gowns		
	Women's Except Contractors	31531	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt).
	Men's Except Contractors	31521	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt).
	Men's and Boys' Contractors	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Women's and Girls' Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2385@	Waterproof Outerwear		
	Raincoats (Men's and Boys')	31522	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt).
	Raincoats (Women's and Girls')	31534	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt).
	Other Men's and Boys' Outerwear	31526	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt).
	Other Women's and Girls' Outerwear	31539	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt).
	Infants' Waterproof Outerwear Except Contractors	31541	Infants' Cut and Sew Apparel Manufacturing (pt).
	Aprons, Bibs, and Other Miscellaneous Waterproof Items.	315919	Other Apparel Accessories and Other Apparel Manufacturing (pt).
	Contractors (Men's and Boys')	315511	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Contractors (Women's and Girls')	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2386@	Leather and Sheep-Lined Clothing	31542	Fur and Leather Apparel Manufacturing (pt).
2387@	Apparel Belts	315919	Other Apparel Accessories and Other Apparel Manufacturing (pt).
2389@	Apparel and Accessories, NEC		
	Handkerchiefs, Arm bands, etc	315919	Other Apparel Accessories and Other Apparel Manufacturing (pt).
	Academic and Clerical Outerwear	31549	All Other Cut and Sew Apparel Manufacturing (pt).
	Garters and Garter Belts	31531	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Women' Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Men's Contractors	315511	Mens' and Boys' Cut and Sew Apparel Contractors (pt).
2391	Curtains and Draperies	314121	Curtain and Drapery Mills (pt).
2392@	Housefurnishings, Except Curtains and Draperies		
	Blanket, Laundry, and Wardrobe Bags	314911	Textile Bag Mills (pt).
	Mops, Floor and Dust	339993	Broom, Brush and Mop Manufacturing (pt).
	Other Housefurnishings	314129	Other Household Textile Product Mills (pt).
2393@	Textile Bags	314911	Textile Bag Mills (pt).
2394	Canvas and Related Products	314912	Canvas and Related Product Mills.
2395@	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade		
	Pleating and Stitching, Except Apparel Contractors	314999	All Other Miscellaneous Textile Product Mills (pt).
	Men's and Boys' Apparel Contractors	315511	Mens' and Boys' Cut and Sew Apparel Contractors (pt).
	Women's and Infants' Apparel Contractors	315512	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2396@	Automotive Trimmings, Apparel Findings, and Related Products		
	Textile Automotive	33636	Motor Vehicle Fabric Accessory and Trimmings Seat Manufacturing (pt).
	Apparel Findings and Trimmings	315919	Other Apparel Accessories, and Other Apparel Manufacturing (pt).
	Printing and Embossing on Fabric	323111	Printing on Apparel Articles.
	Other Apparel Products	314999	All Other Miscellaneous Textile Product Manufacturing (pt).
2397	Schiffli Machine Embroideries	313222	Schiffli Machine Embroideries.
2399	Fabricated Textile Products, NEC		
	Seat Belts and Seat and Tire Covers	33636	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt).
	Apparel and Apparel Accessories	315919	Other Apparel Accessories and Other Apparel Manufacturing (pt).
	Other Fabricated Textile Products	314999	All Other Miscellaneous Textile Product Mills (pt).
2411	Logging	11331	Logging
2421@	Sawmills and Planing Mills, General		
	Sawmills	321113	Sawmills (pt).
	Planing Mills	321913	Millwork Manufacturing, Including Flooring (pt).
2426 @	Hardwood Dimension and Flooring Mills		
	Hardwood Flooring	321913	Millwork Manufacturing, Including Flooring (pt).
	Wood Stock and Turnings	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
	Office Chair Frames and Chair Seats	337134	Wood Office and Public Building Furniture Manufacturing (pt).
	Chair Frames for Nonupholstered Furniture (Household).	337131	Wood Household Furniture Manufacturing, Except Upholstered (pt).
	Chair Frames for Upholstered Furniture (Household)	337132	Upholstered Wood Household Furniture Manufacturing (pt).
	Other Hardwood Dimension Except Flooring	321912	Hardwood Dimension Mills.
2429@	Special Product Sawmills, NEC	321113	Sawmills (pt).
2431	Millwork		
	Wood Windows and Doors	321911	Wood Window and Door Manufacturing.
	Except Wood Window and Doors	321913	Millwork Manufacturing, Including Flooring (pt).
2434	Wood Kitchen Cabinets	337133	Wood Kitchen Cabinet Manufacturing (pt).
2435	Hardwood Veneer and Plywood	321211	Hardwood Veneer and Plywood Manufacturing.
2436	Softwood Veneer and Plywood	321212	Softwood Veneer and Plywood Manufacturing.
2439@	Structural Wood Members, NEC		
	Trusses	321914	Truss Manufacturing.
	Except Trusses	321213	Structural Wood Member Manufacturing, Except Trusses.
2441	Nailed and Lock Corner Wood Boxes and Shook	32192	Wood Container and Package Product Manufacturing (pt).
2448	Wood Pallets and Skids	32192	Wood Container and Package Product Manufacturing (pt).
2449	Wood Containers, NEC	32192	Wood Container and Package Product Manufacturing (pt).
2451	Mobile Homes	321991	Manufactured Home (Mobile Home) Manufacturing.
2452	Prefabricated Wood Buildings and Components	321992	Prefabricated Wood Building and Component Manufacturing.
2491	Wood Preserving	321114	Wood Preserving.
2493	Reconstituted Wood Products	321217	Reconstituted Wood Product Manufacturing.
2499	Wood Products, NEC		
	Mirror and Picture Frames	339999	All Other Miscellaneous Manufacturing (pt).
	Laundry Hampers Made from Rattan, Reed or Willow	33719	Other Furniture Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Wood Laundry Hampers	337131	Wood Household Furniture Manufacturing, Except Upholstered (pt).
	Wood Tubs and Vats, Jewelry and Cigar Boxes	32192	Wood Container and Package Product Manufacturing (pt).
	Other Wood Products	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
2511@	Wood Household Furniture, Except Upholstered	337131	Wood Household Furniture Manufacturing, Except Upholstered (pt).
2512	Wood Household Furniture, Upholstered	337132	Upholstered Wood Household Furniture Manufacturing (pt).
2514	Metal Household Furniture	337143	Metal Household Furniture Manufacturing (pt).
2515	Mattresses, Foundations, and Convertible Beds	33711	Mattress Manufacturing.
2517@	Wood Television, Radio, Phonograph and Sewing Machine Cabinets.	337131	Wood Household Furniture Manufacturing, Except Upholstered (pt).
2519@	Household Furniture, NEC	33719	Other Furniture Manufacturing (pt).
2521	Wood Office Furniture	337134	Wood Office and Public Building Furniture Manufacturing (pt).
2522@	Office Furniture, Except Wood		
	Metal Office Furniture	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Office Furniture Not Made of Wood or Metal	33719	Other Furniture Manufacturing (pt).
2531@	Public Building and Related Furniture		
	Seats for Motor Vehicles	33636	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt).
	Wood Furniture Made for Public Buildings	337134	Wood Office and Public Building Furniture Manufacturing (pt).
	Metal Furniture Made for Public Buildings	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Blackboards	339942	Lead Pencil and Art Good Manufacturing.
	Other than Wood or Metal Funiture Made for Use in Public Buildings.	33719	Other Furniture Manufacturing (pt).
2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers		
	Architectural Woodwork, Millwork and Fixtures	337135	Wood Office and Fixture, Partition, Shelving and Locker Manufacturing.
	Custom Architectural Woodwork, Millwork and Fixtures	337136	Custom Architectural Woodwork, Millwork, and Fixtures.
2542@	Office and Store Fixtures, Partitions Shelving, and Lockers, Except Wood		
	Metal Office and Store Fixtures, Partitions, Shelving, and Lockers.	337145	Metal Office and Fixture, Partition, Shelving and Locker Manufacturing.
	Office and Store Fixtures, Partitions, Shelving, and Lockers Not Made of Metal.	33719	Other Furniture Manufacturing (pt).
2591	Drapery Hardware and Window Blinds and Shardes	33712	Blind and Shade Manufacturing.
2599@	Furniture and Fixtures, NEC		
	Hospital Beds	339113	Surgical Appliance and Supply Manufacturing (pt).
	Metal Industrial Work Benches and Stools, and Other Metal Furniture Such As Ship Furniture.	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Wood Industrial Work Benches and Stools, and Other Wood Furniture Such As Ship Furniture.	337134	Wood Office and Public Building Furniture Manufacturing (pt).
	Other Furniture or Fixtures	33719	Other Furniture Manufacturing (pt).
2611	Pulp Mills		
	Pulp Producing Mills Only	32211	Pulp Mills.
	Pulp Mills Producing Paper	322121	Paper Mills, Except Newsprint Mills (pt).
2621@	Paper Mills.		
	Except Newsprint Mills	322121	Paper Mills, Except Newsprint Mills (pt).
	Newsprint Mills	322122	Newsprint Mills.
2631	Paperboard Mills	32213	Paperboard Mills.
2652	Setup Paperboard Boxes	322213	Setup Paperboard Box Manufacturing.
2653	Corrugated and Solid Fiber Box	322211	Corrugated and Solid Fiber Box Manufacturing.
2655	Fiber Cans, Tubes, Drums, and Similar Products	322214	Fiber Can, Tube, Drum, and Similar Product Manufacturing.
2656	Sanitary Food Containers, Except Folding	322215	Non-Folding Sanitary Food Container Manufacturing (pt).
2657	Folding Paperboard Boxes, Including Sanitary	322212	Folding Paperboard Box Manufacturing.
2671	Packaging Paper and Plastics Film, Coated and Laminated		
	Single-Web Paper, Paper Mutiweb Laminated Rolls and Sheets for Packaging Uses.	322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing.
	Plastics Packaging Film and Sheet	326212	Unsupported Plastics Packaging Film and Sheet Manufacturing.
2672	Coated and Laminated Paper, NEC	322222	Coated and Laminated Paper Manufacturing (pt).
2673	Plastics, Foil, and Coated Paper Bags		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Coated or Multiweb Laminated Bags	322223	Plastics, Foil, and Coated Paper Bag Manufacturing.
	Plastics Bags	326211	Unsupported Plastics Bag Manufacturing.
2674	Uncoated Paper and Multiwall Bags	322224	Uncoated Paper and Multiwall Bag Manufacturing.
2675@	Die-Cut Paper and Paperboard and Cardboard		
	File Folders, Tabulating Cards, and Other Paper and Paperboard Office Supplies.	322231	Die-Cut Paper and Paperboard Office Supply Manufacturing (pt).
	Pasted, Lined, Laminated, or Surface-Coated Paperboard.	322292	Surface-Coated Paperboard Manufacturing.
	Die-Cut Paper and Paperboard Products, Except Office Supplies.	322298	All Other Converted Paper Product Manufacturing (pt).
2676	Sanitary Paper Products	322291	Sanitary Paper Product Manufacturing.
2677	Envelopes	322232	Envelope Manufacturing.
2678	Stationery, Tablets, and Related Products	322233	Stationery, Tablet, and Related Product Manufacturing.
2679@	Converted Paper and Paperboard Products, NEC		
	Egg Cartons and Other Containers from Purchased Paper.	322215	Non-Folding Sanitary Food Container Manufacturing (pt).
	Wallpaper and Gift Wrap Paper	322222	Coated and Laminated Paper Manufacturing (pt).
	Paper Supplies for Business Machines and Other Paper Office Supplies.	322231	Die-Cut Paper and Paperboard Office Supply Manufacturing (pt).
	Other Converted Paper and Paperboard such as Paper Filters, Crepe Paper, and Laminated and Tiled Wallboard.	322298	All Other Converted Paper and Paperboard Products Manufacturing (pt).
2711	Newspapers: Publishing, or Publishing and Printing	51111	Newspaper Publishing.
2721	Periodicals: Publishing, or Publishing and Printing	51112	Periodical Publishing.
2731	Books: Publishing, or Publishing and Printing	51113	Book Publishing.
2732	Book Printing	323113	Book Printing.
2741	Miscellaneous Publishing		
	Database Publishing	51114	Database Publishing.
	Miscellaneous Publishing, Except Database	511199	All Other Publishing.
2752@	Commercial Printing, Lithographic		
	Electrostatic Digital and Nonimpact Quick Printing	571331	Photocopying and Duplicating Services (pt).
	Except Electrostatic Digital and Nonimpact Quick Printing.	323114	Commercial Lithographic Printing (pt).
2754	Commercial Printing, Gravure	323115	Commercial Gravure Printing (pt).
2759@	Commercial Printing, NEC		
	Screen Printing	323116	Commercial Screen Printing (pt).
	Flexographic Printing	323117	Commercial Flexographic Printing (pt).
	Quick Printing	571331	Photocopying and Duplicating Services (pt).
	Other Commercial Printing	323118	Other Commercial Printing (pt).
2761	Manifold Business Forms	323112	Manifold Business Form Printing (pt).
2771@	Greeting Cards		
	Lithographic Printing of Greeting Cards	323114	Commercial Lithographic Printing (pt).
	Gravure Printing of Greeting Cards	323115	Commercial Gravure Printing (pt).
	Flexographic Printing of Greeting Cards	323117	Commercial Flexographic Printing (pt).
	Screen Printing of Greeting Cards	323116	Commercial Screen Printing (pt).
	Other Printing of Greeting Cards	323118	Other Commercial Printing (pt).
	Publishing Greeting Cards	511191	Greeting Card Publishing.
2782@	Blankbooks, Loose-leaf Binders and Devices		
	Lithographic Printing of Checkbooks	323114	Commercial Lithographic Printing (pt).
	Gravure Printing of Checkbooks	323115	Commercial Gravure Printing (pt).
	Flexographic Printing of Checkbooks	323117	Commercial Flexographic Printing (pt).
	Screen Printing of Checkbooks	323116	Commercial Screen Printing (pt).
	Other Printing of Checkbooks	323118	Other Commercial Printing (pt).
	Blankbooks, Loose-leaf Binders and Devices	323119	Blankbook, Loose-leaf Binder and Device Manufacturing.
2789	Bookbinding and Related Work	323121	Tradebinding and Related Work.
2791@	Typesetting	323122	Prepress Services (pt).
2796@	Platemaking and Related Services	323122	Prepress Services (pt).
2812	Alkalies and Chlorine	325181	Alkalies and Chlorine Manufacturing.
2813	Industrial Gases	32512	Industrial Gases Manufacturing (pt).
2816	Inorganic Pigments		
	Inorganic Pigments, Except Bone and Lamp Black	325131	Inorganic Dye and Pigment Manufacturing (pt).
	Bone and Lamp Black	325182	Carbon Black Manufacturing (pt).
2819@	Industrial Inorganic Chemicals, NEC		
	Activated Carbon and Charcoal	325998	All Other Miscellaneous Chemical Product Manufacturing (pt).
	Alumina	331311	Alumina Manufacturing.
	Inorganic Dyes	325131	Inorganic Dye and Pigment Manufacturing (pt).
	Other	325188	All Other Inorganic Chemical Manufacturing (pt).
2821	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers.	325211	Plastics Material and Resin Manufacturing.
2822	Synthetic Rubber	325212	Synthetic Rubber Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
2823	Cellulosic Manmade Fibers	325221	Cellulosic Manmade Fiber Manufacturing.
2824	Manmade Organic Fibers, Except Cellulosic	325222	Noncellulosic Organic Fiber Manufacturing.
2833	Medicinal Chemicals and Botanical Products	325411	Medicinal and Botanical Manufacturing.
2834	Pharmaceutical Preparations	325412	Pharmaceutical Preparation Manufacturing (pt).
2835@	In Vitro and In Vivo Diagnostic Substances		
	Diagnostic Substances, Except In-Vitro Diagnostic	325412	Pharmaceutical Preparation Manufacturing (pt).
	In-Vitro Diagnostic Substances	325413	In-Vitro Diagnostic Substance Manufacturing.
2836	Biological Products, Except Diagnostic Substances	325414	Biological Product Manufacturing, Except Diagnostic.
2841	Soaps and Other Detergents, Except Speciality Cleaners	325611	Soap and Other Detergent Manufacturing (pt).
2842	Speciality Cleaning, Polishing, and Sanitary Preparations	325612	Polish and Other Sanitation Good Manufacturing.
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants.	325613	Surface Active Agent Manufacturing.
2844	Perfumes, Cosmetics, and Other Toilet Preparations		
	Toilet Preparations Except Toothpaste	32562	Toilet Preparation Manufacturing.
	Toothpaste	325611	Soap and Other Detergent Manufacturing (pt).
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.	32551	Paint and Coating Manufacturing (pt).
2861	Gum and Wood Chemicals	325191	Gum and Wood Chemical Manufacturing.
2865@	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments		
	Aromatics	32511	Petrochemical Manufacturing (pt).
	Organic Dyes and Pigments	325132	Organic Dye and Pigment Manufacturing.
	Other	325192	Cyclic Crude and Intermediate Manufacturing.
2869@	Industrial Organic Chemicals, NEC		
	Aliphatics	32511	Petrochemical Manufacturing (pt).
	Carbon Bisulfide	325188	All Other Inorganic Chemical Manufacturing (pt).
	Ethyl Alcohol	312142	Ethyl Alcohol Manufacturing.
	Fatty Acid Esters	325998	All Other Miscellaneous Chemical Product Manufacturing (pt).
	Fluorocarbon Gases	32512	Industrial Gases Manufacturing (pt).
	Other	325199	All Other Organic Chemical Manufacturing.
2873	Nitrogenous Fertilizers	325311	Nitrogenous Fertilizer Manufacturing.
2874	Phosphatic Fertilizers	325312	Phosphatic Fertilizer Manufacturing.
2875	Fertilizers, Mixing Only	325314	Fertilizer, Mixing Only, Manufacturing.
2879	Pesticides and Agricultural Chemicals, NEC	32532	Pesticide and Other Agricultural Chemical Manufacturing.
2891	Adhesives and Sealants	32552	Adhesive and Sealant Manufacturing.
2892	Explosives	32592	Explosive Manufacturing.
2893	Printing Ink	32591	Printing Ink Manufacturing (pt).
2895	Carbon Black	325182	Carbon Black Manufacturing (pt).
2899	Chemicals and Chemical Preparations, NEC		
	Frit	32551	Paint and Coating Manufacturing (pt).
	Salt	311942	Spice and Extract Manufacturing (pt).
	Writing Inks	32591	Printing Ink Manufacturing (pt).
	Other	325998	All Other Miscellaneous Chemical Product Manufacturing (pt).
2911	Petroleum Refining	32411	Petroleum Refineries.
2951	Asphalt Paving Mixtures and Blocks	324121	Asphalt Paving Mixture and Blocks Manufacturing.
2952	Asphalt Felts and Coatings	324122	Asphalt Felt and Coating Manufacturing.
2992	Lubricating Oils and Greases	324191	Lubricating Oil and Grease Manufacturing.
2999	Products of Petroleum and Coal, NEC	324199	All Other Petroleum and Coal Product Manufacturing.
3011	Tires and Inner Tubes	326111	Tire and Inner Tube Manufacturing.
3021	Rubber and Plastics Footwear	316211	Rubber and Plastics Footwear Manufacturing.
3052	Rubber and Plastics Hose and Belting	32612	Rubber and Plastics Hose and Belting Manufacturing.
3053@	Gaskets, Packing, and Sealing Devices		
	Cork Gaskets, Packing, and Sealing Devices	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
	Metal Gaskets, Packing, and Sealing Devices	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Plastics Gaskets, Packing, and Sealing Devices	326299	All Other Plastics Product Manufacturing (pt).
	Rubber Gaskets, Packing, and Sealing Devices	326199	All Other Rubber Product Manufacturing (pt).
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Products.	326191	Mechanical Rubber Product Manufacturing.
3069	Fabricated Rubber Products, NEC		
	Rubberized Fabric	31332	Fabric Coating Mills (pt).
	Rubber Resilient Floor Covering	326292	Resilient Floor Covering Manufacturing (pt).
	Other	326199	All Other Rubber Product Manufacturing (pt).
3081	Unsupported Plastics Film and Sheet	326213	Unsupported Plastics Film and Sheet, Except Packaging Manufacturing (pt).
3082	Unsupported Plastics Profile Shapes	326221	Unsupported Plastics Profile Shape Manufacturing (pt).
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	32623	Laminated Plastics Plate, Sheet, and Shape Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3084@	Plastic Pipe	326222	Plastic Pipe and Pipe Fitting Manufacturing (pt).
3085	Plastics Bottles	32626	Plastics Bottle Manufacturing.
3086	Plastics Foam Products		
	Urethane Foam Products	32625	Urethane Foam Product Manufacturing.
	Polystyrene Foam Products	32624	Polystyrene Foam Product Manufacturing.
3087	Custom Compounding of Purchased Plastics Resins	325991	Custom Compounding of Purchased Resin.
3088	Plastics Plumbing Fixtures	326291	Plastics Plumbing Fixtures Manufacturing.
3089	Plastics Products, NEC		
	Pipe Fittings	326222	Plastics Pipe and Pipe Fitting Manufacturing (pt).
	Plastics Sausage Casings	326221	Unsupported Plastics Profile Shape Manufacturing (pt).
	Other	326299	All Other Plastics Product Manufacturing (pt).
3111	Leather Tanning and Finishing	31611	Leather and Hide Tanning and Finishing (pt).
3131@	Boot and Shoe Cut Stock and Findings		
	Wood Heels	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
	Metal Buckles	339992	Fastener, Button, Needle, and Pin Manufacturing (pt).
	Except Wood Heels and Metal Buckles	316919	Other Miscellaneous Leather Good Manufacturing (pt).
3142	House Slippers	316212	House Slipper Manufacturing.
3143	Men's Footwear, Except Athletic	316213	Men's Footwear Manufacturing, Except Athletic.
3144	Women's Footwear, Except Athletic	316214	Women's Footwear Manufacturing, Except Athletic.
3149	Footwear, Except Rubber, NEC	316219	Other Footwear Manufacturing.
3151	Leather Gloves and Mittens	315912	Glove and Mitten Manufacturing (pt).
3161	Luggage	316911	Luggage Manufacturing.
3171	Women's Handbags and Purses	316912	Women's Handbag and Purse Manufacturing.
3172	Personal Leather Goods, Except Women's Handbags and Purses.	316913	Personal Leather Goods, Except Women's Handbags and Purse Manufacturing.
3199@	Leather Goods, NEC	316919	Other Miscellaneous Leather Good Manufacturing (pt).
3211	Flat Glass	327211	Flat Glass Manufacturing.
3221	Glass Containers	32722	Glass Container Manufacturing.
3229	Pressed and Blown Glass and Glassware, NEC	327212	Other Pressed and Blown Glass and Glassware Manufacturing.
3231	Glass Products, Made of Purchased Glass	327213	Glass Product Manufacturing Made of Purchased Glass.
3241	Cement, Hydraulic	32731	Hydraulic Cement Manufacturing.
3251	Brick and Structural Clay Tile	327121	Brick and Structural Clay Tile Manufacturing.
3253	Ceramic Wall and Floor Tile	327122	Ceramic Wall and Floor Tile Manufacturing.
3255	Clay Refractories	327124	Clay Refractory Manufacturing.
3259	Structural Clay Products, NEC	327123	Other Structural Clay Product Manufacturing.
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories.	327111	Vitreous China Plumbing Fixture and China and Earthenware Fitting and Bathroom Accessory Manufacturing.
3262	Vitreous China Table and Kitchen Articles	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt).
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles.	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt).
3264	Porcelain Electrical Supplies	327113	Porcelain Electrical Supply Manufacturing.
3269	Pottery Products, NEC	327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing (pt).
3271	Concrete Block and Brick	327331	Concrete Block and Brick Manufacturing.
3272@	Concrete Products, Except Block and Brick		
	Dry Mixture Concrete	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt).
	Concrete Pipes	327332	Concrete Pipe Manufacturing.
	Other Concrete Products	32739	Other Precast Concrete Product Manufacturing.
3273	Ready-Mixed Concrete	32732	Ready-Mix Concrete Manufacturing.
3274	Lime	32741	Lime Manufacturing.
3275	Gypsum Products	32742	Gypsum and Gypsum Product Manufacturing (pt).
3281	Cut Stone and Stone Products	327991	Cut Stone and Stone Product Manufacturing.
3291	Abrasive Products		
	Steel Wool With or Without Soap	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Abrasive Products (Except Steel Wool With or Without Soap).	32791	Abrasive Product Manufacturing.
3292	Asbestos Products		
	Asbestos Brake Linings and Pads	33634	Motor Vehicle Brake System Manufacturing (pt).
	Other Asbestos Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt).
3295	Minerals and Earths, Ground or Otherwise Treated	327992	Ground or Treated Mineral and Earth Manufacturing.
3296	Mineral Wool	327993	Mineral Wool Manufacturing.
3297	Nonclay Refractories	327125	Nonclay Refractory Manufacturing.
3299@	Nonmetallic Mineral Products, NEC		
	Moldings, Ornamental and Architectural Plaster Work	32742	Gypsum and Gypsum Product Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Other Nonmetallic Mineral Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt).
3312@	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills		
	Coke Ovens, Not Integrated With Steel Mills	324199	All Other Petroleum and Coal Product Manufacturing (pt).
	Except Coke Ovens Not Integrated with Steel Mills	331111	Iron and Steel Mills (pt).
3313@	Electrometallurgical Products, Except Steel.		
	Ferroalloys	331112	Electrometallurgical Ferroalloy Product Manufacturing.
	Nonferrous Alloys	331413	Secondary Smelting and Refining of Nonferrous Metals (pt).
3315@	Steel Wiredrawing and Steel Nails and Spikes		
	Steel Wire Drawing	331222	Steel Wire Drawing.
	Nails, Spikes, Paper Clips, and Wire, Not Made in Wire Drawing Plants.	332618	Other Fabricated Wire Product Manufacturing (pt).
3316	Cold-Rolled Steel Sheet, Strip and Bars	331221	Cold-Rolled Steel Shape Manufacturing.
3317	Steel Pipe and Tubes	33121	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel.
3321	Gray and Ductile Iron Foundries	331511	Gray, Malleable, and Ductile Iron Foundries (pt).
3322	Malleable Iron Foundries	331511	Gray Malleable and Ductile Iron Foundries (pt).
3324	Steel Investment Foundries	331512	Steel Investment Foundries.
3325	Steel Foundries, NEC	331513	Steel Foundries, Except Investment.
3331	Primary Smelting and Refining of Copper	331411	Primary Smelting and Refining of Copper.
3334	Primary Production of Aluminum	331312	Primary Refining of Aluminum.
3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum.	331412	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum.
3341@	Secondary Smelting and Refining of Nonferrous Metals		
	Aluminum	331314	Secondary Smelting of Aluminum (pt).
	Except Aluminum	331413	Secondary Smelting and Refining of Nonferrous Metals (pt).
3351	Rolling, Drawing, and Extruding of Copper	331421	Rolling, Drawing, and Extruding Copper, Except Wire.
3353	Aluminum Sheet, Plate, and Foil	331315	Aluminum Sheet, Plate, and Foil Manufacturing.
3354	Aluminum Extruded Products	331316	Aluminum Extruded Product Manufacturing.
3355	Aluminum Rolling and Drawing, NEC	331319	Other Aluminum Rolling and Drawing, (pt).
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper or Aluminum.	33143	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper or Aluminum (pt).
3357@	Drawing and Insulating of Nonferrous Wire		
	Aluminum Wire Drawing	331319	Other Aluminum Rolling and Drawing (pt).
	Copper Wire Drawing	331422	Drawing of Copper Wire.
	Wire Drawing Except Copper or Aluminum	33143	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper or Aluminum (pt).
	Fiber Optic Cable—Insulating Only	335921	Fiber Optic Cable Manufacturing.
	All Other	335929	Other Communication and Energy Wire Manufacturing.
3363	Aluminum Die-Castings	331521	Aluminum Die-Castings.
3364	Nonferrous Die-Castings, Except Aluminum	331522	Nonferrous Die-Castings, Except Aluminum.
3365	Aluminum Foundries	331524	Aluminum Foundries.
3366	Copper Foundries	331525	Copper Foundries.
3369	Nonferrous Foundries, Except Aluminum and Copper	331526	Nonferrous Foundries, Except Aluminum and Copper.
3398	Metal Heat Treating	332721	Metal Heat Treating.
3399@	Primary Metal Products, NEC		
	Ferrous Powder, Paste, Flakes, etc.	331111	Iron and Steel Mills (pt).
	Aluminum Powder, Paste, Flakes, etc.	331314	Secondary Smelting of Aluminum (pt).
	Other Nonferrous Powder, Paste, Flakes, etc	331413	Secondary Smelting and Refining of Nonferrous Metals (pt).
	Nonferrous Nails, Brads, Staples, etc	332618	Other Fabricated Wire Product Manufacturing (pt).
	Laminated Steel	332723	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt).
3411	Metal Cans	332491	Metal Can Manufacturing,
3412	Metal Shipping Barrels, Drums, Kegs and Pails	332499	Other Metal Container Manufacturing (pt).
3421	Cutlery	332211	Cutlery and Flatware Manufacturing, Except Precious (pt).
3423	Hand and Edge Tools, Except Machine Tools and Handsaws.	332212	Hand and Edge Tool Manufacturing (pt).
3425	Saw Blades and Handsaws	332213	Saw Blade and Handsaw Manufacturing.
3429@	Hardware, NEC		
	Vacuum and Insulated Bottles, Jugs, and Chests	332499	Other Metal Container Manufacturing (pt).
	Hose Nozzles	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt).
	Hardware, NEC (Hardware, Except Hose Nozzles, and Vacuum and Insulated Bottles, Jugs, and Chests).	33251	Hardware Manufacturing (pt).
3431	Enameled Iron and Metal Sanitary Ware	332998	Enameled Iron and Metal Sanitary Ware Manufacturing.
3432	Plumbing Fixture Fittings and Trim		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Plumbing Fixtures Fittings and Trim, Except Shower Rods..	332913	Plumbing Fixture Fitting and Trim Metal Manufacturing (pt).
	Metal Shower Rods	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3433	Heating Equipment, Except Electric and Warm Air Furnaces.	333414	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces (pt).
3441	Fabricated Structural Metal	332312	Fabricated Structural Metal Manufacturing.
3442	Metal Doors, Sash, Frames, Molding, and Trim Manufacturing.	332321	Metal Door, Sash, Frame, Molding, and Trim Manufacturing.
3443@	Fabricated Plate Work (Boiler Shops)		
	Fabricated Plate Work and Metal Weldments	332313	Plate Work Manufacturing.
	Power Boilers and Heat Exchanges	33241	Power Boiler and Heat Exchanger Manufacturing.
	Heavy Gauge Tanks	33242	Metal Tank Manufacturing (Heavy Gauge).
	Metal Cooling Towers	333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt).
3444	Sheet Metal Work		
	Ducts, Flumes, Flooring. Siding, Dampers, etc	332322	Sheet Metal Work Manufacturing.
	Metal Bins and Vats	332499	Other Metal Container Manufacturing (pt).
3446	Architectural and Ornamental Metal Work	332323	Ornamental and Architectural Metal Work Manufacturing (pt).
3448	Prefabricated Metal Buildings and Components	332311	Prefabricated Metal Building and Component Manufacturing.
3449@	Miscellaneous Structural Metal Work		
	Custom Roll Forming	332114	Custom Roll Forming.
	Fabricated Bar Joists and Concrete Reinforcing Bars	332312	Fabricated Structural Metal Manufacturing (pt).
	Curtain Wall	332321	Metal Door, Sash Frame, Molding, and Trim Manufacturing (pt).
	Metal Plaster Bases	332323	Ornamental and Architectural Metal Work Manufacturing (pt).
3451	Screw Machine Products	332621	Precision Turned Product Manufacturing.
3452	Bolts, Nuts, Screws, Rivets, and Washers	332622	Bolt, Nut, Screw, Rivet, and Washer Manufacturing.
3462	Iron and Steel Forgings	332111	Iron and Steel Forging.
3463	Nonferrous Forgings	332112	Nonferrous Forging.
3465	Automotive Stamping	33637	Motor Vehicle Metal Stamping.
3466	Crowns and Closures	332115	Crown and Closure Manufacturing.
3469	Metal Stamping, NEC		
	Stamping Coins	339911	Jewelry Manufacturing, including Precious Metal (pt).
	Metal Stamping, NEC (Except Kitchen Utensils, Pots and Plans for Cooking and Coins).	332116	Metal Stamping.
	Kitchen Utensils and Pots and Pans for Cooking	332214	Kitchen Utensil, Pot and Pan Manufacturing.
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	332723	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt).
3479	Coating, Engraving, and Allied Services, NEC		
	Jewelry Engraving and Etching, Costume Jewelry	339914	Costume Jewelry and Novelty Manufacturing (pt).
	Jewelry Engraving and Etching, Precious Metal	339911	Jewelry Manufacturing, Including Precious Metal (pt).
	Silverware and Flatware Engraving and Etching	339912	Silverware and Plated Ware Manufacturing (pt).
	Other Coating, Engraving and Allied Services	332722	Metal Coating, Engraving, and Allied Services to Manufacturers, Except Jewelry and Silverware.
3482	Small Arms Ammunition	332992	Small Arms Ammunition Manufacturing.
3483	Ammunition, Except for Small Arms	332993	Ammunition Manufacturing, Except Small Arms.
3484	Small Arms	332994	Small Arms Manufacturing.
3489	Ordnance and Accessories, NEC	332995	Other Ordnance and Accessory Manufacturing.
3491	Industrial Valves	332911	Industrial Valve Manufacturing.
3492	Fluid Power Valves and Hose Fittings	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt).
3493	Steel Springs, Except Wire	332611	Steel Spring Manufacturing, Except Wire.
3494	Valves and Pipe Fittings, NEC		
	Valves and Pipe Fittings, NEC (Except Metal Pipe Hangers and Supports).	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt).
	Metal Pipe Hangers and Supports	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3495	Wire Springs		
	Wire Springs (Except Watch and Clock Springs)	332612	Wire Spring Manufacturing.
	Watch and Clock Springs	334518	Watch, Clock, and Part Manufacturing (pt).
3496	Miscellaneous Fabricated Wire Products	332618	Other Fabricated Wire Product Manufacturing (pt).
3497	Metal Foil and Leaf		
	Laminated Aluminum Foil Rolls/sheets for Flexible Packaging Uses.	322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses.
	Foil and Foil Containers	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3498	Fabricated Pipe and Pipe Fittings	332996	Fabricated Pipe and Pipe Fitting Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3499	Fabricated Metal Products, NEC		
	Metal Furniture Frames and Parts, Household	337143	Metal Household Furniture Manufacturing (pt).
	Metal Furniture Frames and Parts, Office	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Powder Metallurgy	332117	Powder Metallurgy Part Manufacturing.
	Metal Boxes	332499	Other Metal Container Manufacturing (pt).
	Safe and Vault Locks	33251	Hardware Manufacturing (pt).
	Metal Aerosol Valves	332919	Other Valve and Pipe Fitting Manufacturing (pt).
	Trophies of Nonprecious Metals	339914	Costume Jewelry and Novelty Manufacturing.
	Other Metal Products	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3511	Steam, Gas, and Hydraulic Turbine, and Turbine Generator Set Unit.	333611	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units Manufacturing.
3519	Internal Combustion Engines, NEC		
	Stationary Engine Radiators	33639	Other Motor Vehicle Part Manufacturing (pt).
	Except Stationary Engine Radiators	333618	Other Engine Equipment Manufacturing (pt).
3523@	Farm Machinery and Equipment		
	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Hair Clippers for Animals, Farm Conveyors, and Elevators).	333111	Farm Machinery and Equipment Manufacturing.
	Corrals, Stalls, Holding Gates	332323	Ornamental and Architectural Metal Work Manufacturing (pt).
	Hand Hair Clippers for Animals	332212	Hand and Edge Tool Manufacturing(pt).
	Farm Conveyors and Farm Elevators, Stackers, and Bale Throwers.	333922	Conveyor and Conveying Equipment Manufacturing (pt).
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment		
	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers).	333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing.
	Nonpowered Lawnmowers	332212	Hand and Edge Tool Manufacturing (pt).
3531@	Construction Machinery and Equipment		
	Railway Track Maintenance Equipment	33651	Railroad Rolling Stock Manufacturing (pt).
	Winches, Aerial Work Platforms, and Automotive Wrecker Hoists.	333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing (pt).
	Other Construction Machinery and Equipment	33312	Construction Machinery Manufacturing.
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment.	333131	Mining Machinery and Equipment Manufacturing.
3533	Oil and Gas Field Machinery and Equipment	333132	Oil and Gas Field Machinery and Equipment Manufacturing.
3534	Elevators and Moving Stairways	333921	Elevator and Moving Stairway Manufacturing.
3535	Conveyors and Conveying Equipment	333922	Conveyor and Conveying Equipment Manufacturing (pt).
3536	Overhead Traveling Cranes, Hoist and Monorail Systems	333923	Overhead Traveling Crane, Hoists and Monorail System Manufacturing (pt).
3537	Industrial Trucks, Tractors, Trailers, and Stackers		
	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal Pallets and Air Cargo Containers).	333924	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing.
	Metal Pallets	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Metal Air Cargo Containers	332499	Other Metal Container Manufacturing (pt).
3541	Machine Tools, Metal Cutting Type	333512	Machine Tool Manufacturing, Metal Cutting Types.
3542	Machine Tools, Metal Forming Type	333513	Machine Tool Manufacturing, Metal Forming Types.
3543	Industrial Patterns	332997	Industrial Pattern Manufacturing.
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds		
	Special Dies and Tools, Die Sets, Jigs and Fixture	333514	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing.
	Industrial Molds	333511	Industrial Mold Manufacturing.
3545@	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices		
	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (Except Precision Measuring Devices).	333515	Cutting Tool and Machine Tool Accessory Manufacturing.
	Precision Measuring Devices	332212	Hand and Edge Tool Manufacturing (pt).
3546	Power-Driven Handtools	333991	Power-Driven Hand Tool Manufacturing.
3547	Rolling Mill Machinery and Equipment	333516	Rolling Mill Machinery and Equipment Manufacturing.
3548@	Electric and Gas Welding and Soldering Equipment.		
	Welding and Soldering Equipment	333992	Welding and Soldering Equipment Manufacturing.
	Transformers for Arc-Welding	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt).
3549	Metalworking Machinery, NEC	333518	Other Metalworking Machinery Manufacturing.
3552	Textile Machinery	333292	Textile Machinery Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3553	Woodworking Machinery	33321	Sawmill and Woodworking Machinery Manufacturing.
3554	Paper Industries Machinery	333291	Paper Industry Machinery Manufacturing.
3555	Printing Trades Machinery and Equipment	333293	Printing Machinery and Equipment Manufacturing.
3556	Food Products Machinery	333294	Food Product Machinery Manufacturing.
3559@	Special Industry Machinery, NEC		
	Rubber and Plastics Manufacturing Machinery	33322	Rubber and Plastics Industry Machinery Manufacturing.
	Automotive Maintenance Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Semiconductor Machinery Manufacturing	333295	Semiconductor Manufacturing Machinery.
	Except Rubber and Plastics Manufacturing Machinery, Semiconductor Manufacturing Machinery and Automotive Maintenance Equipment.	333298	All Other Industrial Machinery Manufacturing (pt).
3561	Pumps and Pumping Equipment	333911	Pump and Pumping Equipment Manufacturing (pt).
3562	Ball and Roller Bearings	332991	Ball and Roller Bearing Manufacturing.
3563	Air and Gas Compressors	333912	Air and Gas Compressor Manufacturing.
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment		
	Air Purification Equipment	333411	Air Purification Equipment Manufacturing.
	Fans and Blowers	333412	Industrial and Commercial Fan and Blower Manufacturing.
3565	Packaging Machinery	333993	Packaging Machinery Manufacturing.
3566	Speed Changers, Industrial High-Speed Drives, and Gears.	333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing.
3567	Industrial Process Furnaces and Ovens	333994	Industrial Process Furnace and Oven Manufacturing.
3568	Mechanical Power Transmission Equipment, NEC	333613	Mechanical Power Transmission Equipment Manufacturing.
3569	General Industrial Machinery and Equipment, NEC	333999	All Other General Purpose Machinery Manufacturing (pt).
3571	Electronic Computers	334111	Electronic Computer Manufacturing.
3572	Computer Storage Devices	334112	Computer Storage Device Manufacturing.
3575	Computer Terminals	334113	Computer Terminal Manufacturing.
3577	Computer Peripheral Equipment, NEC	334119	Other Computer Peripheral Equipment Manufacturing (pt).
3578@	Calculating and Accounting Machines, Except Electronic Computers		
	Point of Sales Terminals and Fund Transfer Devices	334119	Other Computer Peripheral Equipment Manufacturing (pt).
	Calculating and Accounting Machines, Except Point of Sales Terminals and Fund Transfer Devices.	333313	Office Machinery Manufacturing (pt).
3579@	Office Machines, NEC		
	Pencil Sharpeners, Staplers, and Other Office Equipment.	339942	Lead Pencil and Art Good Manufacturing (pt).
	Time Clocks and Other Time Recording Devices	334518	Watch, Clock, and Part Manufacturing (pt).
	Other Office Machines	333313	Office Machinery Manufacturing (pt).
3581	Automatic Vending Machines	333311	Automatic Vending Machine Manufacturing.
3582	Commercial Laundry, Drycleaning, and Pressing Machines.	333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing.
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment		
	Water Coolers	335222	Household Refrigerator and Home and Farm Freezer Manufacturing (pt).
	Except Water Coolers	333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.
3586	Measuring and Dispensing Pumps	333913	Measuring and Dispensing Pump Manufacturing.
3589	Service Industry Machinery, NEC	333319	Other Commercial and Service Industry Machinery Manufacturing (pt).
3592	Carburetors, Pistons, Piston Rings and Valves	336311	Carburetor, Piston, Piston Ring and Valve Manufacturing.
3593	Fluid Power Cylinders and Actuators	333995	Fluid Power Cylinder and Actuator Manufacturing.
3594	Fluid Power Pumps and Motors	333996	Fluid Power Pump and Motor Manufacturing.
3596	Scales and Balances, Except Laboratory	333997	Scale and Balance Manufacturing, Except Laboratory.
3599@	Industrial and Commercial Machinery and Equipment, NEC		
	Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except Motor Vehicle.	33639	Other Motor Vehicle Part Manufacturing (pt).
	Flexible Metal Hose	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Carnival Amusement Park Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Machine Shops	33271	Machine Shops.
	Other Industrial and Commercial Machinery and Equipment.	333999	All Other General Purpose Machinery Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3612	Power, Distribution, and Specialty Transformers	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt).
3613	Switchgear and Switchboard Apparatus	335313	Switchgear and Switchboard Apparatus Manufacturing.
3621	Motors and Generators	335312	Motor and Generator Manufacturing (pt).
3624	Carbon and Graphite Products	335991	Carbon and Graphite Product Manufacturing.
3625	Relays and Industrial Controls	335314	Relay and Industrial Control Manufacturing.
3629	Electrical Industrial Apparatus, NEC	335999	All Other Electrical Industrial Equipment and Supply Manufacturing (pt).
3631	Household Cooking Equipment	335221	Household Cooking Appliance Manufacturing.
3632	Household Refrigerators and Home and Farm Freezers	335222	Household Refrigerator and Home and Farm Freezer Manufacturing (pt).
3633	Household Laundry Equipment	335224	Household Laundry Equipment Manufacturing.
3634	Electric Housewares and Fans		
	Heating, Cooking, and Other Electric Housewares Including Fans.	335211	Electric Houseware and Fan Manufacturing (pt).
	Wall and Baseboard Heating Units for Permanent Installation.	333414	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces.
3635	Household Vacuum Cleaners	335212	Household Vacuum Cleaner Manufacturing (pt).
3639	Household Appliances, NEC		
	Floor Waxing and Floor Polishing Machines	335212	Household Vacuum Cleaner Manufacturing (pt).
	Household Sewing Machines	333298	All Other Industrial Machinery Manufacturing (pt).
	Other Household Appliances	335228	Other Household Appliance Manufacturing.
3641	Electric Lamp Bulbs and Tubes	33511	Electric Lamp Bulb and Part Manufacturing.
3643	Current-Carrying Wiring Devices	335931	Current-Carrying Wiring Device Manufacturing.
3644	Noncurrent-Carrying Wiring Devices	335932	Noncurrent-Carrying Wiring Device Manufacturing.
3645	Residential Electric Lighting Fixtures	335122	Residential Electric Lighting Fixture Manufacturing (pt).
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures.	335123	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.
3647	Vehicular Lighting Equipment	336321	Vehicular Lighting Equipment Manufacturing.
3648@	Lighting Equipment, NEC	335129	Other Lighting Equipment Manufacturing (pt).
3651	Household Audio and Video Equipment	33431	Audio and Video Equipment Manufacturing.
3652	Phonograph Records and Prerecorded Audio Tapes and Disks		
	Record Publishing	51221	Recording Production (pt).
	Reproduction of Recording Media	334612	Prerecorded Compact Disc (Except Software), Tape and Record Manufacturing (pt).
	Integrated Record Companies, Except Duplication Only	51222	Integrated Record Companies (pt).
3661	Telephone and Telegraph Apparatus		
	Telephone and Telegraph Apparatus, Except Telephone Transformers, and Consumer External Modems.	33421	Telephone Apparatus Manufacturing.
	Telephone Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt).
	Consumer External Modems	334419	Other Electronic Component Manufacturing (pt).
3663	Radio and Television Broadcasting and Communication Equipment.	33422	Broadcast and Studio Equipment for Radio, TV, and Cable Manufacturing (pt).
3669	Communications Equipment, NEC	33429	Other Communication Equipment Manufacturing.
3671	Electron Tubes	334411	Electron Tube Manufacturing.
3672	Printed Circuit Boards	334412	Printed Circuit Board Manufacturing.
3674	Semiconductors and Related Devices	334413	Semiconductor and Related Device Manufacturing.
3675	Electronic Capacitors	334414	Electronic Capacitor Manufacturing.
3676	Electronic Resistors	334415	Electronic Resistor Manufacturing
3677	Electronic Coils, Transformers, and Other Inductors	334416	Electronic Coil, Transformers, and Other Inductor Manufacturing (pt).
3678	Electronic Connectors	334417	Electronic Connector Manufacturing.
3679	Electronic Components, NEC		
	Communication Equipment	33422	Broadcast and Studio Equipment for Radio, TV and Cable Manufacturing (pt).
	Electronic Control Modular Chips for Motor Vehicles	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt).
	Other Electronic Components Including Loaded PC Boards.	334419	Other Electronic Component Manufacturing (pt).
3691	Storage Batteries	335911	Storage Battery Manufacturing.
3692	Primary Batteries, Dry and Wet	335912	Dry and Wet Primary Battery Manufacturing.
3694	Electrical Equipment for Internal Combustion Engines	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt).
3695	Magnetic and Optical Recording Media	334613	Magnetic and Optical Recording Media Manufacturing.
3699	Electrical Machinery, Equipment, and Supplies, NEC		
	Electronic Teaching Machines and Flight Simulators	333319	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Outboard Electric Motors	333618	Other Engine Equipment Manufacturing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Bar Code Scanners	334119	Other Computer Peripheral Equipment Manufacturing (pt).
	Lasers	.....	Classify According to Function.
	Christmas Tree Lighting Sets and Electric Insect Lamps.	335129	Other Lighting Equipment Manufacturing (pt).
	Other Electrical Machinery, Equipment, and Supplies	335999	All Other Electrical Industrial Equipment and Supply Manufacturing (pt).
3711@	Motor Vehicles and Passenger Car Bodies		
	Passenger Car and Light Duty Trucks	33611	Passenger Car and Light Duty Truck Manufacturing.
	Heavy Duty Trucks	33612	Heavy Duty Truck Manufacturing.
	Kit Car and Other Passenger Car Bodies	336211	Truck and Bus Body Manufacturing (pt).
	Military Armored Vehicles	336912	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt).
3713	Truck and Bus Bodies	336211	Truck and Bus Body Manufacturing (pt).
3714@	Motor Vehicle Parts and Accessories		
	Dump-Truck Lifting Mechanisms and Fifth Wheels	336211	Truck and Bus Body Manufacturing (pt).
	Gasoline Engines Including Rebuilt and Engine Parts Including Rebuilt for Motor Vehicles.	336312	Engine and Engine Part Manufacturing.
	Wiring Harness Sets, Other than Ignition; Block Heaters and Battery Heaters; Instrument Board Assemblies; Permanent Defroster; Windshield Washer-Wiper Mechanisms; Cruise Control Mechanisms; and Other Electrical Equipment for Internal Combustion Engines.	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt).
	Steering and Suspension Parts	33633	Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing.
	Brake and Brake Systems, Including Assemblies	33634	Motor Vehicle Brake System Manufacturing (pt).
	Transmissions and Power Train Parts, Including Rebuilding.	33635	Motor Vehicle Transmission and Power Train Part Manufacturing.
	Other Motor Vehicle Parts	33639	Other Motor Vehicle Part Manufacturing (pt).
3715	Truck Trailers	336212	Truck Trailer Manufacturing.
3716	Motor Homes	336213	Motor Home Manufacturing.
3721	Aircraft	336411	Aircraft Manufacturing.
3724	Aircraft Engines and Engine Parts	336412	Aircraft Engine and Engine Part Manufacturing.
3728	Aircraft Parts and Auxiliary Equipment, NEC		
	Fluid Power Aircraft Subassemblies	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt).
	Other Aircraft Parts and Equipment	336413	Other Aircraft Part and Auxiliary Equipment Manufacturing.
3731	Ship Building and Repairing	336611	Ship Building and Repairing.
3732	Boat Building and Repairing		
	Boat Repair	811211	Transportation Equipment Repair and Maintenance.
	Boat Building	336612	Boat Building.
3743	Railroad Equipment		
	Locomotive Fuel Lubricating or Cooling Medium Pumps.	333911	Pump and Pumping Equipment Manufacturing (pt).
	Other Railroad Equipment	33651	Railroad Rolling Stock Manufacturing (pt)
3751	Motorcycles, Bicycles, and Parts	336911	Motorcycle, Bicycle, and Part Manufacturing (pt).
3761	Guided Missiles and Space Vehicles	336414	Guided Missile and Space Vehicle Manufacturing.
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts.	336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Part Manufacturing.
3769	Guided Missile Space Vehicle Parts and Auxiliary Equipment, NEC.	336419	Other Guided Missile and Space Vehicle Part and Auxiliary Equipment Manufacturing.
3792	Travel Trailers and Campers	336214	Travel Trailer and Camper Manufacturing (pt).
3795	Tanks and Tank Components	336912	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt).
3799@	Transportation Equipment, NEC		
	Automobile, Boat, Utility and Light Truck Trailers	336214	Travel Trailer and Camper Manufacturing (pt).
	Wheelbarrows	332212	Hand and Edge Tool Manufacturing (pt).
	Other Transportation Equipment	336919	Other Miscellaneous Transportation Equipment Manufacturing.
3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments.	334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing
3821	Laboratory Apparatus and Furniture	339111	Laboratory Apparatus and Furniture Manufacturing.
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances.	334512	Automatic Control for Regulating Residential and Commercial Environment and Appliance Manufacturing.
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products.	334513	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Product Manufacturing.
3824	Totalizing Fluid Meters and Counting Devices	334514	Totalizing Fluid Meter and Counting Device Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals		
	Portable Instrument Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt).
	Except Portable Instrument Transformers	334515	Instruments for Measuring and Testing of Electricity and Electrical Signal Manufacturing.
3826	Laboratory Analytical Instruments	334516	Analytical Instrument Manufacturing.
3827	Optical Instruments and Lenses	333314	Optical Instrument and Lens Manufacturing.
3829	Measuring and Controlling Devices, NEC		
	Medical Thermometers	339113	Surgical Appliance and Supply Manufacturing (pt).
	Except Medical Thermometers	334519	Other Measuring and Controlling Device Manufacturing.
3841	Surgical and Medical Instruments and Apparatus	339112	Surgical and Medical Instrument Manufacturing.
3842@	Orthopedic, Prosthetic, and Surgical Appliances and Supplies		
	Orthopedic, Prosthetic, and Surgical Appliances and Supplies, except Electronic Hearing Aids.	339113	Surgical Appliance and Supply Manufacturing (pt).
	Electronic Hearing Aids	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing (pt).
3843	Dental Equipment and Supplies	339114	Dental Equipment and Supply Manufacturing.
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus.	334517	X-Ray Apparatus and Tubes and Related Irradiation Apparatus Manufacturing.
3845	Electromedical and Electrotherapeutic Apparatus	334510	Electromedical and Electrotherapeutic Apparatus (pt.).
3851	Ophthalmic Goods	339115	Opthalmic Good Manufacturing.
3861	Photographic Equipment and Supplies		
	Photographic Equipment and Supplies (Except Photographic Film, Paper, Plate and Chemicals).	333315	Photographic and Photocopying Equipment Manufacturing.
	Photographic Film, Paper, Plates and Chemicals	325992	Photographic Film, Paper, Plate and Chemical Manufacturing.
3873	Watches, Clocks, Clockwork Operated Devices and Parts.	334518	Watch, Clock, and Part Manufacturing (pt).
3911	Jewelry, Precious Metal	339911	Jewelry Manufacturing, Including Precious Metal (pt).
3914	Silverware, Plated Ware, and Stainless Steel Ware		
	Cutlery and Flatware Except Precious	332211	Cutlery and Flatware Manufacturing, Except Precious (pt).
	Silverware, Plated Ware, and Stainless Steel Ware (Except Nonprecious Metal Cutlery and Flatware).	339912	Silverware and Plated Ware Manufacturing (pt).
3915	Jewelers' Findings and Materials, and Lapidary Work	339913	Jewelers' Material and Lapidary Work Manufacturing.
3931	Musical Instruments	339991	Musical Instrument Manufacturing.
3942	Dolls and Stuffed Toys	339931	Doll and Stuffed Toy Manufacturing.
3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles		
	Metal Tricycles	336911	Motorcycle, Bicycle and Part Manufacturing (pt).
	Other Games, Toys and Children's Vehicles	339932	Game, Toy, and Children's Vehicle Manufacturing (pt).
3949	Sporting and Athletic Goods, NEC	33992	Sporting and Athletic Good Manufacturing.
3951	Pens, Mechanical Pencils and Parts	339941	Pen and Mechanical Pencil Manufacturing.
3952@	Lead Pencils, Crayons, and Artist's Materials		
	Metal Drafting Tables and Boards	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Wood Drafting Tables and	337134	Wood Office and Public Building Boards Furniture Manufacturing (pt).
	Drawing and India Ink	32591	Printing Ink Manufacturing (pt).
	Other	339942	Lead Pencil and Art Good Manufacturing (pt).
3953	Marking Devices	339943	Marking Device Manufacturing.
3955	Carbon Paper and Inked Ribbons	339944	Carbon Paper and Inked Ribbon Manufacturing.
3961	Costume Jewelry and Costume Novelties, Except Precious Metals.	339914	Costume Jewelry and Novelty Manufacturing (pt).
3965	Fasteners, Buttons, Needles, and Pins	339992	Fastener, Button, Needle and Pin Manufacturing (pt).
3991	Brooms and Brushes	339993	Broom, Brush and Mop Manufacturing (pt).
3993@	Signs and Advertising Specialties		
	Lithographic Printing of Advertising Specialties	323114	Commercial Lithographic Printing (pt).
	Gravure Printing of Advertising Specialties	323115	Commercial Gravure Printing (pt).
	Flexographic Printing of Advertising Specialties	323117	Commercial Flexographic Printing (pt).
	Screen Printing of Advertising Specialties	323116	Commercial Screen Printing (pt).
	Other Printing of Advertising Specialties	323118	Other Commercial Printing (pt).
	Electric Signs	335121	Electric Sign Manufacturing.
	Non-Electric Wood Signs	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
	Non-Electric Metal Signs	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Non-Electric Plastics Signs	326299	All Other Plastics Product Manufacturing (pt).
3995	Burial Caskets	339994	Burial Casket Manufacturing.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC.	326292	Resilient Floor Covering Manufacturing (pt).
3999	Manufacturing Industries, NEC		
	Beauty and Barber Chairs	337144	Metal Office and Public Building Furniture Manufacturing (pt).
	Burnt Wood Articles	321999	All Other Miscellaneous Wood Product Manufacturing (pt).
	Fur Dressing and Bleaching	31611	Leather and Hide Tanning and Finishing (pt).
	Lamp Shades of Paper or Textile	335122	Residential Electric Lighting Fixture Manufacturing (pt).
	Matches	325998	All Other Miscellaneous Chemical Product Manufacturing (pt).
	Metal Products, Such As Combs, Hair Curlers, Etc.	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Plastics Products, Such As Combs, Hair Curlers, Etc.	326299	All Other Plastics Product Manufacturing (pt)
	Flexographic Printing Eyeglass Frames for the Trade	323117	Commercial Flexographic Printing (pt).
	Gravure Printing Eyeglass Frames for the Trade	323115	Commercial Gravure Printing (pt).
	Lithographic Printing Eyeglass Frames for the Trade	323114	Commercial Lithographic Printing (pt).
	Screen Printing of Eyeglass Frames for the Trade	323116	Commercial Screen Printing (pt).
	Other Printing of Eyeglass Frames for the Trade	323118	Other Commercial Printing (pt).
	Tape Measures	332212	Hand and Edge Tool Manufacturing (pt).
	Other	339999	All Other Miscellaneous Manufacturing (pt.).
4011	Railroads, Line-haul Operating	482111	Line-Haul Railroads.
4013@	Railroad Switching and Terminal Establishments		
	Beltline and Logging Railroads	482112	Short Line Railroads.
	Other	48821	Support Activities for Rail Transportation (pt.).
4111@	Local and Suburban Transit		
	Mixed Mode Transit Systems	485111	Mixed Mode Transit Systems.
	Commuter Rail Systems	485112	Commuter Rail Systems.
	Bus and Motor Vehicle Transit Systems	485113	Bus and Motor Vehicle Transit Systems.
	Other Urban Transit Systems	485119	Other Urban Transit Systems.
	Airport Limousine Transportation	485919	All Other Transit and Ground Passenger Transportation (pt.).
4119@	Local Passenger Transportation, NEC		
	Ambulances	62191	Ambulance Service (pt.).
	Employee Transportation	48541	School and Employee Bus Industry (pt.).
	Sightseeing Buses and Cable and Cog Railways, Except Scenic.	48711	Scenic and Sightseeing Transportation, Land (pt.).
	Special Needs Transportation	485911	Special Needs Transportation.
	Hearse Rental with Driver and Carpool and Vanpool Operations.	485919	All Other Transit and Ground Passenger Transportation (pt.).
	Automobile Rental with Driver and Limousine Rental with Driver.	48532	Limousine Service.
4121	Taxicabs	48531	Taxi Service.
4131	Intercity and Rural Bus Transportation	48521	Interurban and Rural Bus Lines.
4141@	Local Bus Charter Service	48551	Charter Bus Industry (pt.).
4142	Bus Charter Service, Except Local	48551	Charter Bus Industry (pt.).
4151	School Buses	48541	School and Employee Bus Industry (pt.).
4173@	Terminal and Service Facilities for Motor Vehicle Passenger Transportation.	48849	Other Support Activities for Road Transportation (pt.).
4212@	Local Trucking Without Storage		
	Solid Waste Collection Without Disposal	572111	Solid Waste Collection (pt.).
	Hazardous Waste Collection Without Disposal	572112	Hazardous Waste Collection (pt.).
	Other Waste Collection Without Disposal	572119	Other Waste Collection (pt.).
	Local General Freight Trucking Without Storage	48411	General Freight Trucking, Local (pt.).
	Household Goods Moving Without Storage	48421	Used Household and Office Goods Moving (pt.).
	Local Specialized Freight Trucking Without Storage	48422	Specialized Freight (Except Used Goods) Trucking, Local (pt.).
4213@	Trucking, Except Local		
	Long-distance Truckload General Freight Trucking	484121	General Freight Trucking, Long-Distance, Truckload.
	Long-distance Less Than Truckload General Freight Trucking.	484122	General Freight Trucking, Long-Distance, Less Than Truckload.
	Long-distance Household Goods Moving	48421	Used Household and Office Goods Moving (pt.).
	Long-distance Specialized Freight Trucking	48423	Specialized Freight (Except Used Goods) Trucking, Long-Distance.
4214@	Local Trucking with Storage		
	Local General Freight Trucking with Storage	48411	General Freight Trucking, Local (pt.).
	Local Household Goods Moving	48421	Used Household and Office Goods Moving (pt.).
	Local Specialized Freight Trucking with Storage	48422	Specialized Freight (Except Used Goods) Trucking, Local.
4215@	Couriers Services Except by Air		
	Hub and Spoke Intercity Delivery	49211	Couriers (pt.).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Local Delivery	49221	Local Messengers and Local Delivery.
4221	Farm Product Warehousing and Storage	48862	Farm Product Storage Facilities.
4222	Refrigerated Warehousing and Storage	48861	Refrigerated Storage Facilities (pt.).
4225	General Warehousing and Storage		
	General Warehousing and Storage	488691	General Storage Facilities (pt.).
	Miniwarehouses and Self-Units	53112	Lessors of Miniwarehouses and Self Storage Units.
4226	Special Warehousing and Storage, NEC		
	Fur Storage	48861	Refrigerated Storage Facilities (pt.).
	Other	488699	All Other Storage Facilities.
4231@	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation.	48849	Other Support Activities for Road Transportation (pt.).
4311	United States Postal Service	49111	National Post Office.
4412	Deep Sea Foreign Transportation of Freight	483111	Deep Sea Freight Transportation .
4424@	Deep Sea Domestic Transportation of Freight	483113	Coastal and Great Lakes Freight Transportation (pt.).
4432@	Freight Transportation on the Great Lakes—St. Lawrence Transportation Seaway.	483113	Coastal and Great Lakes Freight Transportation (pt.).
4449	Water Transportation of Freight, NEC	483211	Inland Water Freight Transportation (pt.).
4481	Deep Sea Transportation of Passengers, Except by Ferry		
	Deep Sea Passenger Transportation	483112	Deep Sea Passenger Transportation.
	Coastal and Great Lakes Passenger Transportation	483114	Coastal and Great Lakes Passenger (pt.).
4482@	Ferries		
	Coastal and Great Lakes Ferries	483114	Coastal and Great Lakes Passenger Transportation (pt.).
	Inland Water Ferries	483212	Inland Water Passenger Transportation (pt.).
4489	Water Transportation of Passengers, NEC		
	Water Taxis	483212	Inland Water Passenger Transportation (pt.).
	Airboats, Excursion Boats, and Sightseeing Boats	48721	Scenic and Sightseeing Transportation, Water.
4491	Marine Cargo Handling		
	Dock and Pier Operations	48831	Port and Harbor Operations (pt.).
	Except Dock and Pier Operations	48832	Marine Cargo Handling.
4492@	Towing and Tugboat Services Barge Operations Coastal and Great Lakes	483113	Coastal and Great Lakes Freight Transportation (pt).
	Inland Water Barge Operations	483211	Inland Water Freight Transportation (pt.).
	Except Barge Operations	48833	Navigational Services to Shipping (pt.).
4493	Marinas	71313	Marinas.
4499@	Water Transportation Services, NEC		
	Boat and Ship Rental	533311	Rental and Leasing of Commercial Air, Rail, and Water Transportation Equipment.
	Seaway and Lighthouse Operations	48831	Port and Harbor Operations (pt.).
	Marine Salvage and Piloting Vessels In and Out of Harbors.	48833	Navigational Services to Shipping (pt.).
	Other	48839	Other Support Activities for Water Transportation (pt.).
4512	Air Transportation, Scheduled		
	Scheduled Passenger Air Transportation	481111	Scheduled Passenger Air Transportation.
	Scheduled Freight Air Transportation	481112	Scheduled Freight Air Transportation.
4513@	Air Courier Services	49211	Couriers (pt).
4522@	Air Transportation, Nonscheduled		
	Air Ambulance	62191	Ambulance Services (pt.).
	Nonscheduled Charter Freight Air Transportation	481212	Nonscheduled Chartered Freight Air Transportation.
	Nonscheduled Charter Passenger Air Transportation	481211	Nonscheduled Chartered Passenger Air Transportation.
	Nonscheduled Specialty Air Transportation	48122	Nonscheduled Specialty Air Transportation.
	Sightseeing airplanes	48791	Scenic and Sightseeing Transportation, Other (pt.).
4581	Airports, Flying Fields, and Airport Terminal Services		
	Air Traffic Control	488111	Air Traffic Control.
	Airfreight Handling at Airport Hangar Operations, Airports Terminal Services, Aircraft Storage, Airports, and Flying Fields.	488112	Airport Operations, Except Air Traffic Control.
	Aircraft Cleaning and Janitorial Services	57162	Janitorial Services (pt).
	Aircraft Servicing and Repairing	48819	Other Support Activities for Air Transportation.
4612	Crude Petroleum Pipelines	48611	Pipeline Transportation of Crude Oil.
4613	Refined Petroleum Pipelines	48691	Pipeline Transportation of Refined Petroleum Products.
4619	Pipelines, NEC	48699	All Other Pipeline Transport.
4724	Travel Agencies	57141	Travel Agencies.
4725	Tour Operators	57142	Tour Operators.
4729@	Arrangement of Passenger Transportation, NEC		
	Arrangement of Carpools and Vanpools	488919	All Other Support Activities for Transportation (pt.)
	Except Arrangement of Carpools and Vanpools	571499	Other Travel Arrangement and Reservation Services (pt.).
4731	Arrangement of Transportation of Freight and Cargo.		
	Freight Rate Auditors and Tariff Consultants	561619	Other Management Consulting Services.
	Except Freight Rate Auditors and Tariff Consultants	48851	Freight Transportation Arrangement.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
4741@	Rental of Railroad Cars		
	Rental of Railroad Cars	533311	Rental and Leasing of Commercial Air, Rail, and Water Transportation Equipment (pt).
	Grain Leveling in Railroad Cars, Grain Trimming for Railroad Equipment, Precooling of Fruits and Vegetables in Connection with Transportation, and Railroad Car Cleaning, Icing, Ventilating and Heating.	48821	Support Activities for Rail Transportation (pt.).
4783	Packing and Crating	488911	Packing and Crating.
4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation		
	Marine Cargo Checkers	48839	Other Support Activities for Water Transportation (pt.).
	Except Marine Cargo Checkers	48849	Other Support Activities for Road Transportation (pt.).
4789	Transportation Services, NEC		
	Pipeline Terminals and Stockyards for Transportation	488919	All Other Support Activities for Transportation (pt.).
	Horse-drawn Cabs and Carriages	48711	Scenic and Sightseeing Transportation, Land (pt.).
	Other	48821	Support Activities for Rail Transportation (pt.).
4812@	Radiotelephone Communications		
	Paging Carriers	513321	Paging.
	Cellular Carriers	513322	Cellular and Other Wireless Telecommunications (pt.).
	Paging and Cellular Resellers	51333	Telecommunications Resellers (pt.).
4813@	Telephone Communications, Except Radiotelephone		
	Except Resellers	51331	Wired Telecommunications Carriers (pt.).
	Resellers	51333	Telecommunications Resellers (pt.).
4822@	Telegraph and Other Message Communications	51331	Wired Telecommunications Carriers (pt.).
4832	Radio Broadcasting Stations		
	Networks	513111	Radio Networks.
	Stations	513112	Radio Stations.
4833	Television Broadcasting Stations	51312	Television Broadcasting.
4841	Cable and Other Pay Television Services		
	Cable Networks	51321	Cable Networks.
	Except Cable Networks	51322	Cable and Program Distribution.
4899	Communications Services, NEC		
	Radio Dispatch	513322	Cellular and Other Wireless Telecommunications (pt.).
	Satellite Communications	51334	Satellite Telecommunications.
	Except Radio Dispatch and Satellite Communications	51339	Other Telecommunications.
4911	Electric Services		
	Hydroelectric Power Generation	221111	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels	221112	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels	221113	Nuclear Electric Power Generation (pt).
	Other Electric Power Generation	221119	Other Electric Power Generation (pt).
	Electric Power Transmission and Control	221121	Electric Bulk Power Transmission and Control (pt).
	Electric Power Distribution	221122	Electric Power Distribution.
4922	Natural Gas Transmission	48621	Pipeline Transportation of Natural Gas.
4923@	Natural Gas Transmission and Distribution		
	Distribution	22121	Natural Gas Distribution (pt).
	Transmission	48621	Pipeline Transportation of Natural Gas.
4924@	Natural Gas Distribution	22121	Natural Gas Distribution (pt).
4925@	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution.	22121	Natural Gas Distribution (pt).
4931@	Electric and Other Services Combined		
	Hydroelectric Power Generation When Combined with Other Services.	221111	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels When Combined with Other Services.	221112	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels When Combined with Other Services.	221113	Nuclear Electric Power Generation (pt).
	Other Electric Power Generation When Combined with Other Services.	221119	Other Electric Power Generation (pt).
	Electric Power Transmission When Combined with Other Services.	221121	Electric Bulk Power Transmission and Control (pt).
	Electric Power Distribution When Combined with Other Services.	221122	Electric Power Distribution (pt).
	Natural Gas When Combined with Electric Services	22121	Natural Gas Distribution (pt).
4932@	Gas and Other Services Combined	22121	Natural Gas Distribution (pt).
4939@	Combination Utilities, NEC		
	Hydroelectric Power Generation When Combined with Other Services.	221111	Hydroelectric Power Generation (pt).
	Electric Power Generation by Fossil Fuels When Combined with Other Services.	221112	Fossil Fuel Electric Power Generation (pt).
	Electric Power Generation by Nuclear Fuels When Combined with Other Services.	221113	Nuclear Electric Power Generation (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Other Power Generation When Combined with Other Services.	221119	Other Electric Power Plants (pt).
	Electric Power Transmission When Combined with Other Services.	221121	Electric Bulk Power Transmission and Control (pt).
	Electric Power Distribution When Combined with Other Services.	221122	Electric Power Distribution (pt).
	Natural Gas Distribution when Combined with Other Services.	22121	Natural Gas Distribution (pt).
4941	Water Supply	22131	Water and Irrigation Systems (pt).
4952	Sewerage Systems	22132	Sewerage Systems.
4953	Refuse Systems.		
	Solid Waste Collection When Combined with Disposal	572111	Solid Waste Collection (pt).
	Hazardous Waste Collection When Combined with Disposal.	572112	Hazardous Waste Collection (pt).
	Materials Recovery Facilities	57291	Materials Recovery Facilities.
	Other Waste Collection When Combined with Disposal	572119	Other Waste Collection.
	Hazardous Waste Disposal	572211	Hazardous Waste Treatment and Disposal.
	Solid Waste Landfills	572212	Solid Waste Landfills.
	Solid Waste Combustors and Incinerators	572213	Solid Waste Combustors and Incinerators.
	Other Waste Treatment and Disposal	572219	Other Nonhazardous Waste Treatment and Disposal.
4959	Sanitary Services, NEC		
	Vacuuming of Airport Runways	488112	Airport Operations, Except Air Traffic Control.
	Remediation Services	572991	Remediation Services.
	Malaria Control and Mosquito Eradication	57161	Exterminating and Pest Control Services.
	Snowplowing and Street Sweeping	571631	Lawn and Garden Services (pt).
	Other	572993	All Other Miscellaneous Waste Management (pt).
4961	Steam and Air-Conditioning Supply	22133	Steam and Air-Conditioning Supply.
4971	Irrigation Systems	22131	Water and Irrigation Systems (pt).
5012	Automobiles and Other Motor Vehicles	43111	Automobiles and Other Motor Vehicles.
5013	Motor Vehicle Supplies and New Parts		
	Sold Via Retail Method	44131	Automotive Parts and Supplies Stores (pt)—Retail.
	Sold Via Wholesale Method	43112	Motor Vehicle Supplies and New Parts (pt)—Wholesale.
5014	Tires and Tubes		
	Sold Via Retail Method	44132	Tire Dealers (pt.)—Retail.
	Sold Via Wholesale Method	43113	Tires and Tubes—Wholesale.
5015	Motor Vehicle Parts, Used	43114	Motor Vehicle Parts, Used.
5021	Furniture		
	Sold Via Retail Method	44211	Furniture Stores (pt).
	Sold Via Wholesale Method	43121	Furniture
5023	Home Furnishings..		
	Sold Via Retail Method	44221	Floor Covering Stores (pt).
	Sold Via Wholesale Method	43122	Homefurnishings
5031	Lumber, Plywood, Millwork, and Wood Panels.		
	Sold Via Retail Method	44419	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	43131	Lumber, Plywood, Millwork, and Wood Panels (pt).
5032	Brick, Stone and Related Construction Materials		
	Sold Via Retail Method	44419	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	43132	Brick, Stone and Related Construction Materials.
5033	Roofing, Siding, and Insulation Materials	43133	Roofing, Siding, and Insulation.
5039	Construction Materials, NEC.		
	Sold Via Retail Method	44419	Other Building Materials Dealers (pt).
	Sold Via Wholesale Method	43139	Other Construction Materials.
5043	Photographic Equipment and Supplies	43141	Photographic Equipment and Supplies.
5044	Office Equipment	43142	Office Equipment.
5045	Computers and Computer Peripheral Equipment and Software		
	Sold Via Wholesale Method	43143	Computers and Computer Peripheral Equipment and Software.
	Sold Via Retail Method	44312	Computer and Software Stores (pt)—Retail.
5046	Commercial Equipment, NEC	43144	Other Commercial Equipment.
5047	Medical, Dental, and Hospital Equipment and Supplies		
	Sold Via Wholesale Method	43145	Medical, Dental and Hospital Equipment and Supplies—Wholesale.
	Sold Via Retail Method	446199	All Other Health and Personal Care Stores (pt)—Retail.
5048	Ophthalmic Goods	43146	Ophthalmic Goods.
5049	Professional Equipment and Supplies, NEC		
	Sold Via Wholesale Method	43149	Other Professional Equipment and Supplies.
	Religious and School Supplies Sold Via Retail Method	45321	Office Supply and Stationery Stores (pt)—Retail.
5051	Metals Service Centers and Offices	43151	Metals Service Centers and Offices.
5052	Coal and Other Minerals and Ores	43152	Coal and Other Minerals and Ores.
5063	Electrical Apparatus and Equipment Wiring Supplies, and Construction Materials		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Sold Via Retail Method	44419	Other Building Materials (pt).
	Sold Via Wholesale Method	43161	Electrical Apparatus and Equipment Wiring Supplies and Construction Materials.
5064	Electrical Appliances, Television and Radio Sets	43162	Electrical Appliances, Television and Radio Sets.
5065	Electronic Parts and Equipment, Not Elsewhere Classified.	43169	Other Electronic Parts and Equipment.
5072	Hardware	43171	Hardware.
5074	Plumbing and Heating Equipment and Supplies (Hydronics)		
	Sold Via Retail Method	44419	Other Building Materials (pt).
	Sold Via Wholesale Method	43172	Plumbing and Heating Equipment and Supplies (Hydronics).
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies.	43173	Warm Air Heating and Air-Conditioning Equipment and Supplies.
5078	Refrigeration Equipment and Supplies	43174	Refrigeration Equipment and Supplies.
5082	Construction and Mining (Except Petroleum) Machinery and Equipment.	43181	Construction and Mining (Except Petroleum) Machinery and Equipment.
5083	Farm and Garden Machinery and Equipment		
	Sold Via Wholesale Method	43182	Farm and Garden Machinery and Equipment—Wholesale.
	Garden and Lawn Equipment Sold Via Retail Method	44421	Outdoor Power Equipment Stores (pt)—Retail.
5084	Industrial Machinery and Equipment	43183	Industrial Machinery and Equipment.
5085	Industrial Supplies		
	Fluid Power Accessories	43183	Industrial Machinery and Equipment (pt).
	Reconditioning Barrels and Drums	332499	Other Metal Container Manufacturing.
	Except Fluid Power Accessories and Reconditioning Barrels and Drums.	43184	Industrial Supplies.
5087	Service Establishment Equipment and Supplies		
	Sold Via Wholesale Method	43185	Service Establishment Equipment and Supplies.
	Sold Via Retail Method	44612	Cosmetics, Beauty Supplies, and Perfume Stores (pt)—(Retail).
5088	Transportation Equipment and Supplies, Except Motor Vehicles.	43186	Transportation Equipment and Supplies, Except Motor Vehicles.
5091	Sporting and Recreational Goods and Supplies	43191	Sporting and Recreational Goods and Supplies.
5092	Toys and Hobby Goods and Supplies	43192	Toys and Hobby Goods and Supplies.
5093	Scrap and Waste Materials	43193	Recyclable Materials.
5094	Jewelry, Watches, Precious Stones, and Precious Metals	43194	Jewelry, Watches, Precious Stones, and Precious Metals.
5099	Durable Goods, NEC	43199	Other Miscellaneous Durable Goods.
5111	Printing and Writing Paper	43211	Printing and Writing Paper.
5112	Stationery and Office Supplies		
	Sold Via Retail Method	45321	Office Supply and Stationery Stores (pt).
	Sold Via Wholesale Method	43212	Stationery and Office Supplies.
5113	Industrial and Personal Service Paper	43213	Industrial and Personal Service Paper.
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	43221	Drugs, Drug Proprietaries, and Druggists' Sundries.
5131	Piece Goods, Notions, and Other Dry Goods		
	Piece Good Converters, Broadwoven Fabrics	313311	Broadwoven Fabric Finishing Mills (pt).
	Piece Good Converters, Except Broadwoven Fabrics	313312	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
	Except Converters	43231	Piece Goods, Notions, and Other Dry Goods.
5136	Men's and Boys' Clothing and Furnishings	43232	Men's and Boys' Clothing and Furnishings.
5137	Women's, Children's and Infants' Clothing and Accessories.	43233	Women's, Children's, and Infants' Clothing and Accessories.
5139	Footwear	43234	Footwear.
5141	Groceries, General Line	43241	Groceries, General Line.
5142	Packaged Frozen Foods	43242	Packaged Frozen Foods.
5143	Dairy Products, Except Dried or Canned	43243	Dairy Products, Except Dried or Canned.
5144	Poultry and Poultry Products	43244	Poultry and Poultry Products.
5145	Confectionery	43245	Confectionery.
5146	Fish and Seafoods	43246	Fish and Seafoods.
5147	Meats and Meat Products		
	Boxed Beef	311612	Meat Processed from Carcasses (pt).
	Except Boxed Beef	43247	Meats and Meat Products.
5148	Fresh Fruits and Vegetables	43248	Fresh Fruits and Vegetables.
5149	Groceries and Related Products, NEC	43249	Other Groceries and Related Products.
5153	Grain and Field Beans	43251	Grain and Field Beans.
5154	Livestock	43252	Livestock.
5159	Farm-Product Raw Materials, NEC	43259	Other Farm-Product Raw Materials.
5162	Plastics Materials and Basic Forms and Shapes	43261	Plastics Materials and Basic Forms and Shapes.
5169	Chemicals and Allied Products, NEC	43269	Other Chemicals and Allied Products.
5171	Petroleum Bulk Stations and Terminals		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Heating Oil Sold Via Retail Method	454311	Heating Oil Dealers (pt).
	LP Gas Sold Via Retail Method	454312	Liquefied Petroleum Gas (Bottled Method Gas) Dealers (pt).
	Sold Via Wholesale Method	43271	Petroleum Bulk Stations and Terminals.
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.	43272	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.
5181	Beer and Ale	43281	Beer and Ale.
5182	Wine and Distilled Alcoholic Beverages	43282	Wine and Distilled Alcoholic.
5191	Farm Supplies		
	Lawn and Garden Supplies Sold Via Retail Method	44422	Nursery and Garden Centers (pt)—Retail.
	Except Lawn and Garden Supplies Sold Via Retail Method.	43291	Farm Supplies—Wholesale.
5192	Books, Periodicals, and Newspapers	43292	Books, Periodicals and Newspapers.
5193	Flowers, Nursery Stock, and Florists' Supplies		
	Sold Via Wholesale Method	43293	Flowers, Nursery Stock and Florists' Supplies.
	Sold Via Retail Method	44422	Nursery and Garden Centers (pt)—Retail.
5194	Tobacco and Tobacco Products	43294	Tobacco and Tobacco Products.
5198	Paint, Varnishes, and Supplies Sold Via Wholesale Method	43295	Paint, Varnishes and Supplies—Wholesale.
	Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt)—(Retail).
5199	Nondurable Goods, NEC		
	Advertising Specialties Distributors	56189	Other Services Related to Goods Advertising (pt).
	Except Specialty Advertising	43299	Other Miscellaneous Nondurable Goods—Wholesale.
5211	Lumber and Other Building Materials Dealers		
	Home Centers	44411	Home Centers.
	Sold Via Wholesale Method	43131	Lumber, Plywood, Millwork and Wood Panels—Wholesale (pt).
	Sold Via Retail Method, Except Home Centers and Glass.	44419	Other Building Materials Dealers (pt).
5231	Paint, Glass, and Wallpaper Stores.		
	Paint and Wallpaper Sold Via Wholesale Method	43295	Paint, Varnishes and Supplies—Wholesale (pt).
	Glass Stores	44419	Other Building Materials Dealers (pt).
	Paint and Wallpaper Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt).
5251	Hardware Stores	44413	Hardware Stores.
5261	Retail Nurseries, Lawn and Garden Supply Stores		
	Except Cut Christmas Trees	44422	Nursery and Garden Centers (pt).
	Cut Christmas Trees	453999	All Other Miscellaneous Store Retailers (pt.).
	Outdoor Power Equipment Stores	44421	Outdoor Power Equipment Stores.
5271	Mobile Home Dealers	45393	Manufactured (Mobile) Home Dealers.
5311	Department Stores	45211	Department Stores.
5331	Variety Stores	45229	All Other General Merchandise Stores (pt).
5399	Miscellaneous General Merchandise Stores		
	Warehouse Clubs and General Combination Stores	45221	Warehouse Clubs and Other General Merchandise Stores with Food.
	All Other General Merchandise Stores	45229	All Other General Merchandise Stores (pt).
5411	Grocery Stores		
	Convenience Stores with Gas	44711	Gasoline Stations with Convenience Stores (pt).
	Supermarkets and Grocery Stores with Little General Merchandise	44511	Supermarkets and Grocery Stores.
	Supermarkets and Grocery Stores with Substantial General Merchandise.	45221	Warehouse Clubs and Other General Merchandise Stores with Food.
	Convenience Stores	44512	Convenience Stores.
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners		
	Freezer Provisioners	45439	Other Direct Selling Establishments (pt).
	Meat Markets	44521	Meat Markets.
	Fish and Seafood Markets	44522	Fish and Seafood Markets.
5431	Fruit and Vegetable Markets	44523	Fruit and Vegetable Markets.
5441	Candy, Nut, and Confectionery Stores		
	Candy Makers that Sell at Same Location	31133	Confectionary Manufacturing from Purchased Chocolate (pt).
	Candy Makers that Sell at Same Location	31134	Non-Chocolate Confectionary Manufacturing (pt).
	Sales Only	445292	Candy, Nut, and Confectionary Stores.
5451	Dairy Products Stores	445299	All Other Specialty Food Stores (pt).
5461	Retail Bakeries		
	Donut Shops, Pretzel Shops, Cookie Shops, Bagel Shops, and Other Such Shops that Make and Sell for Immediate Consumption.	72222	Refreshment Places (pt).
	Bakeries That Make and Sell at the Same Location	311712	Retail Bakeries.
	Sales Only of All Other Baked Goods	445291	Baked Goods Stores.
5499	Miscellaneous Food Stores		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Poultry and Poultry Products	44521	Meat Markets (pt).
	Coffee Shops Making and Serving Food and Beverages for Immediate Consumption.	722211	Limited-Service Restaurants (pt).
	Food Supplement Stores	446191	Food (Health) Supplement Stores.
	All Other Miscellaneous Food Stores	445299	All Other Specialty Food Stores (pt).
5511	Motor Vehicle Dealers (New and Used)	44111	New Car Dealers.
5521	Motor Vehicle Dealers (Used Only)	44112	Used Car Dealers.
5531	Auto and Home Supply Stores		
	Tire Dealers	44132	Tire Dealers.
	All Other Auto and Home Supply Stores	44131	Automotive Parts and Supplies Stores (pt).
5541	Gasoline Service Stations		
	Convenience Store with Gas	44711	Gasoline Stations with Convenience Store (pt).
	Except with Convenience Stores	44719	Other Gasoline Stations.
5551	Boat Dealers	441222	Boat Dealers.
5561	Recreational Vehicle Dealers	44121	Recreational Vehicle Dealers.
5571	Motorcycle Dealers	441221	Motorcycle Dealers.
5599	Automotive Dealers, NEC	441229	All Other Motor Vehicle Dealers.
5611	Men's and Boys' Clothing and Accessory Stores		
	Men's Clothing Stores	44811	Men's Clothing Stores.
	Men's Accessory Stores	44823	Accessories Stores (pt).
5621	Women's Clothing Stores	44812	Women's Clothing Stores.
5632	Women's Accessory and Specialty Stores		
	Specialty Stores	44819	Other Clothing Stores (pt).
	Accessory Stores	44823	Accessories Stores (pt).
5641	Children's and Infants' Wear Stores	44813	Children's and Infants' Clothing Stores.
5651	Family Clothing Stores	44814	Family Clothing Stores.
5661	Shoe Stores	44831	Shoe Stores.
5699	Miscellaneous Apparel and Accessory Stores		
	Custom Tailors and Seamstresses	315	Included in Apparel Manufacturing Subsector Based on Type of Garment Produced.
	Miscellaneous Apparel	44819	Other Clothing Stores (pt).
	Miscellaneous Accessories	44823	Accessories Stores (pt).
5712	Furniture Stores		
	Custom Made Furniture, Except Cabinets and Upholstered.	337131	Wood Household Furniture Manufacturing, Except Upholstered (pt).
	Custom Wood Cabinets	337133	Wood Kitchen Cabinet Manufacturing (pt).
	Upholstered Custom Made	337132	Upholstered Wood Household Furniture Manufacturing (pt.).
	Except Custom Cabinet and Furniture Builders	44211	Furniture Stores (pt).
5713	Floor Covering Stores	44221	Floor Covering Stores (pt).
5714	Drapery, Curtain, and Upholstery Stores		
	Drapery and Curtain Stores	442291	Window Treatment Stores (pt).
	Upholstery Stores	45113	Sewing, Needlework and Piece Goods Stores (pt).
	Custom Drapes	314121	Curtain and Drapery Mills (pt).
5719	Miscellaneous Homefurnishings Stores		
	Blinds and Shades	442291	Window Treatment Stores.
	Pottery and Crafts Made and Sold on Site	.....	Included in Manufacturing sector based on article produced.
	Except Blinds, Shades, and Pottery and Crafts Made and Sold on Site.	442299	All Other Home Furnishings Stores.
5722	Household Appliance Stores	443111	Household Appliance Stores.
5731	Radio, Television, and Consumer Electronics Stores		
	Except Auto Radio Stores	443112	Radio, Television, and Other Electronics Stores.
	Auto Radio Stores	44131	Automotive Parts and Supplies Stores (pt).
5734	Computer and Computer Software Stores	44312	Computer and Software Stores.
5735	Record and Prerecorded Tape Stores	45122	Prerecorded Tape, Compact Disk and Record Stores.
5736	Musical Instrument Stores	45114	Musical Instrument and Supply Stores.
5812@	Eating and Drinking Places		
	Full Service Resturants	72211	Full-Service Restaurants.
	Limited Service Resturants	722211	Limited-Service Restaurants.
	Cafeterias	722212	Cafeterias.
	Refreshment Places	72222	Refreshment Places (pt).
	Food Service Contractors	72231	Foodservice Contractors Caterers.
	Caterers	72232	Caterers.
	Dinner Theaters	71111	Theater Companies (pt).
5813	Drinking Places (Alcoholic Beverages)	72241	Bars, Taverns, and Other Drinking) Places (Alcoholic Beverages).
5912	Drug Stores and Proprietary Stores	44611	Drug Stores and Pharmacies.
5921	Liquor Stores	44531	Beer, Wine and Liquor Stores.
5932	Used Merchandise Stores		
	Pawn Shops	522299	All Other Non-Depository Credit Intermediation (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Except pawn shops	45331	Used Merchandise Stores.
5941	Sporting Goods Stores and Bicycle Shops	45111	Sporting Goods Stores (pt).
5942	Book Stores	451211	Book Stores.
5943	Stationery Stores	45321	Office Supply and Stationery Stores (pt).
5944	Jewelry Stores	44821	Jewelry Stores.
5945	Hobby, Toy, and Game Shops	45112	Hobby, Toy and Game Stores.
5946	Camera and Photographic Supply Stores	44313	Camera and Photographic Supply.
5947	Gift, Novelty, and Souvenir Shops	45322	Gift, Novelty and Souvenir Stores.
5948	Luggage and Leather Goods Stores	44822	Luggage and Leather Goods Stores.
5949	Sewing, Needlework, and Piece Goods Stores	45113	Sewing, Needlework and Piece Goods Stores (pt).
5961	Catalog and Mail-Order Houses	45411	Electronic Shopping and Mail-Order Houses.
5962	Automatic Merchandising Machine Operator	45421	Vending Machine Operators.
5963	Direct Selling Establishments		
	Mobile Food Service	72233	Mobile Caterers.
	All Other Direct Selling Establishments	45439	Other Direct Selling Establishments (pt).
5983	Fuel Oil Dealers	454311	Heating Oil Dealers (pt).
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	454312	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt).
5989	Fuel Dealers, NEC	454319	Other Fuel Dealers.
5992	Florists	45311	Florists.
5993	Tobacco Stores and Stands	453991	Tobacco Stores.
5994	News Dealers and Newsstands	451212	News Dealers and Newsstands.
5995	Optical Goods Stores		
	Optical Stores Grinding Prescription Lenses, except 1-Hour Labs.	339117	Eyeglass and Contact Lens Manufacturing (pt).
	Except Optical Laboratories Grinding Prescription Lenses.	44613	Optical Goods Stores.
5999	Miscellaneous Retail Stores, NEC		
	Cosmetic Stores	44612	Cosmetics, Beauty Supplies and Perfume Stores (pt).
	Hearing Aid and Artificial Limb Stores	446199	All Other Health and Personal Care Stores (pt).
	Pets and Pet Supply Stores	45391	Pet and Pet Supply Stores.
	Art Dealers	45392	Art Dealers.
	Personal Appliance Stores	443111	Household Appliance Stores (pt).
	Telephone and Typewriter Stores	443112	Radio, Television and Other Electronics Stores (pt.).
	Rough Gem Stores	44821	Jewelry Stores (pt).
	Other Miscellaneous Retail Store	453999	All Other Miscellaneous Store Retailers (pt).
6011	Federal Reserve Banks	52111	Monetary Authorities-Central Banks.
6019@	Central Reserve Depository Institutions, NEC	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
6021@	National Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt).
	Credit Card Issuing	52221	Credit Card Issuing (pt).
	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt).
6022@	State Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt).
	Credit Card Issuing	52221	Credit Card Issuing (pt).
	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt).
6029@	Commercial Banks, NEC	52211	Commercial Banking (pt).
6035@	Savings Institutions, Federally Chartered	52212	Savings Institutions (pt).
6036@	Savings institutions, Not Federally Chartered	52212	Savings Institutions (pt).
6061@	Credit Unions, Federally Chartered	52213	Credit Unions (pt).
6062@	Credit Unions, Not Federally Chartered	52213	Credit Unions (pt).
6081@	Branches and Agencies of Foreign Banks		
	International Trade Financing	522293	International Trade Financing (pt).
	Branches of Foreign Banks	52211	Commercial Banking (pt).
	Agencies of Foreign Banks	522299	All Other Non-Depository Credit Intermediation (pt).
6082@	Foreign Trade and International Banking Institutions	522293	International Trade Financing (pt).
6091@	Nondeposit Trust Facilities	523991	Trust, Fiduciary, and Custody Activities (pt).
6099@	Functions Related to Deposit Banking, NEC		
	Money Order Issuance	52219	Other Depository Credit Intermediation (pt).
	Clearinghouses	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
	Foreign Currency Exchange	52313	Commodity Contracts Dealing (pt).
	Escrow and Fiduciary	523991	Trust, Fiduciary, and Custody Agencies Activities (pt).
	Deposit Brokers	523999	Miscellaneous Financial Investment Activities (pt).
	Other	52239	Other Activities Related to Credit Intermediation (pt).
6111@	Federal and Federally Sponsored Credit Agencies		
	Trade Banks	522293	International Trade Financing (pt).
	Secondary Market Financing	522294	Secondary Market Financing.
	Other	522299	All Other Non-Depository Credit Intermediation (pt).
6141@	Personal Credit Institutions		
	Credit Card Issuing	52221	Credit Card Issuing (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Installment Sales Financing	52222	Sales Financing and Finance Leasing (pt).
	Other	522291	Consumer Credit (pt).
6153@	Short-Term Business Credit Institutions, Except Agricultural		
	Business Sales Finance	52222	Sales Financing and Finance Leasing (pt).
	Credit Card Service	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt).
	Other	522299	All Other Non-Depository Credit Intermediation (pt).
6159@	Miscellaneous Business Credit Institutions		
	Finance Leasing	52222	Sales Finance and Finance Leasing.
	Trade Banks	522293	International Trade Financing (pt).
	All Other	522299	All Other Non-Depository Credit Intermediation (pt).
6162@	Mortgage Bankers and Loan Correspondents		
	Mortgage Bankers and Originators	522292	Real Estate Credit.
	Mortgage Servicing	52239	Other Activities Related to Credit Intermediation (pt).
6163	Loan Brokers	52231	Mortgage and Other Loan Brokers.
6211@	Security Brokers, Dealers, and Flotation Companies		
	Security Dealers and Underwriters	52311	Investment Banking and Securities Dealing (pt).
	Security Brokers	52312	Securities Brokerage.
	Dealers, Except Securities and Commodities	52391	Miscellaneous Intermediation (pt.)
	Other	523999	Miscellaneous Financial Investment Activities (pt.)
6221@	Commodity Contracts Brokers and Dealers		
	Commodity Dealers	52313	Commodity Contracts Dealing (pt).
	Commodity Brokers	52314	Commodity Brokerage (pt).
6231	Security and Commodity Exchanges	52321	Securities and Commodity Exchanges.
6282@	Investment Advice		
	Portfolio Managers	52392	Portfolio Management (pt).
	Other	52393	Investment Advice (pt).
6289@	Services Allied With the Exchange of Securities or Commodities, NEC		
	Securities Custodians	523991	Trust, Fiduciary, and Custody Activities (pt).
	Other	523999	Miscellaneous Financial Investment Activities (pt).
6311@	Life Insurance		
	Life Insurers-Direct	52411	Direct Life Insurance Carriers.
	Reinsurance Carriers, Life	52413	Reinsurance Carriers (pt).
6321@	Accident and Health Insurance		
	Health and Medical Insurers-Direct	524122	Health and Medical Insurance Carriers (pt).
	Self Insurers	52523	Insurance and Other Employee Benefit Funds (pt).
	Reinsurance Carriers, Accident and Health	52413	Reinsurance Carriers (pt).
6324@	Hospital and Medical Service Plans		
	Health and Medical Insurers-Direct	524122	Health and Medical Insurance Carriers (pt).
	Self Insurers	52523	Insurance and Other Employee Benefit Funds (pt).
	Reinsurance Carriers, Health and Medical	52413	Reinsurance Carriers (pt).
6331@	Fire, Marine, and Casualty Insurance		
	Fire, Marine, and Casualty Insurers-Direct	524121	Property and Casualty Insurance Carriers (pt).
	Self Insurers	52523	Insurance and Other Employee Benefit Funds (pt).
	Reinsurance Carriers, Fire, Marine, and Casualty	52413	Reinsurance Carriers (pt).
6351@	Surety Insurance		
	Financial Responsibility Insurers-Direct	524121	Property and Casualty Insurance Carriers (pt).
	Reinsurance Carriers, Financial Responsibility	52413	Reinsurance Carriers (pt).
6361@	Title Insurance		
	Title Insurers-Direct	524123	Title Insurance Carriers (pt).
	Reinsurance Carriers, Title	52413	Reinsurance Carriers (pt).
6371@	Pension, Health, and Welfare Funds		
	Managers	52392	Portfolio Management.
	Administrators	524292	Third Party Administration for Insurance and Pension Funds (pt).
	Pension Funds	52521	Pension Funds (pt).
	Health and Welfare Funds	52522	Health and Welfare Funds (pt).
6399	Insurance Carriers, NEC	524129	Other Direct Non-Life Insurance Carriers.
6411@	Insurance Agents, Brokers, and Service		
	Insurance Agents and Brokers	52421	Insurance Agencies and Brokerages.
	Claim Adjusters	524291	Claims Adjusters.
	Claim Processors	524292	Third Party Administrators for Insurance and Pension Funds (pt).
	Other	524299	All Other Activities Related to Insurance.
6512	Operators of Nonresidential Buildings		
	Stadium and Arena Owners	71131	Promoters of Arts, Sports and Similar Events with Facilities (pt).
	Except Stadium and Arena Owners	53113	Lessors of Nonresidential Buildings, Except Miniwarehouses.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
6513@	Operators of Apartment Buildings	53111	Lessors of Residential Buildings and Dwellings (pt).
6514@	Operators of Dwellings Other Than Apartment Buildings	53111	Lessors of Residential Buildings and Dwellings (pt).
6515@	Operators of Residential Mobile Home Sites	53119	Lessors of Other Real Estate Property (pt).
6517@	Lessors of Railroad Property	53119	Lessors of Other Real Estate Property (pt).
6519@	Lessors of Real Property, NEC	53119	Lessors of Other Real Estate Property (pt).
6531@	Real Estate Agents and Managers		
	Real Estate Agents and Brokers	53122	Offices of Real Estate Agents and Brokers.
	Condominium and Cooperative Managers	531211	Condominium Management, Cooperative Housing, and Homeowners' Associations (pt).
	Residential Property Managers, Except Condominium and Cooperative.	531212	Other Residential Property Managers.
	Nonresidential Property Managers, Except Condominium and Cooperative.	531213	Other Nonresidential Property Managers.
	Real Estate Appraisers	53123	Offices of Real Estate Appraisers.
	Cemetery Management	81222	Cemeteries and Crematories (pt).
	Other	531299	All Other Activities Related to Real Estate.
6541	Title Abstract Offices	531291	Title Abstract Offices.
6552	Land Subdividers and Developers, Except Cemeteries	23611	Land Subdivision and Land Development.
6553@	Cemetery Subdividers and Developers	81222	Cemeteries and Crematories (pt).
6712	Offices of Bank Holding Companies	525111	Bank Holding Companies.
6719	Offices of Holding Companies, NEC	525119	Other Holding Companies.
6722	Management Investment Offices, Open-End	52591	Open-End Investment Funds.
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices.	52599	Other Financial Vehicles.
6732	Education, Religious, and Charitable Trusts	813211	Grantmaking Foundations.
6733@	Trusts, Except Educational, Religious, and Charitable		
	Managers	52392	Portfolio Management (pt).
	Administrators of Private Estates	523991	Trust, Fiduciary, and Custody Services (pt).
	Vacation Funds for Employees	52523	Insurance and Other Employee Benefit Funds (pt).
	Personal Trusts, Estates, and Agency Accounts	52592	Personal Trusts, Estates, and Agency Accounts (pt).
6792@	Oil Royalty Traders		
	Investors on Own Account	523999	Miscellaneous Financial Investment Activities (pt).
	Oil Royalty Trading Companies	53411	Lessors of Other Non-Financial Assets.
6794	Patent Owners and Lessors	53411	Lessors of Other Non-Financial Assets.
6798	Real Estate Investment Trusts	52593	Mortgage Investment Funds.
6799@	Investors, NEC		
	Venture Capital Companies	52391	Miscellaneous Intermediation (pt).
	Pool Operators	52392	Portfolio Management (pt).
	Other	523999	Miscellaneous Financial Investment Activities (pt).
7011	Hotels and Motels		
	Hotels and Motels, except Casino Hotels	72111	Hotels and Motels, except Casino Hotels (pt).
	Casino Hotels	72112	Casino Hotels.
	Bed and Breakfast Inns	721191	Bed and Breakfast Inns.
	Other	721199	All Other Traveler Accommodations.
7021	Rooming and Boarding Houses	72122	Rooming and Boarding Houses (pt).
7032	Sporting and Recreational Camps	721211	Sporting and Recreation Camps.
7033	Recreational Vehicle Parks and Campsites	721212	Recreational Vehicle Parks and Campgrounds.
7041@	Organization Hotels and Lodging Houses, on Membership Basis		
	Organization Hotels	72111	Hotels and Motels, except Casino Hotels (pt).
	Other	72122	Rooming and Boarding Houses (pt).
7211	Power Laundries, Family and Commercial	812321	Laundries, Family and Commercial.
7212	Garment Pressing, and Agents for Laundries	812391	Garment Pressing and Agents for Laundries.
7213@	Linen Supply	812331	Linen Supply (pt.).
7215	Coin-Operated Laundry and Drycleaning	81231	Coin-Operated Laundries and Drycleaning.
7216	Drycleaning Plants, Except Rug Cleaning	812322	Drycleaning Plants.
7217	Carpet and Upholstery Cleaning	57164	Carpet and Upholstery Cleaning Services.
7218	Industrial Launderers	812332	Industrial Launderers.
7219@	Laundry and Garment Services, NEC		
	Diaper Service	812331	Linen Supply (pt.).
	Clothing Alteration and Repair	81149	Other Personal or Household Goods Repair and Maintenance (pt).
	Except Diaper Service and Clothing Alteration and Repair.	812399	All Other Laundry Services.
7221	Photographic Studios, Portrait	561921	Photographic Studios, Portrait.
7231@	Beauty Shops		
	Beauty Shops and Salons	812112	Beauty Salons.
	Manicure and Pedicure Salons	812113	Nail Salons.
	Beauty and Cosmetology Schools	611511	Cosmetology and Barber Schools (pt).
7241	Barber Shops		
	Barber Shops	812111	Barber Shops.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Barber Colleges	611511	Cosmetology and Barber Schools (pt.)
7251	Shoe Repair Shops and Shoeshine Parlors	81143	Footwear and Leather Goods Repair (pt).
7261	Funeral Services and Crematories		
	Funeral Homes	81221	Funeral Homes.
	Except Funeral Homes	81222	Cemeteries and Crematories (pt.).
7291	Tax Return Preparation Services	561221	Tax Preparation Services.
7299@	Miscellaneous Personal Services, NEC		
	Locker Rental, Except Cold Storage	533299	All Other Rental and Leasing of Consumer Goods (pt).
	Diet and Weight Reducing Centers	812191	Diet and Weight Reducing Centers.
	Formal Wear and Costume Rental	53322	Rental of Formal Wear and Costumes.
	Personal Care Services	812199	Other Personal Care Services.
	All Other Miscellaneous Personal Services, NEC	81299	Other Miscellaneous Personal Services.
7311	Advertising Agencies	56181	Advertising Agencies.
7312	Outdoor Advertising Services	56185	Display Advertising (pt.).
7313	Radio, Television, and Publishers' Advertising	56184	Media Representatives.
7319	Advertising, NEC		
	Aerial Advertising When Combined With a Variety of Aircraft-based Services.	48122	Nonscheduled Specialty Air Transportation (pt).
	Media Buying Services	56183	Media Buying Agencies.
	Display Advertising, Except Outdoor	56185	Display Advertising (pt.).
	Advertising Materials Distributor	56187	Advertising Material Distributors.
	Other	56189	Other Services Related to Advertising (pt.).
7322	Adjustment and Collection. Services.		
	Collection Services	57134	Collection agencies.
	Adjustment Bureaus	571391	Repossession Services (pt).
7323	Credit Reporting Services	57135	Credit Bureaus.
7331	Direct Mail Advertising Services	56186	Direct Mail Advertising.
7334@	Photocopying and Duplicating Services	571331	Photocopying and Duplicating Services (pt).
7335	Commercial Photography		
	Aerial Photography When Combined With a Variety of Aircraft-based Services.	48122	Nonscheduled Specialty Air Transportation (pt).
	Except When Combined With a Variety of Aircraft-based Services.	561922	Commercial Photography.
7336	Commercial Art and Graphic Design	56143	Graphic Design Services (pt.).
7338	Secretarial and Court Reporting Services		
	Secretarial Services	57131	Document Preparation Services.
	Court Reporting Services	571392	Court Reporting and Stenotype Services.
7342	Disinfecting and Pest Control Services		
	Disinfecting Services	57162	Janitorial Services (pt).
	Exterminating and Pest Control Services	57161	Exterminating and Pest Control Services.
7349	Building Cleaning and Maintenance Services, NEC	57162	Janitorial Services (pt).
7352@	Medical Equipment Rental and Leasing		
	Home Health Furniture and Equipment Rental and Leasing.	533291	Rental and Leasing of Home Health Furniture and Equipment.
	Medical Machinery Rental and Leasing	53339	Rental and Leasing of Other Machinery and Equipment (pt).
7353@	Heavy Construction Equipment Rental and Leasing		
	With Operator	23899	All Other Special Trade Contractors (pt).
	Without Operator	533312	Rental and Leasing of Heavy Construction, Mining and Forestry Machinery and Equipment (pt).
7359@	Equipment Rental and Leasing, NEC		
	Consumer Electronics and Appliances Rental and Leasing.	533211	Rental of Consumer Electronics and Appliances.
	Home and Garden Tools and Equipment Rental and Leasing.	533212	Rental and Leasing of Home and Garden Equipment.
	Residential Furniture, Party Supplies, and All Other Miscellaneous Consumer Goods Rental and Leasing.	533299	All Other Rental and Leasing of Consumer Goods (pt).
	Oilfield and Well Drilling Machinery and Equipment Rental and Leasing.	533312	Rental and Leasing of Heavy Construction, Mining and Forestry Rental and Leasing Machinery and Equipment (pt).
	Airplane Rental and Leasing	533311	Rental and Leasing of Commercial Air, Rail, and Water Transportation Equipment (pt).
	Portable Toilet Rental	572992	Septic Tank and Related Services (pt).
	Office Machinery and Equipment Rental and Leasing	53332	Rental and Leasing of Office Machinery and Equipment (pt).
	Industrial Trucks Rental and Leasing	53339	Rental and Leasing of Other Leasing Machinery and Equipment (pt).
7361@	Employment Agencies		
	Executive Placing Services	561612	Human Resources Consulting (pt).
	Except Executive Placing Services	57121	Employment Placement Agencies (pt).
7363	Help Supply Services		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Temporary Help Supply	57123	Temporary Help Services.
	Employee Leasing Services	57122	Employee Leasing Services.
7371	Computer Programming Services	561511	Custom Computer Programming Services.
7372	Prepackaged Software		
	Software Publishing	51121	Software Publishing.
	Reproduction of Software	334611	Reproduction of Software.
7373	Computer Integrated Systems Design	561512	Systems Design Services (pt.).
7374	Computer Processing and Data Preparation and Processing Services.	51421	Data Processing.
7375	Information Retrieval Services	514191	On-Line Information Services.
7376	Computer Facilities Management Services	561513	Computer Facilities Management Services.
7377	Computer Rental and Leasing	53332	Rental and Leasing of Office Machinery and Equipment (pt).
7378	Computer Maintenance and Repair		
	Sales Locations Providing Supporting Repair Services as Major Source of Revenue.	44312	Computer and Software Stores (pt).
	All Other Repair and Maintenance	811312	Computer and Office Machine Repair and Maintenance (pt).
7379	Computer Related Services, NEC		
	Computer Systems Consultants	561512	Systems Design Services (pt.).
	Except Computer Systems Consultants	561519	Other Computer Systems Design and Related Services.
7381	Detective, Guard, and Armored Car Services		
	Detective Services	571511	Investigation Services.
	Guard Services	571512	Security Guards and Patrol Services.
	Armored Car Services	571513	Armored Car Services.
7382	Security Systems Services	571521	Security Systems Services, Except Locksmiths (pt).
7383	News Syndicates	51411	New Syndicates.
7384	Photofinishing Laboratories		
	Photofinishing Laboratories (Except One-Hour).	812921	Photo Finishing Laboratories, Except One-Hour.
	One-Hour Photofinishing	812922	One-Hour Photo Finishing.
7389	Business Services, NEC		
	Sound Recording Studios	51224	Sound Recording Studios.
	Audio Taping Services	51229	Other Sound Recording Industries (pt.).
	Post Office Contract Stations	49112	Contract Postal Operations, Excluding Bulk Mail Transportation.
	Process Services, Patent Agents, Notaries Public and Paralegal Services.	56119	Other Legal Services.
	Mapmaking Services	56136	Surveying and Mapping Services (pt.).
	Interior Design	56141	Interior Design Services.
	Industrial Design	56142	Industrial Design Services.
	Drafting Service	56133	Drafting Services.
	Fashion, Furniture and Other Design Services	561499	All Other Design Services.
	Translation and Interpretation Services	56193	Translation and Interpretation Services.
	Home and Building Inspection Services	56134	Building Inspection Services.
	Appraisers, Except Insurance and Real Estate, and Miscellaneous Professional, Scientific, and Technical Services.	56199	All Other Professional, Scientific and Technical Services.
	Agents and Brokers for Authors and Artists	71141	Agents and Managers for Artists, Athletes, and Other Entertainers (pt.).
	Telephone Answering Services	571321	Telephone Answering Services.
	Telemarketing Bureaus and Telephone Soliciting Services.	571322	Telemarketing Bureaus.
	Private Mail Centers and Mail Box Rental	571332	Private Mail Centers.
	Recovery and Repossess	571391	Repossession Services (pt).
	Packaging and Labeling Services	57191	Packaging and Labeling Services.
	Swimming Pool Cleaning and Maintenance	57169	Other Services to Dwellings and Buildings (pt).
	Hotel and Restaurant Reservation Services	571499	Other Travel Arrangement and Reservation Services.
	Convention and Trade Show Services	57192	Convention and Trade Show Organizers.
	Convention and Visitors Bureaus and Tourist Information Service.	571491	Convention and Visitors Bureaus.
	Credit Card Services	52232	Financial Transactions, Processing, Reserve and Clearing House Activities (pt).
	Administrative Support Services, Except Telephone Answering, Telemarketing Bureaus, Private Mail Centers, and Repossession Services.	571399	All Other Administrative Support Services.
	All Other Business Support Services	57199	Other Miscellaneous Support Services.
7513	Truck Rental and Leasing, Without Drivers	53312	Rental and Leasing of Trucks Without Drivers, Utility Trailers and Recreational Vehicles (pt).
7514	Passenger Car Rental	533111	Rental of Passenger Cars Without Drivers.
7515	Passenger Car Leasing	531112	Leasing of Passenger Cars Without Drivers (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
7519	Utility Trailer and Recreational Vehicle Rental	53312	Rental and Leasing of Trucks Without Drivers, Utility Trailers and Recreational Vehicles (pt).
7521	Automobile Parking	81293	Parking Lots and Garages.
7532	Top, Body, and Upholstery Repair Shops and Paint Shops.	811121	Automotive Body, Paint, and Upholstery Repair and Maintenance.
7533	Automotive Exhaust System Repair Shops	811112	Automotive Exhaust System Repair.
7534@	Tire Retreading and Repair Shops		
	Remanufacturing	326112	Tire Rebuilding.
	Repair	811199	All Other Auto Repair and Maintenance (pt).
7536	Automotive Glass Replacement Shops	811122	Automotive Glass Replacement Shops.
7537	Automotive Transmission Repair Shops	811113	Automotive Transmission Repair.
7538	General Automotive Repair Shops	811111	General Automotive Repair.
7539	Automotive Repair Shops, NEC	811119	Other Automotive Mechanical and Electrical Repair and Maintenance.
7542	Carwashes	811192	Car Washes.
7549@	Automotive Services, Except Repair and Carwashes		
	Lubricating Services, Automotive	811191	Automotive Oil Change, and Lubrication Shops.
	Towing	48841	Motor Vehicle Towing.
	Except Lubricating Services and Towing	811199	All Other Automotive Repair and Maintenance.
7622	Radio and Television Repair Shops		
	Stereo, TV, VCR, and Radio Repair	811311	Consumer Electronics Repair and Maintenance (pt).
	Telecommunication Equipment Repair	811313	Communication Equipment Repair and Maintenance (pt).
	Radio and TV Sales Locations Providing Supporting Repair Services As Major Source of Revenue.	443112	Radio, Television and Other Electronics Stores (pt.).
7623	Refrigeration and Air-Conditioning Services and Repair Shops		
	Refrigerator and A/C Sales Locations Providing Supporting Repair Service as Major Source of Revenue.	443111	Household Appliance Stores (pt.).
	Commercial Refrigerator Equipment Repair	811219	Other Industrial Machinery and Equipment Repair and Maintenance (pt).
	Except Commercial	811412	Appliance Repair and Maintenance (pt).
7629	Electrical and Electronic Repair Shops, NEC		
	Appliance Sales Locations Providing Supporting Repair Services As Major Source of Revenue.	443111	Household Appliance Stores (pt.).
	Business and Office Machine Repair, Electrical	811312	Computer and Office Machine Repair and Maintenance (pt).
	Telephone Set Repair	811313	Communication Equipment Repair and Maintenance (pt).
	Electrical Measuring Instrument Repair and Calibration, Medical Equipment Repair, Electrical.	811319	Other Electronic and Precision Equipment Repair and Maintenance (pt).
	Appliance Repair, Electrical; Washing Machine Repair; Electric Razor Repair.	811412	Appliance Repair and Maintenance (pt).
	Consumer Electronic Equipment Repair Except Computer, Radio, Television, Stereo, and VCR.	811311	Consumer Electronics Repair and Maintenance (pt).
7631@	Watch, Clock, and Jewelry Repair	81149	Other Personal or Household Goods Repair and Maintenance (pt).
7641	Reupholstery and Furniture Repair	81142	Reupholstery and Furniture Repair.
7692@	Welding Repair	81149	Other Personal or Household Goods Repair and Maintenance (pt).
7694@	Armature Rewinding Shops		
	Repair	811219	Other Industrial Machinery and Equipment Repair and Maintenance (pt).
	Remanufacturing	335312	Motor and Generator Manufacturing.
7699	Repair Shops and Related Services, NEC		
	Locksmith Shops	571522	Locksmiths.
	Cesspool Cleaning, Sewer Cleaning and Rodding	572992	Septic Tank and Related Services (pt).
	Furnace Ducts, Chimney and Gutter Cleaning Services	57169	Other Services to Dwellings and Buildings (pt).
	Ship Scaling	47839	Other Supporting Activities for Water Transportation (pt).
	Bicycle Sales Locations Providing Supporting Repair Services As Major Source of Revenue.	45111	Sporting Goods Stores (pt.).
	Other Non-Automotive Transportation Equipment	811211	Transportation Equipment Repair and Maintenance (pt).
	Industrial Machines and Equipment	811219	Other Industrial Machinery and Equipment Repair and Maintenance (pt).
	Farriers	11521	Support Activities for Animal Production.
	Typewriter Repair	811312	Computer and Office Machine Repair and Maintenance (pt).
	Dental Instrument Repair, Laboratory Instrument Repair, Medical Equipment and Other Electronic and Precision Equipment Repair, Except Typewriters.	811319	Other Electronic and Precision Equipment Repair and Maintenance (pt).
	Lawnmower Repair Shops, Sharpening and Repairing Knives, Saws and Tools.	811411	Home and Garden Equipment Repair and Maintenance (pt).

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Gas Appliance Repair Service, Sewing Machine Repair, Stove Repair Shops, and Other Non-Electrical Appliances.	811412	Appliance Repair and Maintenance.
	Leather Goods Repair Shops, Luggage Repair Shops, Pocketbook Repair Shops.	81143	Footwear and Leather Goods Repair (pt).
	Except Industrial, Electronic, Home and Garden, Appliance, Locksmith, and Leather Goods.	81149	Other Personal or Household Goods Repair and Maintenance.
7812	Motion Picture and Video Tape Production	51211	Motion Picture and Video Production.
7819	Services Allied to Motion Picture Production		
	Teleproduction and Post-Production Services	51213	Teleproduction and Other Post-Production Services.
	Casting Bureaus	57121	Employment Agencies (pt.).
	Wardrobe Rental (Motion Pictures)	53322	Rental of Formal Wear and Costumes (pt.).
	Rental of Motion Picture Equipment	53339	Rental and Leasing of Other Machinery and Equipment (pt.).
	Talent Payment Services	561223	Payroll Services (pt).
	Film Directors and Related Motion Picture Production Services, Independent.	71151	Independent Artists, Writers, and Performers (pt.).
	Reproduction of Video	334612	Prerecorded Compact Disk (Except Software), Tape, and Record Manufacturing (pt).
	All Other Services	51219	Other Motion Picture and Video Industries (pt.).
7822	Motion Picture and Video Tape Distribution		
	Prerecorded Video Tapes (Wholesaling of)	43199	Other Miscellaneous Durable Goods (pt).
	All Other	51212	Motion Picture and Video Distribution.
7829	Services Allied to Motion Picture Distribution	51219	Other Motion Picture and Video Industries (pt.).
7832	Motion Picture Theaters, Except Drive-Ins	512141	Motion Picture Theaters, Except Drive-In.
7833	Drive-In Motion Picture Theaters	512142	Drive-In Motion Picture Theaters.
7841	Video Tape Rental	53323	Rental of Video Tapes.
7911@	Dance Studios, Schools, and Halls		
	Dance Studios and Halls	71399	Other Recreation and Amusement Facilities.
	Dance Schools	61161	Fine Arts Schools (pt.).
7922@	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services		
	Casting Agencies	57121	Employment Placement Agencies (pt.).
	Theater and Opera Companies	71111	Theater Companies (pt.).
	Theatrical Agents	71141	Agents and Managers for Artists, Athletes and Other Entertainers (pt.).
	Ballet and Dance Companies	71112	Dance Companies.
	Theater Operators	71131	Promoters of Arts, Sports, and Similar Events with Facilities (pt.).
	Theatrical Promoters	71132	Promoters of Arts, Sports, and Similar Events without Facilities (pt.).
	Producers of Radio Programs	51229	Other Sound Recording Industries (pt.).
	Theatrical Equipment Rental	53339	Rental and Leasing of Other Machinery and Equipment (pt).
7929@	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups		
	Musical Groups and Artists, Orchestras	71113	Musical Groups and Artists.
	Actors and Actresses	71151	Independent Artists, Writers, and Performers (pt.).
	Except Musical Groups and Artists, Actors and Actresses.	71119	Other Performing Arts Companies (pt.).
7933	Bowling Centers	71315	Bowling Centers.
7941@	Professional Sports Clubs and Promoters		
	Professional Sports Clubs	711211	Sports Clubs.
	Sports Agents	71141	Agents and Managers for Artists, Athletes, and other Entertainers (pt.).
	Sports Promoters	71132	Promoters of Arts, Sports and Similar Events without Facilities (pt.).
	Stadium Operators	71131	Promoters of Arts, Sports, and Similar Events with Facilities (pt.).
	Except Sports Clubs, Stadium	711219	Other Spectator Sports (pt.) Operators, Sports Promoters, and Agents.
7948@	Racing, Including Track Operations		
	Racetracks	711212	Race Tracks.
	Racing, except Track Operators	711219	Other Spectator Sports (pt.).
7991@	Physical Fitness Facilities	71314	Recreational, Sports and Fitness Centers (pt.).
7992@	Public Golf Courses	71311	Golf Courses (pt.).
7993@	Coin Operated Amusement Devices		
	Except Gambling (Slot Machine) Operators	71322	Amusement Arcades and Other Coin Operated Amusement Devices.
	Gambling (Slot Machine) Operators	71339	Other Gambling Industries (pt.).
7996	Amusement Parks	71321	Amusement and Theme Parks.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
7997@	Membership Sports and Recreation Clubs		
	Membership Aviation Clubs When Combined With a Variety of Aircraft-based Services.	48122	Nonscheduled Specialty Air Transportation (pt).
	Golf Clubs	71311	Golf Courses (pt.).
	Recreation Clubs with Facilities	71314	Recreational, Sports and Fitness Centers (pt.).
	Recreation Clubs Without Facilities	71399	Other Recreation and Amusement Services (pt.).
7999	Amusement and Recreation Services, NEC		
	Ticket Agencies	571499	All Other Travel Arrangement and Reservation Services (pt).
	Aerial Tramways, Scenic and Amusement	48791	Scenic and Sightseeing Transportation, Other.
	Scenic Railroads	48711	Scenic and Sightseeing Transportation, Land.
	Circus Companies	71119	Other Performing Arts Companies (pt.).
	Professional Athletes	711219	Other Spectator Sports (pt.).
	Skiing Facilities	71312	Skiing Facilities.
	Nonmembership Recreation Facilities	71314	Recreational, Sports and Fitness Centers (pt.).
	Casinos, except Hotel Casinos	71331	Casinos, except Hotel Casinos.
	Lottery, Bingo, Bookie and Other Gaming Operations	71339	Other Gambling Industries (pt.).
	Caverns and Miscellaneous Commercial Parks	71214	Nature Parks and Similar Institutions (pt.).
	Sports Instruction	61162	Athletic Instruction.
	Sports Equipment Rental	533292	Rental of Recreation Goods.
	Scenic Transport Operations, Land	48711	Scenic and Sightseeing Transportation, Land.
	Charter Fishing	48721	Scenic and Sightseeing Transportation, Water.
	Amusement and Recreation Services, NEC (except circuses, professional athletes, caverns, and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities).	71399	Other Recreation and Amusement Services (pt.).
8011@	Offices and Clinics of Doctors of Medicine		
	Surgical and Emergency Centers	621493	Ambulatory Surgical and Freestanding Emergency Centers.
	HMO Medical Centers	621491	HMO Medical Centers.
	Offices of Physicians, Mental Health Specialists	621112	Offices of Physicians, Mental Health Specialists (pt.).
	Other Offices of Physicians	621111	Offices of Physicians, Except Mental Health Specialists (pt.).
8021	Offices and Clinics of Dentists	62121	Offices of Dentists.
8031@	Offices and Clinics of Doctors of Osteopathy		
	Offices of Doctors of Osteopathy, Except Mental Health.	621111	Offices of Physicians, Except Mental Health Specialists (pt.)
	Offices of Doctors of Osteopathy, Mental Health, Specialists.	621112	Offices of Physicians, Mental Health Specialists (pt.)
8041	Offices and Clinics of Chiropractors	62131	Offices of Chiropractors
8042	Offices and Clinics of Optometrists	62132	Offices of Optometrists
8043	Offices and Clinics of Podiatrists	621351	Offices of Podiatrists
8049	Offices and Clinics of Health Practitioners, NEC		
	Mental Health Practitioners, Except Physicians	62133	Offices of Mental Health Practitioners, Except Physicians
	Offices of Physical, Occupational, and Speech Therapists and Audiologists.	62134	Offices of Physicial, Occupational, and Speech Therapists and Audiologists
	Other Offices of Health Practitioners	621359	Miscellaneous Health Practitioners
8051	Skilled Nursing Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt.)
	All Other Skilled Nursing Care Facilities	62311	Nursing Care Facilities (pt.)
8052	Intermediate Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt.)
	Mental Retardation Facilities	62321	Mental Retardation Facilities.
	Other Intermediate Care Facilities	62311	Nursing Care Facilites (pt.)
8059@	Nursing and Personal Care Facilities, NEC		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt.)
	Other Nursing and Personal Care Facilities	62311	Nursing Care Facilities (pt.)
8062@	General Medical and Surgical Hospitals	62211	General Medical and Surgical Hospitals (pt.)
8063@	Psychiatric Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt.)
8069@	Speciality Hospitals, Except Psychiatric		
	Children's Hospitals	62211	General Medical and Surgical Hospitals (pt.)
	Psychiatric and Substance Abuse Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt.)
	Other Specialty Hospitals	62231	Specialty Hospitals, Except Psychiatric and Substance Abuse Hospitals
8071	Medical Laboratories		
	Diagnostic Imaging Centers	621512	Diagnostic Imaging Centers
	Medical Laboratories, Except Diagnostic Imaging Centers.	621511	Medical Laboratories
8072	Dental Laboratories	339116	Dental Laboratories
8082	Home Health Care Services		

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
	Home Health Agencies	621611	Home Health Agencies
	Home Health Care Services, Except Home Health Agencies.	621619	Other Home Health Care Services
8092	Kidney Dialysis Centers	621492	Kidney Dialysis Centers
8093	Specialty Outpatient Facilities, NEC		
	Family Planning Centers	62141	Family Planning Centers
	Outpatient Mental Health Facilities	62142	Outpatient Mental Health Facilities
	Other Specialty Outpatient Facilities	621499	All Other Outpatient Care Facilities
8099@	Health and Allied Services, NEC		
	Blood and Organ Banks	621991	Blood and Organ Banks
	Medical artists	56143	Graphic Design Services (pt.)
	Medical Photography	561922	Commercial Photography (pt.)
	Childbirth Preparation Classes	62141	Family Planning Centers
	Other Health and Allied Services	621999	All Other Miscellaneous Health Care Services
8111	Legal Services	56111	Offices of Lawyers
8211	Elementary and Secondary Schools	61111	Elementary and Secondary Schools
8221	Colleges, Universities, and Professional Schools	61131	Colleges, Universities, and Professional Schools
8222	Junior Colleges and Technical Institutes	61121	Junior Colleges
8231	Libraries	51412	Libraries and Archives
8243	Data Processing Schools	61142	Computer Training Schools
8244	Business and Secretarial Schools	61141	Business and Secretarial Schools
8249@	Vocational Schools, NEC		
	Vocational Apprenticeship Training	611514	Apprenticeship Training
	Truck Drivers Schools	611692	Automobile Driving Schools (pt.)
	Aviation Schools	611513	Aviation and Flight Training (pt.)
	Vocational Schools	611512	Vocational and Technical Schools
	Other Technical and Trade Schools	611519	Other Technical and Trade Schools
8299@	Schools and Educational Services, NEC		
	Flight Schools When Combined With a Variety of Aircraft-based Services.	48122	Nonscheduled Specialty Air Transportation (pt.)
	Flying Instruction	611513	Aviation and Flight Training (pt.).
	Automobile Driving Instruction	611692	Automobile Driving Schools (pt.).
	Curriculum Development, Educational	61171	Educational Support Services (pt.).
	Exam Preparation and Tutoring	611691	Exam Preparation and Tutoring.
	Art Schools	61161	Fine Arts Schools (pt.).
	Language Schools	61163	Language Schools.
	Personal Development Schools	61143	Professional and Management Development Training Schools (pt.).
	All Other Schools and Educational Services, NEC	611699	All Other Miscellaneous Schools and Instruction.
8322	Individual and Family Social Services		
	Child and Youth Services	62411	Child and Youth Services.
	Community Food Services	62421	Community Food Services.
	Community Housing Services, Except Temporary Shelters.	624229	Other Community Housing Services.
	Emergency and Other Relief Services	62423	Emergency and Other Relief Services.
	Services for the Elderly and Persons with Disabilities	62412	Services for the Elderly and Persons with Disabilities.
	Temporary Shelter	624221	Temporary Shelter.
	Parole Offices and Probation Offices	93215	Parole Offices and Probation Offices.
	Other Individual and Family Services	62419	Other Individual and Family Services.
8331	Job Training and Vocational Rehabilitation Services	62431	Job Training and Vocational Rehabilitation Services.
8351	Child Day-care Services	62441	Child Day Care Services.
8361	Residential Care		
	Homes for the Elderly	623312	Homes for the Elderly.
	Mental Health and Substance Abuse Facilities	62322	Mental Health and Substance Abuse Facilities.
	Other Residential Care	62391	Other Residential Care Facilities.
8399	Social Services, NEC		
	Voluntary Health Organizations	813212	Voluntary Health Organizations.
	Grantmaking and Giving	813219	Other Grantmaking and Giving Services.
	Human Rights Organizations	813311	Human Rights Organizations.
	Environment, Conservation, and Wildlife Organizations	813312	Environment, Conservation and Wildlife Organizations (pt.).
	All Other Social Advocacy Organizations	813319	Other Social Advocacy Organizations.
8412	Museums and Art Galleries		
	Museums	71211	Museums.
	Historical and Heritage Sites	71212	Historical Sites.
8422	Arboreta and Botanical or Zoological Gardens		
	Botanical and Zoological Gardens	71213	Botanical and Zoological Gardens.
	Nature Parks and Reserves	71214	Nature Parks and Similar Institutions (pt.).
8611	Business Associations	81391	Business Associations (pt.).
8621	Professional Membership Organizations	81392	Professional Membership Organizations.
8631	Labor Unions and Similar Labor Organizations	81393	Labor Unions and Similar Labor Organizations.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
8641	Civic, Social, and Fraternal Associations		
	With Restaurants and Bars	813411	Civic and Social Associations with Restaurants and Bars (pt.).
	Without Restaurants and Bars	813412	Civic and Social Associations without Restaurants and Bars (pt.).
	Homeowner and Condominium Associations, Except Property Management.	531211	Condominium Management, Cooperative Housing, and Homeowners' Associations (pt).
8651	Political Organizations	81394	Political Organizations.
8661	Religious Organizations	81311	Religious Organizations.
8699@	Membership Organizations, NEC		
	Farm Granges With Restaurants and Bars	813411	Civic and Social Organizations with Restaurants and Bars.
	Farm Granges Without Restaurants and Bars	813412	Civic and Social Associations without Restaurants and Bars (pt.).
	Farm Business Organizations	81391	Business Associations (pt.).
	Environmental, Conservation, and Wildlife Organizations.	813312	Environment, Conservation, and Wildlife Organizations (pt.).
	Except Farm Granges, Farm Business Organizations and Environmental Conservation and Wildlife Organizations.	81399	All Other Membership Organizations.
8711	Engineering Services	56132	Engineering Services.
8712	Architectural Services	56131	Architectural Services.
8713	Surveying Services		
	Geophysical Surveying Services	56137	Geophysical Surveying Services
	Aerial Surveying When Combined With a Variety of Aircraft-based Services.	48122	Nonscheduled Specialty Air Transportation (pt.).
	Except Geophysical Surveying	56136	Surveying and Mapping Services (pt.).
8721@	Accounting, Auditing, and Bookkeeping Services		
	Certified Public Accountants	561211	Offices of Certified Public Accountants.
	Accountants, Except Certified Public Accountants	561212	Offices of Accountants, except Certified.
	Bookkeeping and Billing Services	561222	Bookkeeping and Billing Services.
	Payroll Services	561223	Payroll Services.
8731@	Commercial Physical and Biological Research		
	Physical and Engineering Sciences	56171	Research and Development in the Physical and Engineering Sciences (pt.).
	Life Sciences	56172	Research and Development in the Life Sciences (pt).
8732@	Commercial Economic, Sociological, and Educational Research		
	Social Sciences and Humanities	56173	Research and Development in the Social Sciences and Humanities (pt.).
	Market Research and Opinion Research	56191	Market Research and Public Opinion Polling.
8733@	Noncommercial Research Organizations		
	Physical and Engineering Services	56171	Research and Development in the Physical and Engineering Sciences (pt.).
	Life Sciences	56172	Research and Development in the Life Sciences (pt.).
	Social Sciences and Humanities	56173	Research and Development in the Social Sciences and Humanities (pt.).
8734	Testing Laboratories		
	Veterinary Testing Labs	81291	Pet Care Services, Except Veterinary Services (pt.).
	Except Veterinary Testing Labs	56138	Testing Laboratories.
8741@	Management Services		
	Except Construction Management Services	57111	Management Services.
	Construction Management Services	23	Included in Construction Sector By Type of Construction.
8742@	Management Consulting Services		
	Administrative and General Management Consulting	561611	Administrative and General Management Consulting.
	Human Resources and Personnel Management Consulting.	561612	Human Resources Consulting (pt.).
	Marketing Consulting	561613	Marketing Consulting.
	Manufacturing Management, Physical Distribution, and Site Location Consulting.	561614	Process, Physical, Distribution, and Logistics Consulting.
8743	Public Relations Services	56182	Public Relations Services.
8744	Facilities Support Management Services	57113	Facilities Support Management Services.
8748@	Business Consulting Services, NEC		
	Educational Test Development and Evaluation Services, Educational Testing, and Educational Consulting.	61171	Educational Support Services (pt.).
	Planners of Land Use	561491	Land Use Planners Services.
	Safety Consulting	561619	Other Management Consulting Services.
	Economic Consultants, Radio Consultants, Traffic Consultants.	56169	Other Scientific and Technical Consulting Services (pt.).
8811	Private Households	81411	Private Households.

TABLE 2.—1987 SIC COMPARED TO 1997 NAICS—Continued

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
8999@	Services, NEC		
	Authors, Artists, and Related Technical Services, Independent.	71151	Independent Artists, Writers, and Performers (pt.).
	Music Royalties, Sheet and Record	51221	Record Production Companies.
	Nuclear Consultants, Consulting Geologists, Consulting Consulting Physicists, and Actuarial Consulting.	56169	Other Scientific and Technical Services (pt.).
	Music Publishing	51223	Music Publishing.
	Environmental Consultants	56162	Environmental Consulting.
9111	Executive Offices	93111	Executive Offices.
9121	Legislative Bodies	93112	Legislative Bodies.
9131	Executive and Legislative Offices, Combined	93114	Executive and Legislative Offices, Combined.
9199	General Government, NEC	93119	All Other General Government.
9211	Courts	93211	Courts.
9221	Police Protection	93212	Police Protection.
9222	Legal Counsel and Prosecution	93213	Legal Counsel and Prosecution.
9223	Correctional Institutions	93214	Correctional Institutions.
9224	Fire Protection	93216	Fire Protection.
9229	Public Order and Safety, NEC	93219	All Other Public Order and Safety.
9311	Public Finance, Taxation, and Monetary Policy	93113	Public Finance, Taxation, and Monetary Policy.
9411	Administration of Educational Programs	93311	Administration of Educational Programs.
9431	Administration of Public Health Programs	93312	Administration of Public Health Programs.
9441	Administration of Social, Human Resource and Income Maintenance Programs.	93313	Administration of Social, Human Resource and Income Maintenance Programs.
9451	Administration of Veteran's Affairs, Except Health Insurance.	93314	Administration of Veteran's Affairs, Except Health Insurance.
9511	Air and Water Resource and Solid Waste Management	93411	Air and Water Resource and Solid Waste Management.
9512	Land, Mineral, Wildlife, and Forest Conservation	93412	Land, Mineral, Wildlife, and Forest Conservation.
9531	Administration of Housing Programs	93511	Administration of Housing Programs.
9532	Administration of Urban Planning and Community and Rural Development.	93512	Administration of Urban Planning and Community and Rural Development.
9611	Administration of General Economic Programs	93611	Administration of General Economic Programs.
9621	Regulations and Administration of Transportation Programs		
	Air Traffic Control	488111	Air Traffic Control (pt).
	Except Air Traffic Control	93612	Regulation and Administration of Transportation Programs.
9631	Regulation and Administration of Communications, Electric, Gas, and Gas, and Other Utilities.	93613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities.
9641	Regulation of Agricultural Marketing and Commodity	93614	Regulation of Agricultural Marketing and Commodity.
9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors.	93615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors.
9661	Space Research and Technology	93711	Space Research and Technology.
9711	National Security	93811	National Security.
9721	International Affairs	93812	International Affairs.
9999	Nonclassified Establishments	9999	Unclassified Establishments.

The abbreviation ''pt'' means ''part of''; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 industry. The abbreviation NEC is used for Not Elsewhere Classified.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

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Friday
July 5, 1996

Part IV

Department of Health and Human Services

Administration for Children and Families

Request for REACH Plans Under the Office of Community Services FY 1996 Low-Income Home Energy Assistance Program, Residential Energy Assistance Challenge Option (REACH) Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–96–08]

Request for REACH Plans Under the Office of Community Services FY 1996 Low-Income Home Energy Assistance Program, Residential Energy Assistance Challenge Option (REACH) Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of availability of funds and request for REACH plans under the Office of Community Services Residential Energy Assistance Challenge Option (REACH) Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces that, based on availability of funds, REACH Plans will be accepted for grants pursuant to the Secretary's authority under Section 2607B(b) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq.

CLOSING DATES: The closing date and time for receipt of REACH applications is 4:30 p.m., eastern time zone, on September 3, 1996. Applications received after 4:30 p.m. on that day will be classified as late. Postmarks and other similar documents do not establish receipt of an application. Detailed application submission instructions including the addresses where applications must be received are found in Part VI B, Application Submission.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Administration for Children and Families, Division of Community Demonstration Programs, 370 L'Enfant Promenade, S.W., Fifth Floor, Washington, D. C. 20447. Attention: Richard Saul—(202) 401–9341; Anna Guidery—(202) 401–5318.

This Notice is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a *Guide to Accessing and Downloading* is available from Ms. Minnie Landry at (202) 401–5309.

The Catalog of Federal Domestic Assistance number for this program is 93.568.

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Part I. Introduction

A. Legislative Authority

Section 2607B(b) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq., authorizes the creation of the Residential Energy Assistance Challenge Option (REACH) Program, to be funded for the first time in FY 1996. REACH is designed to provide services through local community-based agencies to help LIHEAP eligible households reduce their energy vulnerability.

The Secretary is authorized to make incentive grants to States, Tribes, Tribal Organizations, and certain Insular Areas that submit qualifying Plans, hereinafter referred to as REACH Plans, that are approved by the Secretary as REACH initiatives. Successful applicants are to use such grants for the costs of planning, implementing, and evaluating the initiative.

The Secretary must also reserve from any funds allocated under the REACH initiative, funds to make additional payments to REACH programs that (a) have energy efficiency education services plans that meet quality standards established by the Secretary in consultation with the Secretary of Energy; and (b) have the potential for being replicable model designs for other programs.

This Announcement is requesting competitive REACH Plans from eligible applicants which are consistent with the information, requirements, and program elements and review criteria outlined in Parts II, III, IV, and V, below.

B. Definition of Terms

For purposes of this Program Announcement, the following definitions apply [Definitions marked with an asterisk(*) are the definitions found in Section 2603 of the Low Income Home Energy Assistance Act, as amended, (42 U.S.C. 8622) and apply to the REACH Initiative]:

—*Budget Period:* The term ''budget period'' refers to the interval of time into which a multi-year period of assistance (project period) is usually divided for budgetary and funding purposes.

—*Community-based, nonprofit:* A corporation or association whose profits may not lawfully accrue to the benefit of any shareholder or individual, and whose goals, objectives and activities are established and carried out through a process involving the participation of residents of the community or local area being served, including low-income residents.

—*Community-Based Organization Recipient (CBO Recipient):* The Community-based nonprofit entity through which State REACH Project services shall be delivered in the applicant State under Priority Area 1.0.

—*Energy burden** means the expenditures of the household for home energy divided by the income of the household.

—*Energy crisis** means weather-related and supply shortage emergencies and other household energy-related emergencies.

—*Highest home energy needs** means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.

—*Home energy** means a source of heating or cooling in residential dwellings.

—*Household** means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

—*Innovative project:* One that departs from or significantly modifies past program practices and tests (a) new approach(es).

—*Intervention:* Any planned activity within a project that is intended to produce changes in the target population or the environment, and can be formally evaluated.

—*Nonprofit Organization:* A corporation or association whose profits may not lawfully accrue to the benefit of any shareholder or individual (and through which REACH Project services may be delivered under Priority Area 2.0).

—*Outcome evaluation:* An assessment of measured results designed to provide a valid determination of the net effects attributable to the intervention. An outcome evaluation will produce and interpret findings related to whether the intervention produced desirable changes and its potential for replicability. It should answer the question, ''Did this program work?''

—*Poverty level** means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State. (See Attachment A.)

—*Process evaluation:* Descriptive information that is gathered on the development and implementation of a program/intervention that may serve as a document for replicating the program elsewhere. The evaluation should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: ''How was the program carried out?'' In concert with the outcome evaluation, it should also help explain, ''Why did this program work/not work?''

—*Project period:* The term ''project period'' refers to the total time for which a project is approved for support, including any extensions.

—*Secretary** means the Secretary of Health and Human Services.

—*State** means each of the several States and the District of Columbia.

—*State median income** means the State median income promulgated by the Secretary in accordance with procedures established under section 2002(a)(6) of the Social Security Act (as such procedures were in effect on the day before the date of the enactment of this Act) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

C. Purpose

As described in the authorizing legislation, the purpose of the REACH Program is to—

(1) minimize health and safety risks that result from high energy burdens on low-income Americans;

(2) prevent homelessness as a result of inability to pay energy bills;

(3) increase efficiency of energy usage by low-income families; and

(4) target energy assistance to individuals who are most in need.

In keeping with this broad mandate, OCS will support a limited number of innovative Pilot Projects that seek to demonstrate the long term cost effectiveness of supplementing energy assistance payments with non-monetary benefits that can increase the ability of eligible households to meet energy costs and help them to achieve energy self-sufficiency.

Part II. Background Information

A. Program Priority Areas

The REACH Program will have two Priority Areas: Priority Area 1.0, for which eligible applicants are States, the District of Columbia and Puerto Rico; and Priority Area 2.0, for which eligible applicants are Tribes, Tribal Organizations, and certain Insular Areas which are LIHEAP grantees that use LIHEAP funds to implement a LIHEAP Program.

B. Project Periods and Budget Periods

(See Part I, B, Definition of Terms)

The Low Income Home Energy Assistance Act of 1981 authorizes a block grant program of which the REACH Program is a part, and to which 45 CFR Parts 74 and 92 and OMB Circulars do not apply. However, 45 CFR Part 96 does apply to REACH funds. Grantees must obligate REACH funds within the Fiscal Year following the Fiscal Year in which the REACH grant was awarded by OCS.

1. Project Periods. Project periods will be 36 months for all REACH projects under Priority Area 1.0 and for projects under Priority Area 2.0 when the applicant elects to delegate the project to a non-profit organization as described below.

States under Priority Area 1.0 and applicants under Priority Area 2.0 with thirty-six month Project Periods are encouraged to provide for completion of the planning and consummation of awards to sub-recipients within a time frame that will allow for adequate start-up and an implementation period of at least two years, followed by a phase-out period that will permit completion of the required evaluation under Priority Area 1.0 and reporting under Priority Area 2.0.

Project periods will be 12 months under Priority Area 2.0 where applicants elect to operate projects directly, as described below.

2. Budget Periods. Budget Periods for all REACH Projects in Priority Areas 1.0 and 2.0 will be twelve months (one year).

(a) In the case of projects under Priority Area 1.0, States will receive grants for the full amount of the three-year Project Period, and will award REACH funds to CBO Recipients for total project budgets covering the full Project Period as described above, and should solicit and/or design local projects accordingly. Applicants under Priority Area 1.0 may include in the REACH Initiative budget an amount up

ten percent (10%) of the total REACH grant for planning, administration, and coordinating costs at the State level, and for contracting with a third party evaluator as defined in Part IV–A, Element VI, below, and discussed in Part III–A.6., during the first project year (the first twelve month budget period) of the REACH Initiative. States may apply for continued funding for such costs for each of the second and third project years (budget periods) on a non-competitive basis, for an amount each year of up to two and one-half percent (2.5%) of the original grant, subject to the availability of funds, satisfactory progress of the grantee, and determination that this would be in the best interest of the government.

(b) In the case of REACH Projects under Priority Area 2.0, where applicants elect to operate REACH projects through non-profit organizations, grants awarded pursuant to this announcement will likewise be for the full amount of the three year Project Period, and applicants will in like manner award REACH funds to sub-recipients for total project budgets covering the full Project Period as described in the preceding paragraph (a). Such applicants may include up to five percent (5%) of the total REACH grant for planning, administration and coordinating costs of the first year, which may be continued for years two and three on the same terms as described in preceding paragraph (a).

(c) Where applicants under Priority Area 2.0 elect to operate REACH programs themselves, as described below, grants awarded pursuant to this announcement will be for 12-month (one year) Project and Budget Periods only.

C. Availability of Funds and Grant Amounts

The total amount expected to be available for REACH Initiative grants pursuant to this announcement is approximately $5,000,000. The Office of Community Services expects to award up to eight competitive grants under Priority Area 1.0 for General Pilot Projects of $500,000 to $1,500,000 each for the planning, implementation and evaluation of REACH Initiatives; but the total amount awarded under Priority Area 1.0 will not exceed $4,000,000, except as provided under Priority Area 2.0. OCS expects to award up to eight grants under Priority Area 2.0 for smaller Pilot Projects of $50,000 to $150,000 each to Indian Tribes and Tribal Organizations for a total of up to $400,000. Any funds not awarded under Priority Area 2.0 will be available for funding under Priority Area 1.0. Pursuant to the legislative mandate, an additional $600,000 has been reserved by the Secretary to make additional payments of up to $100,000 each to qualifying funded REACH Initiatives under Priority Area 1.0, and payments of up to $25,000 each under Priority Area 2.0, for implementation and evaluation of Energy Efficiency Education Services Plans which meet the Quality Standards established in consultation with the Secretary of Energy which are set forth in Part V of this Announcement, and have the potential for being replicable model designs for other programs. Where any funded REACH Initiatives do not qualify for such payments, available reserved funds may be distributed among the applicants that do qualify, at the discretion of OCS and through negotiation with the qualifying applicants.

D. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income individuals and families who are eligible for LIHEAP benefits under the applicant's LIHEAP program, pursuant to Section 2605(b)(2) of the Low Income Home Energy Assistance Act of 1981, as amended. However, not all LIHEAP recipients and/or eligible households must be provided REACH services. Applicants may target a portion of the LIHEAP-eligible population for REACH services.

Attachment A to this announcement is an excerpt from the Poverty Income Guidelines currently in effect. Annual revisions of these guidelines are normally published in the Federal Register in February or early March of each year. Where relevant to REACH eligibility criteria, grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They also are accessible on the OCS Electronic Bulletin Board for reading and/or downloading. (See **FOR FURTHER INFORMATION** at beginning of this announcement.)

Consistent with the legislative purpose of the REACH Initiative ''to target energy assistance to individuals who are most in need'', projects proposed for funding under this Announcement may further restrict eligibility to lower income individuals and families within the LIHEAP eligible universe.

Under the authorizing legislation applicants may designate all or part of the State or all or part of the client population as a focus of its REACH Initiative. The Secretary has determined that in order best to compare the cost effective outcomes of REACH benefits with those of LIHEAP payment benefits alone, the geographic/client focus of the REACH program should be one which results in REACH expenditures bearing a reasonable relationship to the LIHEAP payment benefits available to the same target population. For example, if the target population of the REACH Project were to receive REACH benefits costing ten times the amounts they received in LIHEAP payments, it would be difficult to compare the long-term cost effectiveness of these benefits with those of LIHEAP payments alone. Consequently, REACH Project expenditures should not be less than one-half nor more than twice the amount of LIHEAP benefits paid within the REACH service area to REACH eligible households over two years, under the current appropriation. In other words, if LIHEAP financial assistance to a REACH target population totals $100,000 over two years, the applicant should plan to provide between $50,000 and $200,000 in REACH services to that target population area.

E. Prohibition and Restrictions on the Use of Funds

The use of funds for the purchase or construction of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the funded program are allowable when specifically approved by ACF in writing. However, in keeping with the legislative mandate to include in REACH Project activities energy related residential repair and energy efficiency improvements, such activities will not be considered to be violative of these prohibitions or restrictions.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the

development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

F. Multiple Submittals and Multiple Grants

Due to the limited number of grants that will be made under this program, only one application from any one eligible applicant will be funded by OCS from FY 1996 REACH funds. (This does not preclude applicants under Priority Area 1.0 from including more than one local REACH Project/CBO Recipient in their REACH plans.)

G. Maintenance of Effort

The activities funded under this program announcement must be in addition to, and not in substitution for, activities previously carried on without Federal assistance. Also, the benefits and services provided eligible participants in the REACH Project must be provided in addition to and in coordination with benefit payments and services provided under the applicant's regular LIHEAP Program. A signed certificate of Maintenance of Effort must be included with the application (see Attachment J).

Part III. Reach Priority Areas and Program Requirements

A. Program Requirements for Priority Area 1.0

1. Eligible Applicants for Priority Area 1.0. Eligible applicants for these grants under Priority Area 1.0 are the fifty States, the District of Columbia and Puerto Rico. They must deliver REACH services, in one or more specific projects, through community-based, nonprofit organizations, hereinafter referred to as CBO Recipients, by awarding grants to or entering into contracts with such CBO Recipients for the purpose of providing such services and payments directly to individuals eligible for benefits. If a State makes LIHEAP payments directly to eligible individuals or energy suppliers, the State must enter into contract(s) with such CBO Recipients to administer such programs, including (i) determining eligibility, (ii) providing outreach services, and (iii) providing benefits other than payments.

In awarding grants or entering into contracts to carry out its REACH Initiative, the State must give priority to eligible entities, as defined in Section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)) except where significant geographic portions of the State are not served by such entities, that (1) have a record of successfully providing services under the Low-Income Home Energy Assistance Program (as determined by DHHS), and (2) receive funds under the Department of Energy's Low Income Weatherization Assistance Program. The State may not require any such entity to operate a REACH Project.

2. Program Focus.

The goals of a Priority 1.0 funded REACH Plan over the project period must include:

(1) a reduction in energy costs of participating low-income households;

(2) an increase in the regularity of home energy bill payments by participating households; and

(3) an increase in energy vendor contributions towards reducing energy burdens of eligible households.

As noted above, so that the cost effective outcomes of REACH benefits may best be compared with those of LIHEAP benefits alone, an Applicant, in designating the REACH service area or segment of the eligible population to be served by the proposed REACH Plan, should seek to define (an) area(s) or population segment(s) whose allocation under the LIHEAP program bears a reasonable relationship to the resources available to the REACH Project. That is, REACH Project expenditures should not be less than one-half or more than twice the amount of LIHEAP benefits paid within the REACH service area to REACH eligible households over two years, under the current appropriation. In this regard, the applicant should consider the totality of resources that will be available to support the REACH Project's implementation and the level of benefit and/or services reasonably required to achieve the Project's goals and objectives. This will be a function, in part, of the specific interventions that will go to make up the ''benefits and services'' in the particular Project design; and an objective of every REACH Plan should be to measure the success of such interventions in achieving more cost-effective long-term outcomes than energy payment benefits alone. Thus OCS is interested in REACH Plans that propose testing innovative approaches to helping low-income families achieve energy self-sufficiency, and ultimate independence from energy assistance payments.

3. Economic Development Strategy and Mobilization of Resources. OCS is interested in having Applicants approach the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency. Thus applicants should include in their REACH Plan an explanation of how the proposed project(s) will be integrated with and support a larger economic development strategy within the target community or communities.

REACH grantees are not required to match REACH grant awards with either cash or in-kind contributions of goods and services. However, in keeping with this holistic integration of REACH Projects within the community, they are expected to be closely coordinated with other public and private sector programs involved with community revitalization, housing rehabilitation and weatherization, and family development; and OCS will give favorable consideration in the application review process to applicants who mobilize third-party cash and/or in-kind contributions for direct use in the REACH Project. Even though there is no matching requirement for the REACH Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part IV, Element III.)

If the REACH service area or portion thereof is covered by a comprehensive community-based strategic plan, such as that required for applying for Empowerment Zone/-Enterprise Community (EZ/EC) status, to achieve both economic and human development in an integrated manner, applicants should document how they and/or the designated CBO Recipient(s) were involved in the preparation and implementation of the plan, and how the proposed REACH project(s) will support the goals of that plan. (See Part IV-A, Element VIII.)

4. Scope of the Priority Area 1.0 REACH Plan. A State may submit a REACH Plan which proposes one local REACH Project to be implemented by one CBO Recipient; it may submit a Plan in which the same project is proposed to be implemented in several localities by separate CBO Recipients; or it may submit a plan proposing two or more different and distinct Projects, each to be implemented through a separate CBO Recipient. Where a State proposes different and distinct REACH Projects to be carried out by more than one CBO Recipient, the REACH Plan should include, for each of these projects/CBO Recipients, a separate narrative section, no more than ten pages in length, covering Element I (with three Sub-Elements), explaining the project Theory, Design and Plan of the proposed project, as explained in Part IV, and designated as Segment One

of the Project Narrative; and a Budget Justification as described in Element II, covering Project Budget Appropriateness. As set forth in Part IV, ''Segment One'' of the Project Narrative should describe the concept of the proposed REACH Project, describing the goals or outcomes that the project seeks to achieve; the needs of the target population that the project seeks to address, and the assumptions about how those needs can be met; and the activities or interventions that the project will undertake to meet the needs and achieve the goals and outcomes of the project.

Where a REACH Plan proposes only one distinct project, to be implemented either in one locality or in several, by either one or more than one CBO Recipient, then the Plan need include only one Segment One narrative.

Each Priority Area 1.0 REACH Plan must also include the designation, in accordance with the priorities described in Section A. 1., above, of the CBO Recipient(s) through which the proposed project(s) will be implemented. With each Priority Area 1.0 REACH Plan there must be included a Letter of Agreement from each designated CBO Recipient subscribing to the project concept as described in the appropriate Segment One narrative section of the Plan and agreeing to operate the REACH project as proposed. The Letter of Agreement must also commit the CBO Recipient(s) to a process of Low-Income Citizen Participation in the establishment of the local REACH Project, as described in Section A. 5., below.

The REACH Plan must include a description of the methodology the State and local agencies will use to determine—

(i) which households will receive one or more forms of benefits under the REACH Initiative;

(ii) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

(iii) the amount of such benefits required to meet the goals of the program.

The Plan must also include a method to be used for targeting REACH nonmonetary benefits. It should further provide that the State will award the grant(s) or contract(s) for implementation of the REACH Project within a time frame that will allow for adequate start-up and an implementation period of at least two years, followed by a phase-out period that will permit completion of the required evaluation. (See Part II–B. 1., Project Periods, and Part IV–A, Sub-Element I(c))

Finally, the REACH Plan must include:

(A) a brief description of the crisis and emergency assistance activities the State will undertake that are designed to:

(1) discourage family energy crises;

(2) encourage responsible vendor and consumer behavior; and

(3) provide only financial incentives that encourage household payment; (See Part IV–A, Sub-Element I(b))

(B) a brief description of the activities the State will undertake to—

(1) provide incentives for recipients of assistance to pay home energy costs; and

(2) provide incentives to vendors to help reduce the energy burdens of recipients of assistance.

(C) an assurance that, subject to the methodologies described above, each CBO Recipient will provide a variety of services and benefits, including—

(i) payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under Section 2605(b) for home energy costs;

(ii) energy efficiency education;

(iii) residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

(iv) family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

(v) negotiation with home energy suppliers on behalf of households eligible for REACH services and benefits. (See Part IV–A, Sub-Element I(b)). Project activities should be closely coordinated with the applicant's LIHEAP Program and with Empowerment Zone/-Enterprise Community Initiatives where applicable; (See Part IV–A, Element VIII) and,

(D) an assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements. (See Part IV–A, Element VII.)

5. Low-Income Citizen Participation. To be considered for funding a REACH Plan must include provision for the systematic and regularized solicitation, by the designated CBO Recipient(s), of the views of eligible low-income individuals in the community; and for the assurance, by means of an advisory board or similar process, that such organization(s) will be responsive to such views in the development and implementation of the local Project. Assurance for compliance with these requirements may be accomplished through the Letter of Agreement required in Paragraph 4, above. (See Part IV–A, Sub-Element I(a))

6. Third-Party Project Evaluation. REACH Plans must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in achieving stated project goals related to reducing participant home energy costs and increasing the ability of participants to meet such costs independent of payment subsidy, including, specifically, the performance goals set out above at the opening of Section A. 2., Program Focus, above.

The Plan should include a well thought through outline of an evaluation plan for the proposed project(s). The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether and why/why not the project activities or interventions achieved the expected outcomes and goals of the project(s) (the Outcome Evaluation). (See Part I, Section B for definitions of Process and Outcome Evaluations.) Applicants may propose a single evaluation for their overall REACH Initiative, or separate evaluations for individual projects, as and where appropriate.

In addition to the performance goals mentioned above, the outline should include a description of the indicators that will be used by the State (and the CBO Recipient(s)) to measure whether the goals have been achieved.

The evaluation must be conducted by an independent, third-party evaluator, i.e., a person with recognized evaluation skills who has experience with social programs and is organizationally distinct from, and not under the control of, the applicant or the local organization(s) implementing the REACH Project. It is important that each successful applicant have a third-party evaluator selected, and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available.

7. Consistency With LIHEAP Legislation. To be funded, a REACH Plan must include a demonstration that

it is consistent with the following Sections of the Low Income Home Energy Assistance Act, as amended: Section 2603; paragraphs (2), (3), (4), (5), (7), (10), (11), (12), (13), and (14) of Section 2605(b); Subsections (d), (e), (f), (g), (h), (i), and (j) of Section 2605; and Section 2606.

The definitions in Section 2603 have been incorporated into the definitions in Part I, Section B of this Announcement and will apply to the REACH Initiative. The rest of the cited sections, subsections and paragraphs are set forth in Attachment K to this Announcement.

8. Dissemination of Project Results. REACH Plans should include provision for disseminating the results of the project. Applicants may budget up to $5,000 for dissemination purposes.

B. Special Program Requirements for Priority Area 2.0

1. Eligible Applicants for Priority Area 2.0. Eligible Applicants for these grants under Priority Area 2.0 are Indian Tribes and Tribal Organizations which are current grantees of the LIHEAP Program; and the Insular Areas of American Samoa, Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and Guam, provided they are LIHEAP grantees that use LIHEAP funds to implement a LIHEAP Program. In accordance with 45 CFR 96.42(a), the Secretary has determined that inasmuch as these applicants are generally representative of and close to their communities, which with few exceptions are relatively small; and inasmuch as they generally implement their LIHEAP programs and other social service programs directly; that therefore the requirements of Section 2607B(e)(2)(A) and (B) are not applicable to eligible applicants under Priority Area 2.0; and that consequently REACH grantees under Priority Area 2.0 may implement REACH programs directly, without delegation to CBO Recipients. However, as explained in Part II B, Budget Periods, above, applicants electing to implement their REACH Projects directly will be limited to projects of one year duration (Project and Budget Periods of one year only).

Applicants under Priority Area 2.0 may also elect to operate their projects through grants or contracts to non-profit organizations. However, in such cases the non-profit organization does not have to be a community based organization (CBO) as defined Part I. If they choose to operate their projects through non-profit organizations, the Project and Budget Periods applicable to Priority Area 1.0 will apply.

2. Program Focus. The Program Focus for Priority Area 2.0 REACH projects should be the same as for Priority Area 1.0, described above in Section A.2.

3. Economic Development Strategy. Although OCS is interested in having applicants under Priority Area 2.0 approach the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency, applicants under Priority Area 2.0 will not be required to include a specific Economic Development Strategy in their REACH Plan.

4. Scope of the Priority Area 2.0 REACH Plan. The Priority 2.0 REACH Plan should describe the concept of the proposed REACH Project, describing the goals or outcomes that the project seeks to achieve; the needs of the target population that the project seeks to address, and the assumptions about how those needs can be met; and the activities or interventions that the project will undertake to meet the needs and achieve the goals and outcomes of the project.

The REACH Plan must include a description of the methodology the State and local agencies will use to determine—

(i) which households will receive one or more forms of benefits under the REACH Initiative;

(ii) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

(iii) the amount of such benefits required to meet the goals of the program;

The Plan must also include a method to be used for targeting REACH nonmonetary benefits.

Finally, the REACH Plan must include:

(A) a brief description of the crisis and emergency assistance activities the applicant will undertake that are designed to:

(1) discourage family energy crises;

(2) encourage responsible vendor and consumer behavior; and

(3) provide only financial incentives that encourage household payment;

(B) a brief description of the activities the applicant will undertake to—

(1) provide incentives for recipients of assistance to pay home energy costs; and

(2) provide incentives to vendors to help reduce the energy burdens of recipients of assistance.

(C) an assurance that, subject to the methodologies described above, each applicant or nonprofit sub-recipient, as appropriate, will provide a variety of services and benefits, including at least two of the following—

(i) payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under Section 2605(b) for home energy costs;

(ii) energy efficiency education;

(iii) residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

(iv) family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

(v) negotiation with home energy suppliers on behalf of households eligible for REACH services and benefits. (See Part IV–B, Sub-Element I(b)).

Given the size of most tribal and small insular territory LIHEAP programs, the Secretary has determined, in accordance with 45 CFR 96.42(a), that REACH applications from tribal and small insular area LIHEAP grantees under Priority Area 2.0 do not have to provide all of the above services.

Project activities should be closely coordinated with the applicant's LIHEAP Program.

and

(D) an assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements. (See Part IV–B, Element VI)

5. Low-Income Citizen Participation. To be considered for funding, a REACH Plan must include provision for the systematic and regularized solicitation by the grantee of the views of eligible low-income individuals in the community. (See Part IV–B, Sub-Element I(a))

6. Third-Party Project Evaluation. As noted above, the Priority Area 1.0 requirement for a third party evaluation does not apply out to Priority Area 2.0 grantees. However, Priority Area 2.0 REACH Plans must describe the indicators they will use to measure whether their performance goals have been achieved, and they must submit a report summarizing these results at the end of the grant period.

7. Consistency With LIHEAP Legislation. To be funded, a REACH Plan under Priority Area 2.0 must include a demonstration that it is consistent with the following Sections of the Low Income Home Energy Assistance Act, as amended: Section 2603; paragraphs (2), (3), (4), (5), (7),

(10), (11), (12), (13), and (14) of Section 2605(b); Subsections (d), (e), (f), (g), (h), (i), and (j) of Section 2605; and Section 2606.

The definitions in Section 2603 have been incorporated into the definitions in Part I, Section B of this Announcement and will apply to the REACH Initiative. The rest of the cited sections, subsections and paragraphs are set forth in Attachment K to this Announcement.

8. Dissemination of Project Results. Applicants under Priority 2.0 may budget up to $1,000 for dissemination of project results.

Part IV. Reach Plan Elements and Review Criteria

The ultimate goals of the projects to be funded under the REACH Program are to realize significant improvements in the ability of eligible households to meet energy costs and pay home energy bills with regularity, through innovative project interventions which will reduce energy costs and increase the capability of low-income participants to pay; in the case of REACH Projects under Priority Area 1.0, to evaluate the effectiveness of these interventions and of the project design through which they were implemented; and thus to make possible the replication of successful programs. OCS intends to make the awards of all the above grants on the basis of brief, concise REACH Plans. The elements and format of these plans, along with the review criteria that will be used to judge them, will be outlined in this Part.

The competitive review of REACH Plans will be based on the degree to which applicants:

(1) incorporate each of the Elements and Sub-Elements below into their plans, so as to describe convincingly a project that will develop and implement new and innovative approaches to address critical energy needs or problems of the poor;

(2) include the required assurances and program activities set forth in Part III, above; and,

(3) in the case of applications under Priority Area 1.0; test and evaluate such approaches and activities so as to make possible replication of a successful program.

A. Program Elements, Review and Assessment Criteria for REACH Plans under Priority Area 1.0

This Section has been divided into Two Segments: Segment One made up of Element I (with three Sub-Elements) which should be completed for each different and distinct local REACH Project to be carried out by a CBO Recipient, and must not be more than ten pages in length; and Segment Two made up of Elements II through VIII, which should be completed only once for the applicant's entire REACH Initiative, and must not be more than twenty pages in length. As explained in Part III–A. 4., Scope of REACH Plan, a State may submit a REACH Plan which proposes one local REACH Project to be implemented by one CBO Recipient; it may submit a Plan in which the same project is proposed to be implemented in several localities by separate CBO Recipients; or it may submit a plan proposing two or more different and distinct Projects, each to be implemented through a separate CBO Recipient. Where a State proposes different and distinct REACH Projects to be carried out by more than one CBO Recipient, the REACH Plan should include, for each of these projects/CBO Recipients a separate Segment One Narrative; where a REACH Plan proposes only one distinct project, to be implemented either in one locality or in several, by either one or more than one CBO Recipient, then the Plan need include only one Segment One narrative.

In order to simplify the application preparation and review process, OCS seeks to keep applications cogent and brief. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that each Narrative Segment One cannot be more than ten pages in length, and that the single Project Narrative Segment Two, covering Program Elements II through VIII for the overall REACH Initiative, cannot be more than 20 pages in length.

REACH Plans with project narratives (excluding appendices) that exceed these limits will not be reviewed for funding. Project narratives should be on letter-sized pages in 12 c.p.i. type or equivalent on a single side. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and project description upon the guidelines set forth for each of the project elements.

In reviewing REACH Plans for funding, where Plans include more than one narrative Segment One describing a local Project/CBO Recipient, OCS reserves the right to consider each such Project/CBO Recipient on its own merits, and where review scores and other considerations merit, may choose not to fund a particular local Project/CBO Recipient. In such a case, OCS will negotiate an appropriate budget for the applicant's overall REACH Initiative.

Segment One

[Priority Area 1.0 applicants to complete for each local Project/CBO Recipient; each completed Segment (1) limited to ten pages in length]

Element I. Project Theory, Design, and Plan. (Total Weight of 0–30 points in application review.) OCS seeks to learn from the application why and how the project as proposed is expected to lead to significant improvements in individual and family energy self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a logic model or framework is described, that suggests a way to present a project so as to show the logic of the cause-effect relations between project activities and project results. Applicants don't have to use the exact logic model language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Applicants are reminded that Part III–A, Section 4, Scope of the REACH Plan under Priority Area 1.0, includes a discussion of those activities which should be included in this element of their REACH Plan.

Sub-Element I(a). Description of Target Population, Analysis of Need, and Project Assumptions. (Weight of 0–10 points in application review.) The logic model begins with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built: the assumptions about the needs of the client population to be served; about the current services available to those clients, and where and how they fail to meet their needs; about why the services or interventions proposed in the REACH Plan are appropriate, and will meet those needs; and about the impact the proposed interventions will have on the clients.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the REACH Plan the applicant should precisely

identify the target population to be served. The geographic area to be impacted should then be briefly highlighted, selectively emphasizing the socioeconomic/poverty and other data that are relevant to the project design. This sub-element to the REACH Plan, might include, for instance, data on the building type, condition, and age of low-income housing; the predominant fuel used for home heating; the number and percent of utility shut-offs among low-income energy consumers; climatic conditions; unemployment statistics for the area; the price of fuels; and the demand management services offered by local utilities.

The needs of this target population should then be clearly defined, and the applicant should state its underlying assumptions about how these needs can be addressed by the proposed project.

Applicants must include in this element a brief description of the provision that has been and will be made for the systematic and regular solicitation by CBO Recipients of the views of eligible low-income individuals in the community on the design and implementation of the REACH Project, and the mechanism(s) that will be employed by the applicant and the CBO Recipients to assure their responsiveness to such views in the establishment of the REACH Project. (See Part III-A, Section 5.)

It is suggested that applicants use no more than 4 pages for this narrative sub-element.

Sub-Element I(b). Project Strategy and Design Framework: Interventions, Outcomes, and Goals. (Weight of 0–10 points in application review.) To continue with the ''logic model'':

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to attainment of the final project goals.

So in this sub-element the applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in the previous sub-element. And it should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a survey of home furnaces for safety and efficiency might be expected to result in identification of repairs and retrofits that could increase efficiency and lower costs. Or providing energy efficiency education to families in the low income community might be expected to result in modifying behavior of family members so that they would dress more warmly to be more comfortable at a lower thermostat setting, would not leave doors or windows open, would hang curtains over windows, and would use hot water more conservatively, by, for example, installing low-flow shower heads, etc.

At the next level are the intermediate outcomes which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as repairs and education. Intermediate project outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the home energy survey program could be expected to lead to intermediate outcomes of furnace retrofits and home weatherization. The acquisition of energy conservation skills, coupled with the availability of energy saving devices such as efficient light bulbs or low-flow shower heads, could result in the actual installation of these devices in the home.

Finally, the REACH Plan should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: energy efficient and healthy housing, energy consumption at a level which is affordable for the household, a successful community fuel cooperative that lowers fuel prices, new demand management services, or whatever they may be.

Applicants don't have to use the exact ''logic model'' terminology described above, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to achievement of the project goals of greater energy self-sufficiency.

It is suggested that applicants use no more than 4 pages for this design section of the REACH Plan.

Sub-Element I(c), Work Plan. (Weight of 0–10 points in the application review.) Once the project strategy and design framework are established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources, time, staff, and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the Budget Justification included in the application following the budget forms. (See Element V.)

Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

It is suggested that the applicant use no more than 2 pages for this Sub-Element.

Segment Two

[Priority Area 1.0 applicants to complete once for overall REACH Plan; Segment Two limited to twenty pages in length.]

Element II. Organizational Experience and Capability. (Weight of 0 to 10 points in application review.) Applicants should cite the capability and relevant experience of each of the community-based organizations (CBO Recipients) designated to implement the proposed REACH Project in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. Applicants should explain how in their designation they have given priority, as required by the authorizing legislation, to eligible entities described in Section 673 of the Community Services Block Grant Act which have a record of successfully providing service under LIHEAP and which receive funds from the Department of Energy's Weatherization Assistance Program. (See Part III–A, Section I, Eligible Applicants for Priority Area 1.0) The applicant should also cite each such organization's experience in collaborative programming and operations which involve evaluations and data collection. The designated CBO Recipient(s)' capabilities and status in these regards should be established by a letter of certification to that effect by the Applicant, and by the State CSBG Director or the State LIHEAP or Weatherization Program administering agency(ies) where they are not the same. While the proposed project management team will be identified and described elsewhere in the application, applicants

should identify agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

It is suggested that applicants use no more than 4 pages for this element.

Element III. Economic Development Strategies, Mobilization of Resources, and Project Innovations. (Weight of 0 to 10 points in the application review.) Applicants should in this Element explain how its REACH Initiative approaches the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency. This should include an explanation of how the proposed project(s) will be integrated with and support a larger economic development strategy within the target community or communities.

Thus REACH Initiatives are expected to be closely coordinated with other public and private sector programs involved with community revitalization, housing rehabilitation and weatherization, and family development; and OCS will give favorable consideration in the application review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in the REACH Project. Even though there is no matching requirement for the REACH Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part III–A, Section 4(C))

Within the context of this holistic and coordinated plan, applicant should highlight the ways in which the proposed project represents a new and innovative approach or approaches to provide for greater energy self-sufficiency of the poor and/or to deal with particularly critical energy needs or problems of the poor that are common to a number of communities. Innovation can be in the characteristics of the target population to be served, or the needs to be addressed; the kinds of activities, or interventions, that will be carried out; the ways in which they will be carried out; new and different combinations of activities or interventions that will be implemented; or in the settings in which the project will function: e.g., new and innovative types of technologies or institutions in which the project will function.

It is suggested that applicants use no more than 4 pages for this element.

Element IV. Project Management and Organization. (Weight of 0 to 10 points in the application review.) While the experience of agency leadership is important to project success, the caliber of day-to-day project management is critical. Applicants should identify the State Project Coordinator, and key staff including the Project Director(s) in CBO Recipient(s) that will be implementing the project at the local level, and any other staff they feel are especially important to the success of the project, and include resumes as an Appendix to the REACH Plan. Where the staff have not been identified, a position description should be included in the Appendix. The REACH Plan should describe the staff's relevant capabilities for managing this multi-faceted project, with emphasis placed on successful management experience in directing both on-budget and leveraged resources to create community conditions capable of supporting effective interventions and transforming lives. REACH Plans will be assessed, for this element, on the relevant experience, capabilities, commitment and planned level of effort of the Project Coordinator and key staff members as described in the Plan.

Applicants should also, in this section, describe (and diagram if necessary) the organization of the project. The relationships among the State and the participating community-based organizations, the Project Coordinator and the key officials in those organizations, and any other partnering organizations should be depicted, and the project-related responsibilities of these key actors should be made clear.

This element should include a brief description of the crisis and emergency assistance activities the applicant will undertake that are designed to: (1) provide incentives for recipients of assistance to pay home energy costs, and (2) provide incentives to vendors to help reduce the energy burdens of recipients of assistance. (See Part III–A, Section 4 (B))

It is suggested that applicants use no more than 4 pages for this element (not counting the resumes and/or position descriptions, which should be in an Appendix).

Element V. Project Budget Appropriateness. (Weight of 0–10 points in the application review.) Applicants will be required to submit Federal forms with their REACH Plans to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (SF 424A). In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Justification, or explanatory budget information. This Budget Justification is not considered a part of the Project Narrative, and does not count as within the limitation on number of pages; but rather is to be included in the application following the budget forms. Each Applicant must submit one SF 424, one SF 424A, and one Budget Justification in its own name, which cover the entire REACH Initiative, and one SF 424A and Budget Justification for each local CBO Recipient.

The Budget Narrative should briefly explain the adequacy of the Federal funds and other mobilized resources to accomplish project purposes, should explain the source and nature of mobilized resources, and should identify and briefly explain any imbalances between the level of activities undertaken and project funds expended.

Applicants under Priority Area 1.0 may include in the REACH Initiative budget an amount up ten percent (10%) of the total REACH grant for planning, administration, and coordinating costs at the State level during the first project year of the REACH Initiative, and for contracting with a third-party evaluator as defined under Element VI, below, and discussed in Part III–A.6.

Applicants should include funds in the project budget for travel by State and CBO Recipient Project Directors and Chief Evaluators to attend two national evaluation workshops in Washington, D.C., and are encouraged to seek agreement from CBO Recipients to attend also. (See Part IX–B, Attendance at Workshops.)

Note: None of the costs of providing service or benefits under the REACH Program shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq.

Element VI. Project Evaluation. (Weight of 0–15 points in the application review.) Sound evaluations are essential to the REACH Program. Applicants are required to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether and why/why not the project activities, or interventions, achieved the expected outcomes and goals of the project (the Outcome Evaluation). (See Part I, Section B for definitions of process and outcome evaluation, and Part III–A.6. for a discussion of evaluation requirements.)

OCS plans to engage an Evaluation Technical Assistance Contractor which will assist REACH Priority Area 1.0 Grantees and CBO Recipients in the finalization of Evaluation Plans, the establishment of data collection systems, the preparation of Evaluation Reports, and other aspects of project evaluation so as to assure that project evaluations will provide accurate and useful information to those interested in replication.

Applicants are not being asked to submit a complete and final Evaluation Plan as part of their REACH Plan; but they must include:

(1) A well thought through outline of an evaluation plan which identifies the principal cause-and-effect relationships to be tested, and which demonstrates the applicant's understanding of the role and purpose of both Process and Outcome Evaluations (see previous paragraph);

(2) the identity and qualifications of the proposed third party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster energy self-sufficiency in low income populations; and

(3) a commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the first six-months of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, and the hypotheses, or expected cause-effect relationships to be tested in the project: that the proposed project activities, or interventions, will address those needs in ways that will lead to the achievement of the project goals of energy self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, the CBO Recipient(s), and the community.

For these reasons, the evaluator that the applicant expects to work with should be involved—at least briefly but substantively—in the development of the project design and proposal.

It is suggested that applicants use no more than 4 pages for this element, plus the Resume or Position Description for the evaluator, which should be in an Appendix.

Element VII. Significant and Beneficial Impact. (Weight of 0–10 points in the application review.) OCS seeks, with the REACH Program, to support innovative approaches that will create significant benefits for low-income energy consumers, their families, and their communities. Accordingly, it intends to make grants that have a strong likelihood of creating beneficial impacts both within the project communities and, through wide dissemination of useful project results and findings, in other communities facing similar challenges.

The proposed project is expected to lead to tangible achievements toward reducing household energy burdens on the poor and increasing their ability to pay for the household energy they need. As a result, the project should lead to verifiable reductions in homelessness and health and safety risks associated with high energy costs that are beyond the resources of low income families in the targeted community(ies). Applicants should summarize, in this section, the beneficial impacts that they propose to make in that community, their expectations for the continuation of those benefits beyond the project's life, and the kind of information that they expect to share with OCS and the social service/community development fields from their pilot project. Project proposals will be assessed, for this element, on the likely value of the project to the target community over time—given the proposed outcomes and the likelihood that they will be realized—and to the larger community of LIHEAP and CSBG grantees across the nation.

Applicants should include in this element a brief assurance that no regulated utility covered by the REACH Plan will be required to act in a manner that is inconsistent with applicable regulatory requirements. (See Part III–A, Section 4(D))

It is suggested that applicants use no more than 2 pages for this element. The score for this element will be based to some extent on the coherence and feasibility of the entire REACH Plan.

Element VIII. Community Empowerment Consideration. (Weight of 0–5 points in application review.) Special consideration will be given to applicants whose proposed REACH Projects will be located in areas which are characterized by severe poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and a high incidence of violence, gang activity, crime, or drug use. If such is the case, applicants should document that they or their proposed CBO Recipients were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner and how the proposed project supports the goal(s) of that plan. (See Part III–A, Section 3 and Section 4(C))

It is suggested that applicants use no more than 2 pages for this element.

B. Special Program Elements, Review and Assessment Criteria for REACH Plans Under Priority Area 2.0

In order to simplify the application preparation and review process, OCS seeks to keep grant applications cogent and brief. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that Project Narratives must not be more than twenty (20) pages in length.

REACH Plans with project narratives (excluding appendices) that exceed these limits will not be reviewed for funding. Project narratives should be on letter-sized pages in 12 c.p.i. type or equivalent on a single side. Applicants should prepare and assemble their project description using the following outline of required REACH Plan elements. They should, furthermore, build their project concept, plans, and project description upon the guidelines set forth for each of the elements.

Element I. Project Theory, Design, and Plan. (Total Weight of 0 to 50 points in application review.) OCS seeks to learn from the application why and how the project as proposed is expected to lead to significant improvements in individual and family energy self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a logic model, or framework, is described that suggests a way to present a project so as to show the logic of the cause-effect relations between project activities and project results. Applicants don't have to use the exact logic model language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Applicants under Priority Area 2.0 are not required to carry out REACH activities through community-based organizations (CBO Recipients), but may implement REACH Plans directly themselves. However, as explained in Part II B, Budget Periods, above, applicants electing to implement their REACH Projects directly will be limited to projects of one year duration (Project and Budget Periods of one year only). Applicants under Priority Area 2.0 may also elect to operate their projects through grants or contracts to nonprofit organizations. In such cases the nonprofit organization does not have to be a community based organization (CBO) as defined in Part I. If they choose to operate their projects through nonprofit organizations, the Project and Budget Periods applicable to Priority Area 1.0 will apply. Note also that applicants under Priority 2.0 need only include two of the REACH Program activities listed in Part III B. Section 4.(C) under Scope of the Priority Area 2.0 REACH Plan.

Sub-Element I(a). Description of Target Population, Analysis of Need, and Project Assumptions. (Weight of 0 to 20 points in application review.) This sub-element should be the same as under Priority Area 1.0 and it suggested that it take no more than 4 pages of the Project Narrative.

Sub-Element I(b). Project Strategy and Design Framework: Interventions, Outcomes, and Goals. (Weight of 0 to 20 points in application review.) This sub-element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 4 pages of the Project Narrative.

Sub-Element I(c), Work Plan. (Weight of 0 to 10 points in the application review.) This sub-element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 2 pages of the Project Narrative.

Element II. Organizational Experience and Capability. (Weight of 0 to 10 points in application review.) Applicants should cite their capability and relevant experience in developing and operating programs which deal with energy and poverty problems similar to those to be addressed by the proposed project. While the proposed project management team will be identified and described below in Element III, applicants should identify organization executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

It is suggested that applicants use no more than 2 pages for this element.

Element III. Project Management and Organization. (Weight of 0 to 10 points in the application review.) While the experience of agency leadership is important to project success, the caliber of day-to-day project management is critical. Applicants should identify key staff, including the Project Director, who will be implementing the project, and any other staff they feel are especially important to the success of the project. Resumes should be included as an Appendix to the REACH Plan. Where the staff have not been identified, a position description should be included in the Appendix. REACH Plans will be assessed, for this element, on the relevant experience, capabilities, commitment and planned level of effort to the project of the Project Director and key staff members as described in the Plan.

It is suggested that applicants use no more than 2 pages for this element (plus the resumes and/or position descriptions which should be in an Appendix).

Element IV. Project Budget Appropriateness. (Weight of 0–10 points in the application review.) Applicants will be required to submit Federal forms with their REACH Plans to provide basic applicant and project information (SF–424) and information about how Federal and other project funds will be used (SF–424A). Where Priority Area 2.0 applicants elect to have REACH services provided through a nonprofit organization sub-recipient, an SF–424A must be completed for the applicant, and another SF–424A must be completed for the nonprofit organization sub-recipient. The sub-recipient SF–424A should include budget information for all three years of the project period, divided into three separate budget periods as explained in Part VII and the instructions accompanying the forms. In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Justification, or explanatory budget information for the first 12-month budget period. Again, where a Priority Area 2.0 applicant elects to implement the REACH project services through a nonprofit sub-recipient, a Budget Justification should be included for the sub-recipient, covering the full three year project budget. The Budget Justification is not considered a part of the Project Narrative, and does not count as part of the twenty page limit; but rather is included in the application following the budget forms.

The Budget Justification should briefly explain the adequacy of the Federal funds and other mobilized resources to accomplish project purposes, should explain the source and nature of any mobilized resources.

Applicants should include funds in the project budget for travel by the Project Director to attend an orientation workshop in Washington, D.C.

Note: None of the costs of providing service or benefits under the REACH Program shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq.

Element V. Project Evaluation. (Weight of 0–10 points in the application review.) As noted in Part III above, REACH grantees under Priority Area 2.0 will not be required to carry out a third-party evaluation of their projects. However, their REACH Plans must describe the indicators they will use to measure whether the performance goals of their project have been achieved. It is suggested that applicant use no more than 1 page for this Element.

Element VI. Significant and Beneficial Impact. (Weight of 0–10 points in the application review.) This element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 3 pages of the Application Narrative.

Part V—Quality Standards for Energy Efficiency Education Services Plans

The REACH authorizing legislation includes a section which describes a separate Energy Efficiency Education Services program which applicants may include in their REACH Initiative. Those applicants which include this program in their REACH Initiative must submit separate Energy Efficiency Education Services Plans; and if they meet the quality standards set forth below, and have the potential for being replicable model designs for other programs, are eligible for supplemental payments as outlined in Part II C. This Part sets out the Quality Standards for Energy Efficiency Education Services Plans.

Section 2607B(b)(2) of the REACH authorizing legislation provides for a reservation of funds by the Secretary to make additional payments to qualifying REACH applicants that have energy efficiency education services plans that meet quality standards established in consultation with the Secretary of Energy, and have the potential for being replicable model designs for other programs. This Part sets forth those standards. As explained in Part II above, those REACH applicants under Priority Area 1.0 that are selected to receive

REACH grants will receive an additional amount of $100,000, and REACH applicants under Priority Area 2.0 will receive an additional $25,000, for the same project and budget periods, if they have submitted, as an appendix to their REACH Plans, an Energy Efficiency Education (EEE) Services Plan that has the potential for being a replicable model design for other programs and meets the following quality standards:

A. Purpose

The Plan should state the purpose of the proposed EEE services, which should be generally consistent with and include the following goals: to assist low-income households, especially those with high energy burdens, to use energy efficiently, to reduce their home energy costs, to minimize health and safety risks within their homes, to increase their indoor comfort level, and to maintain their highest possible level of energy self-sufficiency.

B. Target Population

The Plan should identify a target population for the EEE services which includes LIHEAP recipients and at least some who have received services from the Weatherization Assistance Program, and others consistent with the stated purpose and goals of the program. The Plan should include assurances that the defined target population is one from whom data on energy usage and costs before and after receipt of the EEE services will be available, and should indicate how such data will be collected.

C. Needs Assessment and Project Design Process

The Plan should describe the needs assessment that the applicant has undertaken or will undertake among the target population, how the design of the EEE Services Program will respond to the needs identified (see Paragraph D, below), and how the EEE Program priorities have been or will be determined by the needs discovered.

D. Service Delivery

(1) Setting: the Plan should indicate the setting or settings—in-office instruction (e.g. at time of initial intake), workshops, or home visits—in which the EEE services will be delivered, and project the number of service units planned for each.

(2) Services: the Plan should identify the types of services to be delivered and how—whether by lecture, audio-visual media, written materials, hands on experience, or other educational technique—and if appropriate, which services are planned to be used in which of the identified settings.

E. Relation of Services to Changes, of Changes to Outcomes, and of Outcomes to Goals (a ''Logic Model'')

The Plan should briefly set forth each EEE service planned (*e.g.* a demonstration and discussion on air infiltration), the immediate changes expected to result from delivery of the service (*e.g.* a better understanding of the importance of stopping infiltration), the intermediate outcomes expected to result from the changes (*e.g.* action by the client to stop infiltration in their dwelling), and how these changes and outcomes will be expected to achieve a program goal (*e.g.* reduced energy consumption). This exact terminology need not be used in the Plan; but the cause and effect relationship between the EEE services planned and the achievement of program goals should be briefly explained. This part of the Plan should include provision for the development with EEE service recipients of an Action Plan through which the recipient will make a commitment to take actions based on the EEE information received; and it should also include a provision for reinforcement of the commitment through follow-up activities by the grantee or other ''interventions''.

F. Evaluation

The EEE Services Plan submitted by applicants under Priority Area 1.0 should provide for the inclusion of an Evaluation of the Energy Efficiency Education Services Program as a part of the Evaluation Plan Outline for the overall REACH Initiative. It should provide for Process and Outcome Evaluations, and should describe what data will be collected and how it will relate to the achievement of EEE program goals. The EEE portion of the evaluation plan outline should make specific provision for consumer evaluation of the EEE service program interventions; and should conclude with a commitment from the grantee to revise and improve its EEE program in response to the overall evaluation where appropriate.

For applicants under Priority Area 2.0, the EEE Services Plan should provide assurances that the applicant will: (1) provide for consumer evaluation of the EEE Services program, and (2) revise and improve its EEE program in response to such evaluation, where appropriate.

The EEE Services Plan, if included, should be an Appendix to the Applicant's REACH Plan, and should not exceed ten pages in length.

Part VI. Application Procedures

A. Availability of Forms

Attachments B through J contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts VI and VII of this Notice contain all the instructions required for submittal of applications.

Additional copies of this Notice may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT** at the beginning of this announcement. In addition, this Notice is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

B. Application Submission

1. Number of Copies Required. One signed original REACH Plan and four copies should be submitted. Applicants have the option to omit from copies to be made available to non-Federal reviewers the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required in these copies.

2. Acknowledgment of Receipt. All applicants will receive an acknowledgement with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their State Plan which can be attached to this acknowledgement. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the State Plan. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9365.

3. Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, 370 L Enfant Promenade, S.W., Washington, D.C. 20447; Attention: Application for REACH Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at DHHS, Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, Mail Room, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

4. Late applications: Applications which do not meet the criteria above are considered late applications. ACF will notify each late applicant that its application will not be considered in the current competition.

5. Extension of deadline: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

C. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, as amended, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0139.

D. Application Consideration

Applications which meet the screening requirements in Section E below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to the Legislative Authority, the Requirements outlined in Part III, and the Application Elements and Review Criteria set forth in Part IV of this Announcement.

The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be considered in rank order of the averaged scores. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to: the timely and proper completion of projects funded with OCS funds granted in the last (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to determine the applicant's performance record.

E. Criteria for Screening Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively:

1. Eligibility: The applicant must be an ''eligible applicant'' as defined in Part III–A, Section 1 or Part III–B, Section 1. Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

2. The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), signed by an official of the organization applying for the grant who has authority to obligate the organization legally; one budget form (SF–424A) covering the entire REACH Project, and one SF–424A for each CBO Recipient (or nonprofit sub-recipient in the case of Priority Area 2.0 applicants electing to delegate their REACH Projects) and signed ''Assurances'' (SF–424B) completed according to instructions published in Part VII and Attachment D to this Announcement.

3. A project narrative must also accompany the standard forms, and, for Priority Area 1.0, must be limited to no more than ten (10) pages for Narrative Segment One and twenty (20) pages for Narrative Segment Two; and for Priority Area 2.0, must be limited to no more than twenty (20) pages. Narratives must be typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Charts, exhibits, letters of support, cooperative agreements, resumes and position descriptions are not counted against this page limit and should be included in the appendices to the proposal. It is strongly recommended that applicants follow the format for the narrative discussed in Part IV, REACH Plan Elements and Review Criteria.

Part VII—Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments B and C) as modified by the OCS specific instructions set forth below:

A. SF–424—Application for Federal Assistance

One SF–424 to be completed by applicant. Top of Page. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. Enter ''A'' in the box for State. If applicant is an Indian Tribe enter ''K'' in the box for Indian Tribe.

Item 9. Name of Federal Agency - Enter DHHS-ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.568. The title is ''LIHEAP/REACH''.

Item 11. Enter a brief descriptive title of the project.

Item 13. Proposed Project—The project start date must begin on or before September 30, 1996; the ending date should be calculated on the basis of a 12-month or 36-month Project Period, whichever is applicable.

Item 15a. This amount should be no greater than $1,500,000 for applications under Priority Area 1.0; no greater than

$150,000 for applications under Priority Area 2.0.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the Project Period.

B. SF–424A—Budget Information - Non-Construction Programs

One SF–424A completed for applicant, covering entire REACH Project, and one SF–424A to be completed for each CBO Recipient (or nonprofit sub-recipient in the case of Priority Area 2.0 applicants electing to delegate their REACH Projects).

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in Non-Federal entries.

Sections A, B, and C of SF–424A should reflect budget estimates for each year of the Project Period.

Section A—Budget Summary. You need only fill in lines 1 and 5 (with the same amounts)

Col. (a): Enter ''LIHEAP/REACH.''

Col. (b): Catalog of Federal Domestic Assistance number is 93.568.

Col. (c) and (d): not relevant to this program.

Column (e)–(g): enter the appropriate amounts (column e should not be more than $1,500,000 for applications under Priority Area 1.0; or more than $150,000 for applications under Priority Area 2.0.

Section B—Budget Categories. (1) For applicants, a single SF–424A covering entire REACH Project: complete a one-year budget in accordance with the instructions provided, entering the amount of grant or contract to CBO Recipient(s) or nonprofit sub-recipient under the Object Class Category ''Contractual''.

(2) For CBO Recipients (or nonprofit sub-recipients in the case of Priority Area 2.0 applicants), an SF–424A to be completed for each, covering the full three year project as follows:

(Note that the following information supersedes the instructions provided with the Form in Attachment C.)

Columns (1)–(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the first year.

Column 2: Enter the OCS grant funds for the second year.

Column 3: Enter the OCS grant funds for the third year.

Column 4: Leave blank.

Column 5: Enter the total federal OCS grant funds for the three year budget by Class Categories, showing a total budget of not more than $1,500,000.

Note: With regard to Class Categories, only out-of-town travel should be entered under Category c. Travel. Local travel costs should be entered under Category h. Other. Costs of supplies should be included under Category e. ''Supplies'' is tangible personal property other than ''equipment''. ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000. (ref.: OMB Circular A–87) In other words, unless the level established under (a) is less than $5,000, equipment costing less than $5,000 should be included in Category e. Supplies.

Section C—Non Federal Resources should be completed in accordance with the instructions provided, remembering that ''all non-OCS funds'' fall in this category.

Sections D, E, and F may be left blank.

As previously noted in Part IV, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, and justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances-Non-Construction

One SF–424B to be submitted by applicant. Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.''

Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 USC 1352 (The Byrd Amendment).

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1988 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Copies of the certifications and assurances are located at the end of this announcement.

Part VIII—Contents of Reach Plan

Application pages should be numbered sequentially throughout the application package, beginning with an Abstract of the Plan as page number one, and each REACH Plan must include all of the following, in the order listed below:

1. *An Abstract of the plan*—very brief, not to exceed 250 words, that would be suitable for use in an announcement that the application has been selected for a grant award; which identifies the type of project(s), the target population, the CBO Recipient(s) (in the case of Priority Area 1.0 applicants), and the nonprofit organization sub-recipient (in the case of Priority Area 2.0 applicants electing to delegate their REACH Project), and the major elements of the work plan(s).

2. *Table of Contents;*

3. *A completed Standard Form 424* which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

[Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization].

4. *A single Budget Information—Non-Construction Programs (SF–424A)* for the applicant, covering the entire REACH Project; and separate SF–424A forms for each CBO Recipient or nonprofit sub-recipient as appropriate;

5. *A narrative budget justification* for each object class category included under Section B, for each SF–424A;

6. *Filled out, signed and dated Assurances—Non-Construction Programs (SF–424B),* Attachment D;

7. *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* fill out, sign and date form found at Attachment G;

8. *Disclosure of Lobbying Activities, SF–LLL:* Fill out, sign and date form found at Attachment H, if appropriate (omit Items 11–15 on the SF LLL and ignore references to continuation sheet SF–LLL–A)

9. *A project narrative,* limited to the number of pages specified below, which includes all of the required elements described in Part IV; [Specific information/data required under each

component is described in Part IV Application Elements and Review Criteria].

For Plans submitted under Priority Area 1.0, the total number of pages for Segment One of the Project Narrative(s) dealing with Element I, Project Theory, Design, and Plan, must not exceed 10 pages for each such narrative submitted for a specific local project; and Segment Two of the narrative dealing with Elements II through VII must not exceed 20 pages, excluding Appendices. The Project Narratives for Plans submitted under Priority Area 2.0 must not exceed 20 pages in length. Plans for supplemental EEE Services should not exceed 10 pages in length. (See Part V) Plans must be typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Abstract as Page #1.

10. *Appendices,* including Maintenance of Effort Certification (See Attachment J); Letter(s) of Agreement from designated CBO Recipients (or nonprofit sub-recipients, as appropriate) through which project will be implemented; resumes and/or position descriptions (see Program Element IV); Certification Regarding Lobbying, if appropriate; and any letters from cooperating or partnering agencies in target communities. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the page limitations.

REACH Plans must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound plans, or plans enclosed in binders is specifically discouraged.

Attachment M provides a checklist to applicants in preparing a complete application package.

Part IX—Post-Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the REACH Plans selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required grantee financial participation, if any.

B. Attendance at Workshops

Project coordinators, Project Directors at the local CBO Recipient(s), and chief evaluators (in the case of REACH Initiatives funded under Priority Area 1.0) and Project Directors (in the case of REACH Initiatives funded under Priority Area 2.0) are encouraged to attend a national REACH Orientation workshop in Washington, D.C. scheduled during the first six months of the Project Period. They are also encouraged to attend, as presenters, a workshop on utilization and dissemination to be held at the end of the project period. Project budgets should include funds for travel to and attendance at these workshops. (See Part IV, Element V, Budget Appropriateness)

C. Reporting Requirements

Grantees will be required to submit semi-annual program progress and financial reports (SF 269) throughout the project period, as well as a final program and financial report within 90 days of the termination of the project. For REACH Projects under Priority Area 1.0 an interim evaluation report, along with the written policies and procedures resulting from the process evaluation, will be due 30 days after the first eighteen months of the project period and a final evaluation report will be due 90 days after the expiration of the grant. These reports will be submitted in accordance with instructions to be provided by OCS, and will be the basis for the dissemination effort to be conducted by the Office of Community Services.

D. Audit Requirements

Grantees are subject to the audit requirements in Section 2605B(10) of the Low Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq.

E. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or *nonappropriated* funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachments H and I for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment L indicates the regulations which apply to all applicants/grantees under the REACH Program.

Dated: June 19, 1996.

Donald Sykes,

Director, Office of Community Services.

ATTACHMENT A—1996 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of family unit	Povery guideline
1	$7,740
2	10,360
3	12,980
4	15,600
5	18,220
6	20,840
7	23,460
8	26,080

ATTACHMENT A—1996 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA—Continued

Size of family unit	Povery guideline
For family units with more than 8 members, add $2,226 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	

1996 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Povery guideline
1	$9,660
2	12,940
3	16,220
4	19,500
5	22,780
6	26,060
7	29,340
8	32,620
For family units with more than 8 members, add $3,280 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	

1996 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Povery guideline
1	$8,910
2	11,920
3	14,930
4	17,940
5	20,950
6	23,960
7	26,970
8	29,980
For family units with more than 8 members, add $3,010 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	

BILLING CODE 4184–01–P

Attachment B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ■ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. for multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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Attachment C

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B,C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple program where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increases or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contributions if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts of Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers,

or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 1988; (e) assurances of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544. as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Title

Applicant organization

Date submitted

BILLING CODE 4184–01–P

Attachment E

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ *if there are workplaces on file that are not identified here.*

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

Attachment H

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Attachment I—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment J—Certification Regarding Maintenance of Effort

The undersigned certifies that:

(1) activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

(2) funds or other resources currently devoted to activities designed to meet the needs of the poor within a community, area, or State have not been reduced in order to provide the required matching contributions.

When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project.

_____

Organization

_____

Authorized Signature

_____

Title

_____

Date

Attachment K—Low-Income Home Energy Assistance Act of 1981, Omnibus Budget Reconciliation Act of 1981

[Public Law 97–35, August 13, 1981, as amended (95 Stat. 357)]

* * * * *

Title XXVI—Low-Income Home Energy Assistance

Short Title

Sec. 2601

This title may be cited as the ''Low-Income Home Energy Assistance Act of 1981''

Applications and Requirements

Sec. 2605

* * * * *

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

* * * * *

(2) make payments under this title only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act);

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses (2)(A) and (2)(B) of this subsection;

(6) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the ''Single Audit Act'');

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness;

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610;

* * * * *

(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.

(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain

financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted in accordance with chapter 75 of title 31, United States Code.

(f)(1) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section (5)(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(h) The Comptroller General of the United States shall, from time to time (but not less frequently than every three years), evaluate the expenditures by States of grant under this title in order to assure that expenditures are consistent with the provisions of this title and to determine the effectiveness of the State in accomplishing the purposes of this title.

(i) A household which is described in subsection (b)(2)(A) solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments under title XIX of the Social Security Act with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(1) of the Social Security Act applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act who is living together with a parent, or the spouse of a parent, of the child.

(j) In verifying income eligibility for purposes of subsection (b)(2)(B), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under subtitle B of title VI of this Act (relating to community services block grant program), under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act, or under other income assistance or service programs (as determined by the State).

Nondiscrimination Provisions

Sec. 2606

(a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 90 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 8625)

PART 96—BLOCK GRANTS

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Attachment M

In view of the numerous legislative requirements of the REACH Program as to elements and assurances in the REACH Plan, the following ''REACH Plan Elements and Assurances Checklist'' has been prepared as Attachment L, for the assistance of applicants under Priority Areas 1.0 and 2.0.

REACH Plan Elements and Assurances Checklist

A. Service delivery through community-based nonprofit entity. (For applicants under Priority Area 1.0 only.)

[Include in Plan Elements I, II, and IV]

B. Priority given to CSBG eligible entities that are successful LIHEAP service providers and receive Weatherization Assistance Program funds from the Department of Energy. (For applicants under Priority Area 1.0 only.)

[Include in Plan Element II and attach letter(s) of certification as described therein]

C. Each CBO Recipient to provide a variety of services, to include:

(i) payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under section 2605(b) for home energy costs;

(ii) energy efficiency education;

(iii) residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

(iv) family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

(v) negotiation with home energy suppliers on behalf of households eligible for REACH services and benefits;

[Include in Plan Element I, and for applicants under Priority Area 1.0, Element III also, as appropriate]

D. a description of the methodology the State and local agencies will use to determine—

(i) which households will receive one or more forms of benefits under the State REACH initiative;

(ii) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

(iii) the amount of such benefit required to meet the goals of the program;

[Include in Elements I(b), I(c), and for applicants under Priority Area 1.0, Elements III and VI also, as appropriate]

E. (F.) a method for targeting nonmonetary benefits;

[Include in Elements I(a), I(b), IV (under Priority Area 1.0), and III, (under Priority Area 2.0)]

G. a description of the crisis and emergency assistance activities the State will undertake are designed to—

(i) discourage family energy crises;

(ii) encourage responsible vendor and consumer behavior; and

(iii) provide only financial incentives that encourage household payment;

[Include in Element I and, under Priority Area 1.0, Element III also, as appropriate]

H. a description of the activities the State will undertake to—

(i) provide incentives for recipients of assistance to pay home energy costs; and

(ii) provide incentives for vendors to help reduce the energy burdens of recipients of assistance;

[Include as appropriate in Element I and, under Priority Area 1.0, Elements III and IV also, as appropriate]

I. an assurance that the State will require each entity that receives a grant or enters into a contract under this section to solicit and be responsive to the views of individuals who are financially eligible for benefits and services under this section in establishing its local program;

[Include in Elements I(a) and I(c)]

J. a description of performance goals for the State REACH initiative including—

(i) a reduction in the energy costs on participating households over one or more fiscal years;

(ii) an increase in the regularity of home energy bill payments by eligible households; and

(iii) an increase in energy vendor contributions towards reducing energy burdens of eligible households;

[Include in Element I(b) and, under Program Area 1.0, Element VI also]

K. a description of the indicators that will be used by the State to measure whether the performance goals have been achieved;

[Include in Element VI]

L. a demonstration that the plan is consistent with Section paragraphs (2), (3), (4), (5), (7), (10), (11), (12), (13), and (14) of section 2605(b) of the Low Income Home Energy Assistance Act of 1981, as amended; subsections (d), (e), (f), (g), (h), (i), and (j) of section 2605; and section 2606 of this title;

[See Attachment K for texts of these Sections and subsections; include as appropriate in Elements I, III, IV, and VII]

M. an assurance that benefits and services will be provided in addition to other benefit payments and services provided under this title and in coordination with such benefit payments and services;

[Include in Element I]

N. an assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements.

[Include in Element VII]

[FR Doc. 96–16558 Filed 7–2–96; 12:02 pm]

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federal register

Friday
July 5, 1996

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 246, et al.

International Fisheries; Consolidation of Regulations; Technical Amendment; OMB Control Numbers; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 246, 280, 281, 282, 298, 299, 679, 695, and Chapter III

[Docket No. 960419115–6178–02; I.D. 032196A]

RIN 0648–AI22

International Fisheries; Consolidation of Regulations; Technical Amendment; OMB Control Numbers

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

ACTION: Final rule.

SUMMARY: NMFS is consolidating 10 CFR parts into one part that contains regulations governing international fisheries in the U.S. Exclusive Economic Zone (EEZ) and on the high seas. All but one of the consolidated parts implement an international agreement, convention, or treaty to which the United States is a party. The consolidated text is reorganized into a more logical and cohesive order, duplicative and outdated provisions are eliminated, and editorial changes are made for readability, clarity, and uniformity. Framework procedures are added for the specifications of annual management measures under two parts. In addition, an obsolete CFR part is removed. This final rule amends references to Paperwork Reduction Act (PRA) information-collection requirements to reflect the consolidation. This final rule also contains a technical amendment to 50 CFR part 679, Fisheries of the EEZ off Alaska, to bring cross references into conformance. The purpose of this final rule is to make the regulations more concise, better organized and, therefore, easier for the public to use. This action is part of the President's Regulatory Reinvention Initiative.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Gorrell, Team Leader, West Coast & Western Pacific Team, Office of Fisheries Conservation and Management, NMFS, 301–713–2343.

SUPPLEMENTARY INFORMATION: The Regulatory Reinvention Initiative is part of the National Performance Review calling for comprehensive regulatory reform with an emphasis on eliminating or modifying regulations that are obsolete, duplicative, or otherwise in need of reform.

Currently, regulations governing international fisheries, other than whaling and Atlantic highly migratory species, are contained in 11 separate parts of title 50 of the CFR. NMFS is removing nine of the parts (parts 246 (Marking of Containers or Packages), 280 (Pacific Tuna Fisheries), 282 (South Pacific Tuna Fisheries), 298 (United States-Canada Fisheries Enforcement Agreement), 299 (U.S. Nationals Fishing in the Russian Fisheries), 301 (Pacific Halibut Fisheries), 371 (Fraser River Sockeye and Pink Salmon Fisheries), 380 (Antarctic Marine Living Resources Convention Act of 1984), and 695 (Vessels of the United States Fishing in Columbian Treaty Waters)) to consolidate the regulations contained therein with the existing regulations in part 300 (High Seas Fisheries). NMFS also is eliminating part 281 (Restrictions on Tuna Imports) as no longer necessary. The consolidated regulations provide the public with a single reference source for the regulations applying to international fisheries. Consolidation results in one set of regulations that is more concise, clearer, and easier to use than the existing regulations found in 11 separate parts.

NMFS is also simplifying and shortening provisions of the new part 300, including the removal of duplicative, nonessential, and obsolete provisions. Five types of substantive revisions are made by this rule: (1) Subpart A—General includes a definitions section (§ 300.2) with general applicability throughout the part; (2) subpart A—General includes both a general prohibitions section (§ 300.4) and a facilitation of enforcement section (§ 300.5) containing provisions that are applicable to many situations; (3) subpart E—Pacific Halibut Fisheries greatly reduces the existing Pacific halibut regulations by eliminating from the code all but one (fishing by U.S. treaty Indian tribes (§ 300.64)) of the existing sections containing management measures and substituting a new International Pacific Halibut Commission (IPHC) annual management measures section (for publishing the IPHC regulations by single notice in the Federal Register) (§ 300.62) and a new catch sharing plan and domestic management section (for the Assistant Administrator and the appropriate Regional Fishery Management Council to develop plans to apportion catch limits adopted by the IPHC and implement domestic management measures by preliminary and final notices in the Federal Register) (§ 300.63); (4) subpart H—Antarctic Marine Living Resources would establish a framework procedure by which NMFS would publish annual management measures by single notice in the Federal Register, rather than by codified rules; and (5) part 281—Restrictions on Tuna Imports is eliminated because there have not been yellowfin quotas under the Convention for the Establishment of an Inter-American Tropical Tuna Commission for approximately 2 decades.

All management measures adopted by the IPHC and NMFS and currently in effect (50 CFR part 301 recodified as 50 CFR part 300 subpart E by this rule with 1996 revisions published at 61 FR 11337, March 20, 1996) will continue in effect until replaced by management measures in 1997 to be published in the Federal Register pursuant to §§ 300.62 and 300.63 of this rule. All management measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (Commission) and published on March 5, 1996 (61 FR 8483), as well as other Commission measures still in effect, will continue in effect until replaced in 1997 by management measures to be published in the Federal Register under the framework procedures at § 300.111.

NMFS published a proposed rule at 61 FR 25443 (May 21, 1996), requesting comments through June 14, 1996. No comments were received. Additional background and rationale for this rule appear in the proposed rule, with expanded discussion of substantive changes, especially the decodification of the IPHC's regulations and NMFS' catch sharing regulations as well as the establishment of broad framework procedures for future Antarctic regulatory changes. This final rule is the same as the proposed rule except for a technical amendment to 50 CFR part 679 and for the amendment of references to previously approved collections of information.

References to Other Rules

NMFS, in another rulemaking published June 24, 1996, at 61 FR 32538, consolidated general provisions of the Magnuson Fishery Conservation and Management Act into 50 CFR part 600. Because some of the general provisions to be consolidated into part 600 apply to several international fisheries regulations being consolidated in this rule, the regulatory text in this rule includes references to the consolidated part 600, rather than to existing codified text.

Changes From the Proposed Rule

(1) Technical Amendment to 50 CFR Part 679

This final rule contains a technical amendment to 50 CFR part 679. As part of the President's Regulatory Reform Initiative, NMFS issued a final rule (61 FR 31228, June 19, 1996) removing six parts in title 50 of the CFR (50 CFR parts 671, 672, 673, 675, 676, and 677) and consolidating the regulations contained therein into one new part (50 CFR part 679). No substantive changes were made to the regulations by the consolidation of the six parts. The new part 679 reference 50 CFR part 301 in several places. However, under this final rule, part 301 is removed and the regulations contained therein have been consolidated under subpart E of part 300. Therefore, references to part 301 in the new § 679.2(1) under the definition of ''IFQ regulatory area'' and the definition for ''IPHC'', § 679.3(c), § 679.4(d)(1) introductory text and (f)(1)(i), § 679.5(l) introductory text, § 679.7(a)(6)(i), (b)(3), (f)(4), and (f)(11)(i), § 679.21(b)(1), § 679.23(e)(4)(i) and (f), § 679.24 introductory paragraph, § 679.30(b)(1)(ii), and § 679.40 introductory paragraph, are revised to reference subpart E of part 300. Section 679.3, paragraph (a) references regulations governing U.S. nationals fishing in Russian fisheries as set forth in 50 CFR part 299. This final rule removes part 299 and consolidates the measures contained therein under subpart J of part 300. Therefore, § 679.3(a) is revised to reference part 300.

(2) References to Collections of Information

Section 3506(c)(B)(i) of the PRA requires that agencies inventory and display a current control assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. This final rule amends references to previously approved collections of information in the table in § 902.1(b).

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated, to the Assistant Administrator, the authority to sign material for publication in the Federal Register.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule would not have a significant economic impact on a substantial number of small entities. The reasons were published in the proposed rule (61 FR 25443, May 21, 1996). As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

This rule contains collection-of-information requirements subject to the PRA that were previously approved by OMB under the following approval numbers:

a. *Approved under 0648–0304*—High seas fisheries, vessel permits (§ 300.13), estimated at .5 hours per response.

b. *Approved under 0648–0148*—Pacific tuna fisheries, yellowfin tuna recordkeeping and written reports (§ 300.22), estimated at .1 hours per response.

c. *Approved under 0648–0202*—Pacific bluefin tuna dealer permits (§ 300.24), estimated at .083 hours per response.

d. *Approved under 0648–0239*—Pacific bluefin tuna dealer recordkeeping and reporting (§ 300.25), estimated at .25 hours per response.

e. *Approved under 0648–0239*—Pacific tuna fisheries, Pacific bluefin tuna affixing of tags (§ 300.26(c)), estimated at .017 hours per response.

f. *Approved under 0648–0239*—Pacific tuna fisheries, Pacific bluefin tuna removal of tags (§ 300.26(d)), estimated at .017 hours per response.

g. *Approved under 0648–0218*—South Pacific tuna fisheries, vessel licenses (§ 300.32), estimated at .25 hours per response.

h. *Approved under 0648–0306*—South Pacific tuna fisheries, reporting requirements (§ 300.34), estimated at .25 hours per marking.

i. *Approved under 0648–0306*—South Pacific tuna fisheries, vessel and gear identification (§ 300.35), estimated at .25 hours per marking.

j. *Approved under 0648–0194*—Antarctic marine living resources, procedure for according protection to CCAMLR ecosystem monitoring program sites, general (§ 300.103(a)), estimated at 1 hour per response.

k. *Approved under 0648–0194*—Antarctic marine living resources, scientific research (§ 300.104(d)), estimated at 80 hours per response.

l. *Approved under 0648–0194*—Antarctic marine living resources, scientific research (§ 300.104(e)), estimated at .25 hours per response.

m. *Approved under 0648–0194*—Antarctic marine living resources, initiating a new fishery (§ 300.105(c)), estimated at 16 hours per response.

n. *Approved under 0648–0194*—Antarctic marine living resources, exploratory fishing (§ 300.106(e)), estimated at 40 hours per response.

o. *Approved under 0648–0306*—Antarctic marine living resources, vessel identification (§ 300.108(a)), estimated at .25 hours per marking.

p. *Approved under 0648–0305*—Antarctic marine living resources, gear identification (§ 300.108(c)), estimated at .25 hours per marking.

q. *Approved under 0648–0194*—Antarctic marine living resources, harvesting permits (§ 300.112), estimated at .5 hours per response.

r. *Approved under 0648–0194*—Antarctic marine living resources, import permits (§ 300.113), estimated at .5 hours per response.

s. *Approved under 0648–0205*—Vessels of the United States fishing in Colombian Treaty waters, certificates and permits (§ 300.123), estimated at .33 hours per response.

t. *Approved under 0648–0016*—Vessels of the United States fishing in Colombian Treaty waters, recordkeeping and reporting (§ 300.124(b)), estimated at .22 hours per response.

u. *Approved under 0648–0306*—Vessels of the United States fishing in Colombian Treaty waters, vessel identification (§ 300.125), estimated at .25 hours per marking.

v. *Approved under 0648–0228*—U.S. nationals fishing in Russian fisheries, permit procedures (§ 300.152), estimated at .5 hours per response.

w. *Approved under 0648–0228*—U.S. nationals fishing in Russian fisheries, permit issuance, copies (§ 300.153(b)), estimated at .167 hours per response.

x. *Approved under 0648–0228*—U.S. nationals fishing in Russian fisheries, recordkeeping and reporting, vessel permit abstract report (§ 300.154(b)), estimated at .5 hours per response.

y. *Approved under 0648–0228*—U.S. nationals fishing in Russian fisheries, recordkeeping and reporting, activity reports (§ 300.154(c)), estimated at .5 hours per response.

z. *Approved under 0648–0228*—U.S. nationals fishing in Russian fisheries, recordkeeping and reporting, recordkeeping (§ 300.154(d)), estimated at .083 hours per response.

The estimated response times shown include the time for reviewing

instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 246

Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Parts 280 and 282

Fisheries, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 281

Fisheries, Imports, Treaties.

50 CFR Part 298

Canada, Fisheries, Treaties.

50 CFR Part 299

Fisheries, Reporting and recordkeeping requirements, Russian Federation, Treaties.

50 CFR Part 300

Fisheries, High seas fishing, International agreements, Reporting and recordkeeping requirements, Permits.

50 CFR Parts 301 and 695

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 371

Canada, Fisheries, Fishing, Indians, Treaties.

50 CFR Part 380

Administrative practice and procedure, Antarctica, Fish, Imports, Marine resources, Reporting and recordkeeping requirements, Treaties, Wildlife.

50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: June 26, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapters II, III, and VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), the table is amended by removing in the left column under 50 CFR, the entries ''280.10'', ''280.50'', ''280.51'', ''280.53'', ''282.3'', ''282.5'', ''282.6'', ''299.3'', ''299.4'', ''299.5'', ''300.4'', ''380.4'', ''380.5'', ''380.6'', ''380.8'', ''380.20'', ''380.24'', ''380.28'', ''695.4'', ''695.5'', and ''696.6'', and by removing in the right column the control numbers in corresponding positions; and by adding, in numerical order, the following entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
300.13	–0304
300.22	–0148
300.24	–0202
300.25	–0239
300.26(c)	–0239
300.26(d)	–0239
300.32	–0218
300.34	–0306
300.35	–0306
300.103(a)	–0194
300.104(d)	–0194
300.104(e)	–0194
300.105(c)	–0194
300.106(e)	–0194
300.108(a)	–0306
300.108(c)	–0305
300.112	–0194
300.113	–0194
300.123	–0205
300.124(b)	–0016
300.125	–0306
300.152	–0228
300.153(b)	–0228
300.154(b)	–0228
300.154(c)	–0228
300.154(d)	–0228
* * * * *	

50 CFR Chapter II

PARTS 246, 280, 281, 282, 298, and 299 [REMOVED]

3. Under the authority of 16 U.S.C. 3371–3378, 16 U.S.C. 951–961 and 971 *et seq.*, 16 U.S.C. 973–973r, and 16 U.S.C. 1801 *et seq.*, 50 CFR parts 246, 280, 281, 282, 298, and 299 are removed and subchapter L is vacated.

50 CFR Chapter III

4. Chapter III is revised to read as follows:

Chapter III—International Fishing and Related Activities

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart A—General

Sec.
300.1 Purpose and scope.
300.2 Definitions.
300.3 Relation to other laws.
300.4 General prohibitions.
300.5 Facilitation of enforcement.

Subpart B—High Seas Fisheries

300.10 Purpose.
300.11 Definitions.
300.12 Issuing offices.
300.13 Vessel permits.
300.14 Vessel and gear identification. [Reserved]
300.15 Prohibitions.
300.16 Penalties.
300.17 Reporting and recordkeeping. [Reserved]

Subpart C—Pacific Tuna Fisheries

300.20 Purpose and scope.
300.21 Definitions.
300.22 Yellowfin Tuna—Recordkeeping and written reports.
300.23 Yellowfin Tuna—Persons and vessels exempted.
300.24 Pacific Bluefin Tuna—Dealer permits.
300.25 Pacific Bluefin Tuna—Dealer recordkeeping and reporting.
300.26 Pacific Bluefin Tuna—Tags.
300.27 Pacific Bluefin Tuna—Documentation requirements.
300.28 Pacific Bluefin Tuna—Prohibitions.

Subpart D—South Pacific Tuna Fisheries

300.30 Purpose and scope.
300.31 Definitions.
300.32 Vessel licenses.
300.33 Compliance with applicable national laws.
300.34 Reporting requirements.
300.35 Vessel and gear identification.
300.36 Closed area stowage requirements.
300.37 Radio monitoring.
300.38 Prohibitions.
300.39 Exceptions.
300.40 Civil penalties.
300.41 Investigation notification.
300.42 Findings leading to removal from fishing area.

300.43 Observers.
300.44 Other inspections.

Subpart E—Pacific Halibut Fisheries

300.60 Purpose and scope.
300.61 Definitions.
300.62 Annual management measures.
300.63 Catch sharing plans and domestic management measures.
300.64 Fishing by U.S. treaty Indian tribes.
300.65 Prohibitions.

Subpart F—Fraser River Sockeye and Pink Salmon Fisheries

300.90 Purpose and scope.
300.91 Definitions.
300.92 Relation to other laws.
300.93 Reporting requirements.
300.94 Prohibitions and restrictions.
300.95 Treaty Indian fisheries.
300.96 Penalties.
300.97 Inseason orders.

Subpart G—Antarctic Marine Living Resources

300.100 Purpose and scope.
300.101 Definitions.
300.102 Relationship to other treaties, conventions, laws, and regulations.
300.103 Procedure for according protection to CCAMLR Ecosystem Monitoring Program Sites.
300.104 Scientific research.
300.105 Initiating a new fishery.
300.106 Exploratory fisheries.
300.107 Reporting and recordkeeping requirements.
300.108 Vessel and gear identification.
300.109 Gear disposal.
300.110 Mesh size.
300.111 Framework for annual management measures.
300.112 Harvesting permits.
300.113 Import permits.
300.114 Appointment of a designated representative.
300.115 Prohibitions.
300.116 Facilitation of enforcement and inspection.
300.117 Penalties.
Figure 1 to Subpart G—Boundaries of the Statistical Reporting Area in the Southern Ocean
Figure 2 to Subpart G—The Use of Streamer Lines to Minimize the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research Operations in the Convention Area

Subpart H—Vessels of the United States Fishing in Colombian Treaty Waters

300.120 Purpose.
300.121 Definitions.
300.122 Relation to other laws.
300.123 Certificates and permits.
300.124 Recordkeeping and reporting.
300.125 Vessel identification.
300.126 Prohibitions.
300.127 Facilitation of enforcement.
300.128 Penalties.
300.129 Fishing year.
300.130 Vessel and gear restrictions.
300.131 Conch harvest limitations.
300.132 Lobster harvest limitations.

Subpart I—United States-Canada Fisheries Enforcement

300.140 Purpose and scope.
300.141 Definitions.
300.142 Prohibitions.
300.143 Facilitation of enforcement.
300.144 Penalties and sanctions.

Subpart J—U.S. Nationals Fishing in Russian Fisheries

300.150 Purpose.
300.151 Definitions.
300.152 Procedures.
300.153 Permit issuance.
300.154 Recordkeeping and reporting.
300.155 Requirements.
300.156 Prohibited acts.
300.157 Penalties.

Subpart K—Transportation and Labeling of Fish or Wildlife

300.160 Requirement for marking of containers or packages.
300.161 Alternatives and exceptions.

Subpart A—General

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 973–973r; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371–3378; 16 U.S.C. 3636(b); 16 U.S.C. 5501 *et seq.*; and 16 U.S.C. 1801 *et seq*.

§ 300.1 Purpose and scope.

The purpose of this part is to implement the fishery conservation and management measures provided for in the international treaties, conventions, or agreements specified in each subpart, as well as certain provisions of the Lacey Act Amendments of 1981. The regulations in this part apply, except where otherwise specified in this part, to all persons and all places subject to the jurisdiction of the United States under the acts implemented under each subpart.

§ 300.2 Definitions.

In addition to the definitions in each act, agreement, convention, or treaty specified in subparts B through K of this part, the terms used in this part have the following meanings:

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or a designee. Address: Room 14555, 1315 East-West Highway, Silver Spring, MD 20910.

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard; or any U.S. Coast Guard personnel accompanying and acting under the direction of a commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or fisheries enforcement officer of NMFS; or

(3) Any person designated by the head of any Federal or state agency that has entered into an agreement with the Secretary of Commerce or the Commandant of the U.S. Coast Guard to enforce the provisions of any statute administered by the Secretary.

CCAMLR inspector means a person designated by a member of the Commission for the Conservation of Antarctic Marine Living Resources as an inspector under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources to verify compliance with measures in effect under the Convention.

Director, Alaska Region, means Director, Alaska Region, NMFS, 709 West Ninth Street, Suite 401, P.O. Box 21668, Juneau, AK 99802, or a designee.

Director, Northeast Region, means Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298, or a designee.

Director, Northwest Region, means Director, Northwest Region, NMFS, 7600 Sand Point Way, N.E., BIN C15700, Bldg. 1, Seattle, WA 98115, or a designee.

Director, Southeast Fisheries Science Center, means Director, Science and Research, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, or a designee.

Director, Southeast Region, means Director, Southeast Region, NMFS, 9721 Executive Center Drive, N., St. Petersburg, FL 33702, or a designee.

Director, Southwest Region, means Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

Exclusive Economic Zone or *EEZ* means the zone established by Presidential Proclamation 5030, dated March 10, 1983, as defined in 16 U.S.C. 1802(6).

Fishing or *to fish* means:

(1) The catching or taking of fish;

(2) The attempted catching or taking of fish;

(3) Any other activity that can reasonably be expected to result in the catching or taking of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for fishing.

IATTC means the Inter-American Tropical Tuna Commission, established pursuant to the Convention for the Establishment of an Inter-American Tropical Tuna Commission.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place

subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction, constitutes an importation within the meaning of the customs laws of the United States.

IRCS means International Radio Call Sign.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.

National of the United States or *U.S. national* means any person subject to the jurisdiction of the United States, including, but not limited to, a citizen or resident of the United States, or a person employed on a vessel of the United States. In the case of a corporation, partnership or other non-natural person, this includes, but is not limited to, any entity that is the owner of a vessel of the United States.

NMFS means the National Marine Fisheries Service, NOAA, Department of Commerce.

NMFS Headquarters means NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Attention: Office of Fisheries Conservation and Management.

Official number means the documentation number issued by the USCG or the certificate number issued by a state or the USCG for an undocumented vessel, or any equivalent number if the vessel is registered in a foreign nation.

Operator means, with respect to any vessel, the master or other individual aboard and in charge of that vessel.

Owner means, with respect to any vessel:

(1) Any person who owns that vessel in whole or part (whether or not the vessel is leased or chartered);

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by a person described in this definition.

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, or existing under the laws of any state), and any Federal, state, local, or foreign government or any entity of any such government.

Secretary means the Secretary of Commerce or a designee.

USCG means the United States Coast Guard.

Yellowfin tuna means any fish of the species *Thunnus albacares* (synonomy: *Neothunnus macropterus*).

§ 300.3 Relation to other laws.

Other laws that may apply to fishing activities addressed herein are set forth in § 600.705 of chapter VI of this title.

§ 300.4 General prohibitions.

It is unlawful for any person subject to the jurisdiction of the United States to:

(a) Violate the conditions or restrictions of a permit issued under this part.

(b) Fail to submit information, fail to submit information in a timely manner, or submit false or inaccurate information, with respect to any information required to be submitted, reported, communicated, or recorded pursuant to this part.

(c) Make any false statement, oral or written, to an authorized officer concerning the catching, taking, harvesting, possession, landing, purchase, sale, or transfer of fish, or concerning any other matter subject to investigation by that officer under this part.

(d) Conceal any material fact (including by omission), concerning any matter subject to investigation by an authorized officer under this part.

(e) Refuse to allow an authorized officer to inspect any report or record required to be made or kept under this part.

(f) Falsify, cover, or otherwise obscure, the name, home port, official number (if any), or any other similar marking or identification of any fishing vessel subject to this part such that the vessel cannot be readily identified from an enforcement vessel or aircraft.

(g) Fail to comply immediately with any of the enforcement and boarding procedures specified in this part.

(h) Refuse to allow an authorized officer to board a fishing vessel, or enter any other area of custody (i.e., any vessel, building, vehicle, live car, pound, pier, or dock facility where fish might be found) subject to such person's control, for the purpose of conducting any inspection, search, seizure, investigation, or arrest in connection with the enforcement of this part or any other applicable law.

(i) Destroy, stave, or dispose of in any manner, any fish, gear, cargo, or other matter, upon any communication or signal from an authorized officer of the United States, or upon the approach of such an officer, enforcement vessel, or aircraft, before the officer has had the opportunity to inspect same, or in contravention of directions from such an officer.

(j) Intentionally destroy evidence that could be used to determine if a violation of this part has occurred.

(k) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere, in any manner, with an authorized officer in the conduct of any boarding, inspection, search, seizure, investigation, or arrest in connection with enforcement of this part.

(l) Resist a lawful arrest or detention for any act prohibited by this part.

(m) Interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this part.

(n) Interfere with, obstruct, delay, or prevent, by any means, an investigation, search, seizure, or disposition of seized property in connection with enforcement of this part.

(o) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this part.

(p) Violate any provision of any statute implemented by this part.

(q) Attempt to do any of the foregoing.

§ 300.5 Facilitation of enforcement.

(a) *Compliance*. The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer or CCAMLR inspector to stop the vessel, and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing this part.

(b) *Communications*. (1) Upon being approached by a USCG vessel or aircraft, or other vessel or aircraft with an authorized officer or CCAMLR inspector aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) VHF–FM radiotelephone is the preferred method of communicating between vessels. If the size of the vessel and the wind, sea, and visibility conditions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, voice, flags, whistle or horn may be employed by an authorized officer or CCAMLR inspector, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. USCG units will normally use the flashing light signal ''L'' which, in the International Code of Signals, means ''you should stop your vessel instantly.''

(4) Failure of a vessel's operator promptly to stop the vessel when directed to do so by an authorized officer or CCAMLR inspector, or by an enforcement vessel or aircraft, using loudhailer, radiotelephone, flashing light, flags, whistle, horn or other means constitutes prima facie evidence of the offense of refusal to allow an authorized officer or CCAMLR inspector to board.

(5) A person aboard a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel immediately.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Monitor Channel 16, VHF–FM, if so equipped.

(2) Stop immediately and lay to or, if appropriate and/or directed to do so by the authorized officer or CCAMLR inspector, maneuver in such a way as to allow the safe boarding of the vessel by the authorized officer or CCAMLR inspector and the boarding party.

(3) Except for those vessels with a freeboard of 4 ft (1.25 m) or less, provide a safe ladder, if needed, for the authorized officer or CCAMLR inspector and boarding party to come aboard.

(4) When necessary to facilitate the boarding or when requested by an authorized officer or CCAMLR inspector, provide a manrope or safety line, and illumination for the ladder.

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer or CCAMLR inspector and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal ''L'' and the necessity for the vessel to stop instantly.

(1) ''AA'' repeated (.- .-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) ''RY–CY'' (.-. -.-- -.-. -.--) means ''you should proceed at slow speed, a boat is coming to you.'' This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear that may be in the water.

(3) ''SQ3'' (... --.- ...--) means ''you should stop or heave to; I am going to board you.''

Subpart B—High Seas Fisheries

Authority: 16 U.S.C. 5501 *et seq.*

§ 300.10 Purpose.

This subpart implements the High Seas Fishing Compliance Act of 1995 (Act), which requires the Secretary to license U.S. vessels fishing on the high seas.

§ 300.11 Definitions.

In addition to the terms defined in section 300.2 and those in the Act and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993 (Agreement), the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Agreement, the definition in this section shall apply.

High seas means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any Nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High seas fishing vessel means any vessel of the United States used or intended for use on the high seas for the purpose of the commercial exploitation of living marine resources as a harvesting vessel, mothership, or any other support vessel directly engaged in a fishing operation.

International conservation and management measures means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States.

Regional Director means any one of the Directors of the five NMFS regional offices, defined under § 300.2, serving as the issuing office.

§ 300.12 Issuing offices.

Any Regional Director may issue permits required under this subpart. While applicants for permits may submit an application to any Regional Director, applicants are encouraged to submit their applications (with envelopes marked ''Attn: HSFCA Permits'') to the Regional Director with whom they normally interact on fisheries matters.

§ 300.13 Vessel permits.

(a) *Eligibility.* (1) Except for vessels having unpaid or overdue civil penalties, criminal fines, or other liabilities incurred in a judicial proceeding under any statute administered by NOAA, any high seas fishing vessel of the United States is eligible to receive a permit under this subpart, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and—

(i) The foreign nation suspended such authorization, because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(ii) The foreign nation, within the 3 years preceding application for a permit under this section, withdrew such authorization, because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restrictions in paragraphs (a)(1) (i) and (ii) of this section do not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Regional Director demonstrating that the owner and operator at the time the vessel undermined the effectiveness of such measures has no further legal, beneficial, or financial interest in, or control of, the vessel.

(3) The restrictions in paragraphs (a)(1) (i) and (ii) of this section do not apply if it is determined by the Regional Director that issuing a permit would not subvert the purposes of the Agreement.

(b) *Application forms.* The owner or operator of a high seas fishing vessel may apply for a permit under this subpart by completing an application form. Applicants may obtain an application form from a Regional Director.

(c) *Application information.* An applicant must submit a complete and accurate permit application, signed by the owner or operator, to the appropriate Regional Director.

(d) *Fees.* NMFS will charge a fee to recover the administrative expenses of permit issuance. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook, available from a Regional Director, for determining administrative costs of each special product or service.

The fee is specified with the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded will invalidate any permit.

(e) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit, which will include appropriate conditions or restrictions, within 30 days of receipt of a completed application and payment of the appropriate fee.

(2) The Regional Director will notify the applicant of any deficiency in the application.

(f) *Validity.* Permits issued under this subpart are valid for 5 years from the date of issuance. Renewal of a permit prior to its expiration is the responsibility of the permit holder. For a permit to remain valid to its expiration date, the vessel's USCG documentation or state registration must be kept current. A permit issued under this subpart is void when the name of the owner or vessel changes, or in the event the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is removed from such documentation.

(g) *Change in application information.* Any changes in vessel documentation status or other permit application information must be reported to the Regional Director in writing within 15 days of such changes.

(h) *Transfer.* A permit issued under this subpart is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A valid permit, or a copy thereof, issued under this subpart must be on board the vessel while operating on the high seas and available for inspection by an authorized officer. Faxed copies of permits are acceptable.

§ 300.14 Vessel and gear identification. [Reserved]

§ 300.15 Prohibitions.

In addition to the prohibitions in section 300.4, it is unlawful for any person to:

(a) Use a high seas fishing vessel on the high seas in contravention of international conservation and management measures.

(b) Use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 300.13.

§ 300.16 Penalties.

Any person or high seas fishing vessel found to be in violation of the Act, this subpart, or any permit issued under this subpart will be subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions prescribed in the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws.

§ 300.17 Reporting and recordkeeping. [Reserved]

Subpart C—Pacific Tuna Fisheries

Authority: 16 U.S.C. 951–961 and 971 *et seq.*

§ 300.20 Purpose and scope.

The regulations in this subpart implement the Tuna Conventions Act of 1950 (Act), the Atlantic Tunas Convention Act of 1975, and the IATTC recommendations for the conservation of yellowfin tuna and the recommendations of the International Commission for the Conservation of Atlantic Tunas for the conservation of bluefin tuna, so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 300.21 Definitions.

In addition to the terms defined in § 300.2, in the Act, the Convention for the Establishment of an Inter-American Tropical Tuna Commission, and the International Convention for the Conservation of Atlantic Tunas, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Conventions, the definition in this section shall apply.

Bluefin tuna means the fish species *Thunnus thynnus* that is found in any ocean area.

Fishing vessel means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for fishing or for assisting or supporting a vessel engaged in fishing, except purse seine skiffs.

Pacific bluefin tuna means the subspecies of bluefin tuna *Thunnus thynnus orientalis* that is found in the Pacific Ocean.

Regional Director means the Director, Southwest Region.

Tag means the flexible, self-locking ribbon issued by the NMFS for the identification of bluefin tuna under § 300.26 or 285.30 of chapter II of this title.

§ 300.22 Yellowfin tuna—Recordkeeping and written reports.

The master or other person in charge of a fishing vessel, or a person authorized in writing to serve as the agent for either person, must keep an accurate log of all operations conducted from the fishing vessel, entering for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish on board, by species. The record and bridge log maintained at the request of the IATTC shall be sufficient to comply with this paragraph, provided the items of information specified are accurately entered in the log.

§ 300.23 Yellowfin tuna—Persons and vessels exempted.

This subpart does not apply to:

(a) Any person or vessel authorized by the IATTC, the Assistant Administrator, or any state of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personal use.

§ 300.24 Pacific bluefin tuna—Dealer permits.

(a) *General.* A dealer importing Pacific bluefin tuna, or purchasing or receiving for export Pacific bluefin tuna first landed in the United States, must have a valid permit issued under this section.

(b) *Application.* A dealer must apply for a permit in writing on an appropriate form obtained from the Regional Director. The application must be signed by the dealer and be submitted to the Regional Director at least 30 days before the date upon which the dealer desires to have the permit made effective. The application must contain the following information: Company name, principal place of business, owner's or owners' names, applicant's name (if different from owner or owners) and mailing address and telephone number, and any other information required by the Regional Director.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section is valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by the Regional Director for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* The Regional Director may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Director, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit must report the change to the Regional Director in writing. The permit is void if any change in information is not reported within 15 days.

§ 300.25 Pacific bluefin tuna—Dealer recordkeeping and reporting.

Any person issued a dealer permit under § 300.24:

(a) Must submit to the Regional Director a biweekly report on bluefin imports and exports on forms supplied by NMFS.

(1) The report required by this paragraph (a) must be postmarked and mailed at the dealer's expense within 10 days after the end of each 2-week reporting period in which Pacific bluefin tuna were exported. The biweekly reporting periods are defined as the first day to the 14th day of each month and the 15th day to the last day of the month.

(2) Each report must specify accurately and completely for each tuna or each shipment of bulk-frozen tuna exported: Date of landing or import; any tag number (if so tagged); weight in kilograms (specify if round or dressed); and any other information required by the Regional Director. At the top of each form, the company's name, license number, and the name of the person filling out the report must be specified. In addition, the beginning and ending dates of the 2-week reporting period must be specified by the dealer and noted at the top of the form.

(b) Must allow an authorized officer, or any employee of NMFS designated by the Regional Director for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Pacific bluefin tuna.

(c) Must retain at his/her principal place of business a copy of each biweekly report for a period of 2 years from the date on which it was submitted to the Regional Director.

§ 300.26 Pacific bluefin tuna—Tags.

(a) *Issuance.* The Regional Director will issue numbered tags to each person receiving a dealer's permit under § 300.24.

(b) *Transfer.* Tail tags issued under this section are not transferable and are usable only by the permitted dealer to whom they are issued.

(c) *Affixing tags.* At the discretion of dealers permitted under § 300.24, a tag issued under paragraph (a) of this section may be affixed to each Pacific bluefin tuna purchased or received by the dealer. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel and tag numbers must be recorded on NMFS reports required by § 300.25(a) and any documents accompanying the shipment of Pacific bluefin tuna for domestic commercial use or export.

(d) *Removal.* A NMFS-issued tag affixed to any Pacific bluefin tuna at the option of any permitted dealer under paragraph (c) of this section or any tag affixed to any Pacific bluefin tuna to meet the requirements of § 285.202(a)(6)(v) of this chapter must remain on the tuna until the tuna is cut into portions. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the tag number must be written legibly and indelibly on the outside of any package or container.

(e) *Reuse.* Tags issued under this section are separately numbered and may be used only once, one tail tag per fish, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a tail tag and associated number may not be reused.

§ 300.27 Pacific bluefin tuna—Documentation requirements.

Bluefin tuna imported into, or exported or re-exported from the customs territory of the United States is subject to the documentation requirements specified in part 285 of this chapter (§§ 285.200–285.203).

§ 300.28 Pacific bluefin tuna—Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(a) Import Pacific bluefin tuna or purchase or receive for export Pacific bluefin tuna first landed in the United States without a valid dealer permit issued under § 300.24.

(b) Remove any NMFS-issued tag affixed to any Pacific bluefin tuna at the option of any permitted dealer or any tag affixed to a Pacific bluefin tuna to meet the requirements of § 285.202(a)(6)(v) of this chapter, before removal is allowed under § 300.26, or fail to write the tag number on the shipping package or container as specified in § 300.26.

(c) Reuse any NMFS-issued tag affixed to a Pacific bluefin tuna at the option of a permitted dealer or any tag affixed to a Pacific bluefin tuna to meet the requirements of § 285.202(a)(6)(v) of this chapter or reuse any tag number previously written on a shipping package or container as prescribed by § 300.26.

Subpart D—South Pacific Tuna Fisheries

Authority: 16 U.S.C. 973–973r.

§ 300.30 Purpose and scope.

This subpart implements the South Pacific Tuna Act of 1988 (Act) and the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) and applies to persons and vessels subject to the jurisdiction of the United States.

§ 300.31 Definitions.

In addition to the terms defined in § 300.2, in the Act, and in the Treaty, and unless the context requires otherwise, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Treaty, the definition in this section shall apply.

Administrator means the individual or organization designated by the Pacific Island Parties to act on their behalf

under the Treaty and notified to the United States.

Applicable national law means any provision of law of a Pacific Island Party that is described in paragraph 1(a) of Annex I of the Treaty.

Authorized inspector means any individual authorized by a Pacific Island Party or the Secretary to conduct inspections, to remove samples of fish, and to gather any other information relating to fisheries in the Licensing Area.

Authorized officer means any officer who is authorized by the Secretary, or the Secretary of Transportation, or the head of any Federal or state agency that has entered into an enforcement agreement with the Secretary under section 10(a) of the Act.

Authorized party officer means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

Closed area means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

Fishing means searching for, catching, taking, or harvesting fish; attempting to search for, catch, take, or harvest fish; engaging in any other activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fish; placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons; any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or aircraft use, relating to the activities described in this definition, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

Fishing arrangement means an arrangement between a Pacific Island Party and the owner of a U.S. fishing vessel that complies with section 6(b) of the Act.

Fishing vessel or *vessel* means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for commercial fishing, and that is documented under the laws of the United States.

Licensing Area means all waters in the Treaty Area except for:

(1) Those waters subject to the jurisdiction of the United States in accordance with international law.

(2) Those waters within closed areas.

(3) Those waters within limited areas closed to fishing.

Licensing period means the period of validity of licenses issued in accordance with the Treaty.

Limited area(s) means those areas so identified in Schedule 3 of Annex I of the Treaty.

Operator means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

Pacific Island Party means a Pacific island nation that is a party to the Treaty.

Regional Director means the Director, Southwest Region, or a designee.

Transship means to unload any or all of the fish on board a licensed vessel either ashore or onto another vessel.

Treaty Area means the area described in paragraph 1(k) of Article I of the Treaty.

§ 300.32 Vessel licenses.

(a) Each vessel fishing in the Licensing Area must have a license issued by the Administrator for the licensing period being fished, unless excepted by § 300.39. Each licensing period begins on June 15 and ends on June 14 of the following year.

(b) Upon receipt, the license or a duly certified copy, facsimile or telex confirmation must be carried on board the vessel when in the Licensing Area or Closed Areas and must be produced at the request of authorized officers, authorized party officers, or authorized inspectors. Prior to receipt of the license, but after issuance, a vessel may be used to fish, provided the number of the issued license is available on board.

(c) Application forms for licenses to use a vessel to fish in the Licensing Area may be requested from, and upon completion, must be returned to, the Regional Director. All of the information requested on the form and the following must be supplied before the application will be considered complete:

(1) The licensing period for which the license is requested.

(2) The name of an agent, located in Port Moresby, Papua New Guinea, who, on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty.

(3) Documentation from an insurance company showing that the vessel will be fully insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance.

(4) If the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, reasonable assurances that the owner of charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines.

(5) A copy of the vessel's USCG Certificate of Documentation.

(d) The number of available licenses are set forth in Schedule 2 of Annex II of the Treaty.

(e) Applications for vessels may be submitted at any time; complete applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(f) The Secretary, in consultation with the Secretary of State, may determine that a license application for a vessel should not be forwarded to the Administrator if:

(1) The application is not in accord with the Treaty, Act, or regulations;

(2) The owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, and reasonable financial assurances have not been provided to the Secretary that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines;

(3) The owner or charterer has not established to the satisfaction of the Secretary that the vessel will be fully insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance; or

(4) The owner or charterer has not paid any final penalty assessed by the Secretary in accordance with the Act.

(g) An applicant will be promptly notified if that applicant's license application will not be forwarded to the Administrator, and of the reasons therefor. Within 15 days of notification by the Regional Director that the application will not be forwarded, an applicant may request reconsideration by providing a petition for reconsideration accompanied by new or additional information.

§ 300.33 Compliance with applicable national laws.

The operator of the vessel shall comply with each of the applicable national laws, and the operator of the vessel shall be responsible for the compliance by the vessel and its crew with each of the applicable national laws, and the vessel shall be operated in accordance with those laws.

§ 300.34 Reporting requirements.

(a) License holders shall comply with the reporting requirements of parts 4 and 5 of Annex I to the Treaty.

(b) Information provided by license holders under Schedule 5 of Annex I of the Treaty shall be provided on the designated Forum Fisheries Agency form(s) to the Regional Director within 2 days of reaching port.

(c) Information provided by license holders under Schedule 6 of Annex I of the Treaty shall be provided on the designated Forum Fisheries Agency form(s) to the Regional Director within 2 days of completing unloading.

(d) Any information required to be recorded, or to be notified, communicated or reported pursuant to a requirement of these regulations, the Act, or the Treaty shall be true, complete and correct. Any change in circumstances that has the effect of rendering any of the information provided false, incomplete or misleading shall be communicated immediately to the Regional Director.

§ 300.35 Vessel and gear identification.

While a vessel is in the Licensing Area, a Limited Area closed to fishing, or a Closed Area, a recent and up-to-date copy of the International Code of Signals (INTERCO) shall be on board and accessible at all times. The operator shall comply with the 1989 Food and Agricultural Organization standard specifications for the marking and identification of fishing vessels. The international radio call sign of the vessel shall be painted in white on a black background, or in black on a white background, and be clear, distinct, and uncovered, in the following manner:

(a) On both sides of the vessel's hull or superstructure, with each letter and number being at least 1 m high and having a stroke width of 16.7 cm, with the background extending to provide a border around the mark of not less than 16.7 cm.

(b) On the vessel's deck, on the body of any helicopter and on the hull of any skiff, with each letter and number being at least 30 cm high, and having a stroke width of 5 cm with the background extending to provide a border around the mark of not less than 5 cm.

(c) On any other equipment being carried by and intended to be separated from the vessel during normal fishing operations, with each letter and number being at least 10 cm high and having a stroke width of 1.7 cm, with the background extending to provide a border around the mark of not less than 1.7 cm.

§ 300.36 Closed area stowage requirements.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any shall be tied down; and launches shall be secured.

§ 300.37 Radio monitoring.

The international distress frequency, 2.182 mHz, and 156.8 mHz (Channel 16, VHF) shall be monitored continuously from the vessel for the purpose of facilitating communication with the fisheries management, surveillance and enforcement authorities of the Parties.

§ 300.38 Prohibitions.

(a) Except as provided for in § 300.39, in addition to the prohibitions in § 300.4, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

(1) To violate the Act or any provision of any regulation or order issued pursuant to Act.

(2) To use a vessel for fishing in violation of an applicable national law.

(3) To violate the terms and conditions of any fishing arrangement to which that person is a party.

(4) To use a vessel for fishing in a Limited Area in violation of the requirements set forth in Schedule 3 of Annex I of the Treaty on ''Limited Areas''.

(5) To use a vessel for fishing in any Closed Area.

(6) To refuse to permit any authorized officer or authorized party officer to board a fishing vessel for purpose of conducting a search or inspection in connection with the enforcement of the Act or the Treaty.

(7) To refuse to comply with the instructions of an authorized officer or authorized party officer relating to fishing activities under the Treaty.

(8) To refuse to permit an authorized inspector full access to any place where fish taken in the Licensing Area is unloaded.

(9) To refuse to allow an authorized inspector to remove samples of fish from a vessel that fished in the Licensing Area.

(10) To forcibly assault, resist, oppose, impede, intimidate, or interfere with:

(i) Any authorized officer, authorized party officer or authorized inspector in the conduct of a search or inspection in connection with the enforcement of these regulations, the Act or the Treaty; or

(ii) An observer in the conduct of observer duties under the Treaty.

(11) To transship fish on board a vessel that fished in the Licensing Area, except in accordance with the conditions set out in parts 3 and 4 of Annex I to the Treaty.

(b) Except as provided for in § 300.39, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area:

(1) To use a vessel to fish unless validly licensed as required by the Administrator.

(2) To use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as a incidental bycatch.

(3) To use a vessel for fishing by any method, except the purse-seine method.

(4) To use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license.

(5) To operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels.

(6) To use a vessel to fish in a manner inconsistent with an order issued by the Secretary under § 300.42 (section 11 of the Act).

(7) Except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use aircraft in association with fishing activities of a vessel, unless it is identified on the license application for the vessel, or any amendment thereto.

§ 300.39 Exceptions.

(a) The prohibitions of § 300.38 and the licensing requirements of § 300.32 do not apply to fishing for albacore tuna by vessels using the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties.

(b) The prohibitions of § 300.38(a)(4), (a)(5), and (b)(3) do not apply to fishing under the terms and conditions of a fishing arrangement.

§ 300.40 Civil penalties.

The procedures of 15 CFR part 904 apply to the assessment of civil penalties, except as modified by the requirements of section 8 of the Act.

§ 300.41 Investigation notification.

Upon commencement of an investigation under section 10(b)(1) of the Act, the operator of any vessel concerned shall have 30 days after receipt of notification of the investigation and the operator's rights under section 10(b)(1) to submit comments, information, or evidence bearing on the investigation, and to request in writing that the Secretary provide the operator an opportunity to present the comments, information, or evidence orally to the Secretary or the Secretary's representative.

§ 300.42 Findings leading to removal from fishing area.

(a) Following an investigation conducted under section 10(b) of the Act, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel

that has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding that:

(1) The fishing vessel—

(i) While fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, the fishing is not authorized to be conducted in the Licensing Area without a license;

(ii) Was involved in any incident in which an authorized officer, authorized party officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcibly resisted, refused boarding or subjected to physical intimidation or physical interference in the performance of duties as authorized by the Act or the Treaty;

(iii) Has not made full payment within 60 days of any amount due as a result of a final judgement or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(iv) Was not represented by an agent for service of process in accordance with the Treaty; or

(2) There is probable cause to believe that the fishing vessel—

(i) Was used in violation of section 5(a)(4), (a)(5), (b)(2), or (b)(3) of the Act;

(ii) Used an aircraft in violation of section 5(b)(7) of the Act; or

(iii) Was involved in an incident in which section 5(a)(7) of the Act was violated.

(b) Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of that Pacific Island Party, the Secretary shall order the vessel to leave those waters until the Secretary of State notifies the Secretary that the order is no longer necessary.

(c) The Secretary shall rescind any order issued on the basis of a finding under paragraphs (a)(1) (iii) or (iv) of this section (subsections 11(a)(1) (C) or (D) of the Act) as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) An order issued in accordance with this section is not subject to judicial review.

§ 300.43 Observers.

(a) The operator and each member of the crew of a vessel shall allow and assist any person identified as an observer under the Treaty by the Pacific Island Parties:

(1) To board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary.

(2) Without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel that the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas that may be used to hold, process, weigh and store fish; remove samples; have full access to vessel's records, including its log and documentation for the purpose of inspection and copying; have reasonable access to navigation equipment, charts, and radios, and gather any other information relating to fisheries in the Licensing Area.

(3) To disembark at the point and time notified by the Pacific Island Parties to the Secretary.

(4) To carry out observer duties safely.

(b) The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation and medical facilities of reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

§ 300.44 Other inspections.

The operator and each member of the crew of any vessel from which any fish taken in the Licensing Area is unloaded or transshipped shall allow, or arrange for, and assist any authorized inspector, authorized party officer, or authorized officer to have full access to any place where the fish is unloaded or transshipped, to remove samples, to have full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying, and to gather any other information relating to fisheries in the Licensing Area without interfering unduly with the lawful operation of the vessel.

Subpart E—Pacific Halibut Fisheries

Authority: 16 U.S.C. 773–773k.

§ 300.60 Purpose and scope.

This subpart implements the North Pacific Halibut Act of 1982 (Act) and is intended to supplement, not conflict with, the annual fishery management measures adopted by the International Pacific Halibut Commission (Commission) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention).

§ 300.61 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and the Convention, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Convention, the definition in this section shall apply.

Area 2A includes all waters off the States of California, Oregon, and Washington.

Commercial fishing means fishing, the resulting catch of which either is, or is intended to be, sold or bartered.

Person includes an individual, corporation, firm, or association.

Subarea 2A–1 includes all U.S. waters off the coast of Washington that are north of 46°53′18″ N. lat. and east of 125°44′00″ W. long., and all inland marine waters of Washington.

Treaty Indian tribes means the Hoh, Jamestown S'Klallam, Lower Elwha S'Klallam, Lummi, Makah, Port Gamble S'Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

§ 300.62 Annual management measures.

Annual management measures may be added and modified through adoption by the Commission and publication in the Federal Register by the Assistant Administrator, with immediate regulatory effect. Such measures may include, *inter alia*, provisions governing: Licensing of vessels, inseason actions, regulatory areas, fishing periods, closed periods, closed areas, catch limits (quotas), fishing period limits, size limits, careful release of halibut, vessel clearances, logs, receipt and possession of halibut, fishing gear, retention of tagged halibut, supervision of unloading and weighing, and sport fishing for halibut. The Assistant Administrator will publish the Commission's regulations setting forth annual management measures in the Federal Register by March 15 each year. Annual management measures may be adjusted inseason by the Commission.

§ 300.63 Catch sharing plans and domestic management measures.

Catch sharing plans (CSP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved catch sharing plan may be obtained from the Director, Northwest Region, or the Director, Alaska Region.

(a) The catch sharing plan for area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission

regulations, which will be published in the Federal Register each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.

(1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the Federal Register the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.

(2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register along with the annual salmon management measures.

(3) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.

(4) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62

(b) The catch sharing plan for area 4 allocates the annual TAC among area 4 subarea, and will be implemented by the Commission in management measures published pursuant to § 300.62.

§ 300.64 Fishing by U.S. treaty Indian tribes.

(a) Halibut fishing in subarea 2A–1 by members of U.S. treaty Indian tribes located in the State of Washington is governed by this section.

(b) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A–1 with hook-and-line gear in conformance with the season and quota established annually by the Commission.

(c) Commercial fishing periods and management measures to implement paragraph (b) of this section will be established by treaty Indian tribal regulations.

(d) Commercial fishing for halibut by treaty Indians shall comply with the Commission's management measures governing size limits, careful release of halibut, logs, and fishing gear (published pursuant to § 300.62), except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

(e) Ceremonial and subsistence fishing for halibut by treaty Indians in subarea 2A–1 is permitted with hook-and-line gear from January 1 to December 31.

(f) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (b) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(g) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(h) Any member of a U.S. treaty Indian tribe who is engaged in commercial or ceremonial and subsistence fishing under this section must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States* v. *Washington* 384 F. Supp. 312 (W.D. Wash., 1974).

(i) The following table sets forth the fishing areas of each of the 12 treaty Indian tribes fishing pursuant to this section. Within subarea 2A–1, boundaries of a tribe's fishing area may be revised as ordered by a Federal Court.

Tribe	Boundaries
HOH	Between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River), and east of 125°44′00″ W. long.
JAMESTOWN S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.
LOWER ELWHA S'KLALLAM.	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha S'Klallam Tribe may fish under rights secured by treaties with the United States.
LUMMI	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89–08 (W.D. Wash., February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.
MAKAH	North of 48°02′15″ N. lat. (Norwegian Memorial), west of 123°42′30″ W. long., and east of 125°44′00″ W. long.
PORT GAMBLE S'KLALLAM.	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble S'Klallam Tribe may fish under rights secured by treaties with the United States.
QUILEUTE	Between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River), and east of 125°44′00″ W. long.
QUINAULT	Between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis), and east of 125°44′00″ W. long.
SKOKOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.
SUQUAMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.

Tribe	Boundaries
SWINOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.
TULALIP	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1531–1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

§ 300.65 Prohibitions.

In addition to the prohibitions in § 300.4, the following prohibitions apply within this subpart. It is unlawful for any person to fish for halibut except in accordance with:

(a) The management measures published under § 300.62.

(b) The catch sharing plans and management measures implemented under § 300.63.

Subpart F—Fraser River Sockeye and Pink Salmon Fisheries

Authority: Pacific Salmon Treaty Act, 16 U.S.C. 3636(b).

§ 300.90 Purpose and scope.

This subpart implements the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631–3644) (Act) and is intended to supplement, not conflict with, the fishery regimes and Fraser River Panel regulations adopted under the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985 (Treaty).

§ 300.91 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and the Treaty, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Treaty, the definition in this section shall apply.

All-citizen means any person who is not a treaty Indian fishing in that treaty Indian's tribal treaty fishing places pursuant to treaty Indian tribal fishing regulations (whether in compliance with such regulations or not).

Authorized officer means, in addition to those individuals identified under *authorized officer* at § 300.2, any state, Federal, or other officer as may be authorized by the Secretary in writing, including any treaty Indian tribal enforcement officer authorized to enforce tribal fishing regulations.

Commission means the Pacific Salmon Commission established by the Pacific Salmon Treaty.

Consistent regulation or consistent order means any Federal, state, or treaty Indian tribal regulation or order that is in addition to and not in conflict with (at least as restrictive as) any regime of the Commission, Fraser River Panel regulation, inseason order of the Secretary, or these regulations.

Fishing gear—

(1) *Gill net* means a fishing net of single web construction, not anchored, tied, staked, placed, or weighted in such a manner that it cannot drift.

(2) *Purse seine* means all types of fishing gear consisting of a lead line, cork line, auxiliary lines, purse line and purse rings and of mesh net webbing fashioned in such a manner that it is used to encircle fish, and in addition prevent their escape under the bottom or lead line of the net by drawing in the bottom of the net by means of the purse line so that it forms a closed bag.

(3) *Reef net* means a non-self-fishing open bunt square or rectangular section of mesh netting suspended between two anchored boats fashioned in such a manner that to impound salmon passing over the net, the net must be raised to the surface.

(4) *Troll fishing gear* means one or more lines that drag hooks with bait or lures behind a moving fishing vessel.

(5) *Treaty Indian fishing gear* means fishing gear defined authorized, and identified under treaty Indian tribal laws and regulations in accordance with the requirements of Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974).

Fraser River Panel means the Fraser River Panel established by the Pacific Salmon Treaty.

Fraser River Panel Area (U.S.) means the United States' portion of the Fraser River Panel Area specified in Annex II of the Treaty as follows:

(1) The territorial water and the high seas westward from the western coast of Canada and the United States of America and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse of Tatoosh Island, Washington—which line marks the entrance of Juan de Fuca Strait—and embraced between 48° and 49° N. lat., excepting therefrom, however, all the waters of Barkley Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

(2) The waters included within the following boundaries: Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph (1) of this definition, thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway (Burlington Northern Railroad), thence northerly following the shoreline of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, then westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shoreline to Welcome Point on Sechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island, to the starting point at Bonilla Point, as shown on the British Admiralty Chart Number 579, and on the U.S. Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, copies of which are annexed to the 1930 Convention between Canada and the United States of America for Protection, Preservation, and Extension of the Sockeye Salmon Fishery in the Fraser River System as amended, signed May 26, 1930. [Note: U.S. Coast and Geodetic Survey Chart Number 6300 has been replaced and updated by NOAA Chart Number 18400.]

(3) The Fraser River and the streams and lakes tributary thereto.

(4) The Fraser River Panel Area (U.S.) includes Puget Sound Management and Catch Reporting Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7B, 7C, 7D, and 7E as defined in the Washington State Administrative Code at Chapter 220–22 as of June 27, 1986.

Fraser River Panel regulations means regulations applicable to the Fraser River Panel Area that are recommended by the Commission (on the basis of proposals made by the Fraser River Panel) and approved by the Secretary of State.

Mesh size means the distance between the inside of one knot to the outside of the opposite (vertical) knot in one mesh of a net.

Pink salmon means *Oncorhynchus gorbuscha.*

Sockeye salmon means the anadromous form of *Oncorhynchus nerka.*

Treaty fishing places (of an Indian tribe) means locations within the Fraser River Panel Area (U.S.) as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington,* 384 F. Supp. 312 (W.D. Wash. 1974), to be places at which that treaty Indian tribe may take fish under rights secured by treaty with the United States.

Treaty Indian means any member of a treaty Indian tribe whose treaty fishing place is in the Fraser River Panel Area (U.S.) or any assistant to a treaty Indian authorized to assist in accordance with § 300.95(d).

Treaty Indian tribe means any of the federally recognized Indian tribes of the State of Washington having fishing rights secured by treaty with the United States to fish for salmon stocks subject to the Pacific Salmon Treaty in treaty fishing places within the Fraser River Panel Area (U.S.). Currently these tribes are the Makah, Tribe, Lower Elwha Klallam Tribe, Port Gamble Klallam Tribe, Jamestown Klallam Tribe, Suquamish Tribe, Lummi Tribe, Nooksack Tribe, the Swinomish Indian Tribal Community, and the Tulalip Tribe.

§ 300.92 Relation to other laws.

(a) Insofar as they are consistent with this part, any other applicable Federal law or regulation, or any applicable law and regulations of the State of Washington or of a treaty Indian tribe with treaty fishing rights in the Fraser River Panel Area (U.S.) will continue to have force and effect in the Fraser River Panel Area (U.S.) with respect to fishing activities addressed herein.

(b) Any person fishing subject to this subpart is bound by the international boundaries now recognized by the United States within the Fraser River Panel Area (U.S.) described in § 300.91, notwithstanding any dispute or negotiation between the United States and Canada regarding their respective jurisdictions, until such time as different boundaries are published by the United States.

(c) Any person fishing in the Fraser River Panel Area (U.S.) who also fishes for groundfish in the EEZ should consult Federal regulations at part 663 of this title for applicable requirements, including the requirement that vessels engaged in commercial fishing for groundfish (except commercial passenger vessels) have vessel identification in accordance with § 663.6. Federal regulations governing salmon fishing in the EEZ, which includes a portion of the Fraser River Panel Area (U.S.), are at part 661 of this title. Annual regulatory modifications are published in the Federal Register.

(d) Except as otherwise provided in this subpart, general provisions governing off-reservation fishing by treaty Indians are found at 25 CFR part 249, subpart A. Additional general and specific provisions governing treaty Indian fisheries are found in regulations and laws promulgated by each treaty Indian tribe for fishermen fishing pursuant to tribal authorization.

(e) Nothing in this subpart relieves a person from any other applicable requirements lawfully imposed by the United States, the State of Washington, or a treaty Indian tribe.

§ 300.93 Reporting requirements.

Any person fishing for sockeye or pink salmon within the Fraser River Panel Area (U.S.) and any person receiving or purchasing fish caught by such persons are subject to State of Washington reporting requirements at Washington Administrative Code, Chapter 220–69. Treaty Indian fishermen are subject also to tribal reporting requirements. No separate Federal reports are required.

§ 300.94 Prohibitions and restrictions.

In addition to the prohibitions in § 300.4, the following prohibitions and restrictions apply.

(a) In addition to the prohibited acts set forth in the Act at 16 U.S.C. 3637(a), the following restrictions apply to sockeye and pink salmon fishing in the Fraser River Panel Area (U.S.):

(1) The Fraser River Panel Area (U.S.) is closed to sockeye and pink salmon fishing, unless opened by Fraser River Panel regulations or by inseason orders of the Secretary issued under § 300.97 that give effect to orders of the Fraser River Panel, unless such orders are determined not to be consistent with domestic legal obligations. Such regulations and inseason orders may be further implemented by regulations promulgated by the United States, the State of Washington, or any treaty Indian tribe, which are also consistent with domestic legal obligations.

(2) It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States to fish for, or take and retain, any sockeye or pink salmon:

(i) Except during times or in areas that are opened by Fraser River Panel regulations or by inseason order, except that this provision will not prohibit the direct transport of legally caught sockeye or pink salmon to offloading areas.

(ii) By means of gear or methods not authorized by Fraser River Panel regulations, inseason orders, or other applicable Federal, state, or treaty Indian tribal law.

(iii) In violation of any applicable area, season, species, zone, gear, or mesh size restriction.

(b) It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States to—

(1) Remove the head of any sockeye or pink salmon caught in the Fraser River Panel Area (U.S.), or possess a salmon with the head removed, if that salmon has been marked by removal of the adipose fin to indicate that a coded wire tag has been implanted in the head of the fish.

(2) Fail to permit an authorized officer to inspect a record or report required by the State of Washington or treaty Indian tribal authority.

(c) Notwithstanding paragraph (a) of this section, nothing in this subpart will be construed to prohibit the retention of sockeye or pink salmon caught by any person while lawfully engaged in a fishery for subsistence or ceremonial purposes pursuant to treaty Indian tribal regulations, for recreational purposes pursuant to recreational fishing regulations promulgated by the State of Washington, or as otherwise authorized by treaty Indian tribal or State of Washington law or regulation, provided that such treaty Indian tribal or State regulation is consistent with U.S.-approved Commission fishery regimes, Fraser River Panel regulations, or inseason orders of the Secretary applicable to fishing in the Fraser River Panel Area (U.S.).

(d) The following types of fishing gear are authorized, subject to the restrictions set forth in this subpart and according to the times and areas

established by Fraser River Panel regulations or inseason orders of the Secretary:

(1) All citizens: Gill net, purse seine, reef net, and troll fishing gear. Specific restrictions on all citizens gear are contained in the Washington State Administrative Code of Chapter 220–47.

(2) Treaty Indians: Treaty Indian fishing gear.

(e) Geographic descriptions of Puget Sound Salmon Management and Catch Reporting Areas, which are referenced in the Commission's regimes, Fraser River Panel regulations, and in inseason orders of the Secretary, are found in the Washington State Administrative Code at Chapter 220–22.

§ 300.95 Treaty Indian fisheries.

(a) Any treaty Indian must comply with this section when fishing for sockeye and pink salmon at the treaty Indian tribe's treaty fishing places in the Fraser River Panel Area (U.S.) during the time the Commission or the Secretary exercises jurisdiction over these fisheries. Fishing by a treaty Indian outside the applicable Indian tribe's treaty fishing places will be subject to the Fraser River Panel regulations and inseason orders applicable to all citizens, as well as to the restrictions set forth in this section.

(b) Nothing in this section will relieve a treaty Indian from any applicable law or regulation imposed by a treaty Indian tribe, or from requirements lawfully imposed by the United States or the State of Washington in accordance with the requirements of Final Decision No. 1 and subsequent orders in *United States* v. *Washington,* 384 F. Supp. 312 (W.D. Wash., 1974).

(c) *Identification.* (1) Any treaty Indian fishing under the authority of this subpart must have in his or her possession at all times while fishing or engaged in any activity related to fishing the treaty Indian identification required by 25 CFR 249.3 or by applicable tribal law.

(2) Any person assisting a treaty Indian under the authority of paragraph (d) of this section must have in his or her possession at all such times a valid identification card issued by the Bureau of Indian Affairs or by a treaty Indian tribe, identifying the holder as a person qualified to assist a treaty Indian. The identification card must include the name of the issuing tribe, the name, address, date of birth, and photograph of the assistant, and the name and identification number of the treaty Indian whom the assistant is authorized to assist.

(3) Identification described in paragraph (c) (1) or (2) of this section must be shown on demand to an authorized officer by the treaty Indian or authorized assistant.

(4) Any treaty Indian fishing under this subpart must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States* v. *Washington,* 384 F. Supp. 312 (W.D. Wash., 1974).

(d) *Fishing assistance.* (1) Any member of a treaty Indian tribe fishing under this subpart may, if authorized by the treaty Indian's tribe, receive fishing assistance from, and only from, the treaty Indian tribal member's spouse, forebears, children, grandchildren, and siblings, as authorized by the U.S. District Court for the Western District of Washington in *United States* v. *Washington,* 384 F. Supp. 312 (W.D. Wash., 1974). For purposes of this section, the treaty Indian tribal member whom the assistant is authorized to assist must be present aboard the fishing vessel at all times while engaged in the exercise of treaty Indian fishing rights subject to this subpart.

(2) No treaty Indian may, while fishing at a treaty fishing place in accordance with treaty-secured fishing rights, permit any person 16 years of age or older other than the authorized holder of a currently valid identification card issued in accordance with the requirements of paragraphs (c) (1) and (2) of this section to fish for said treaty Indian, assist said treaty Indian in fishing, or use any gear or fishing location identified as said treaty Indian's gear or location.

(3) Treaty Indians are prohibited from participating in a treaty Indian fishery under this section at any time persons who are not treaty Indians are aboard the fishing vessel or in contact with fishing gear operated from the fishing vessel, unless such persons are authorized employees or officers of a treaty Indian tribe or tribal fisheries management organization, the Northwest Indian Fisheries Commission, the Commission, or a fisheries management agency of the United States or the State of Washington.

§ 300.96 Penalties.

Any treaty Indian who commits any act that is unlawful under this subpart normally will be referred to the applicable tribe for prosecution and punishment. If such tribe fails to prosecute such persons in a diligent manner for the offense(s) referred to the tribe, or if other good cause exists, such treaty Indian may be subject to the penalties and procedures described in the Magnuson Act.

§ 300.97 Inseason orders.

(a) During the fishing season, the Secretary may issue orders that establish fishing times and areas consistent with the annual Commission regime and inseason orders of the Fraser River Panel. Inseason orders will be consistent with domestic legal obligations. Violation of such inseason orders is violation of this subpart.

(b) *Notice of inseason orders.* (1) Official notice of such inseason orders is available from NMFS (for orders applicable to all-citizen fisheries) and from the Northwest Indian Fisheries Commission (for orders applicable to treaty Indian fisheries) through the following Area Code 206 toll-free telephone hotlines: All-citizen fisheries: 1–800–562–6513; Treaty Indian fisheries: 1–800–562–6142.

(2) Notice of inseason orders of the Secretary and other applicable tribal regulations may be published and released according to tribal procedures in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington,* 384 F. Supp. 312 (W.D. Wash., 1974).

(3) Inseason orders may also be communicated through news releases to radio and television stations and newspapers in the Fraser River Panel Area (U.S.).

(4) Inseason orders of the Secretary will also be published in the Federal Register as soon as practicable after they are issued.

Subpart G—Antarctic Marine Living Resources

Authority: 16 U.S.C. 2431 *et seq.*

§ 300.100 Purpose and scope.

(a) This subpart implements the Antarctic Marine Living Resources Convention Act of 1984 (Act).

(b) This subpart regulates—

(1) The harvesting of Antarctic marine living resources or other associated activities by any person subject to the jurisdiction of the United States or by any vessel of the United States.

(2) The importation into the United States of any Antarctic marine living resource.

§ 300.101 Definitions.

In addition to the terms defined in § 300.2, in the Act, and in the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980 (Convention). Convention, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, such Act, or such Convention, the definition in this section shall apply.

ACA means the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*).

Antarctic convergence means a line joining the following points along the parallels of latitude and meridians of longitude:

Lat.	*Long.*
50° S.	0.
50° S.	30° E.
45° S.	30° E.
45° S.	80° E.
55° S.	80° E.
55° S.	150° E.
60° S.	150° E.
60° S.	50° W.
50° S.	50° W.
50° S.	0.

Antarctic finfishes include the following:

Scientific name	Common name
Gobionotothen gibberifrons.	Humped rockcod.
Notothenia rossii	Marbled rockcod.
Lepidorhirus squamifrons.	Grey rockcod.
Dissostichus eleginoides.	Patagonian toothfish.
Patagonothen brevicauda guntheri.	Patagonian rockcod.
Pleuragramma antarcticum.	Antarctic silverfish.
Trematomus spp.	Antarctic cods.
Chaenocephalus aceratus.	Blackfin icefish.
Chaenodraco wilsoni	Spiny icefish.
Champsocephalus gunnari.	Mackerel icefish.
Chionodraco rastrospinosus.	Ocellated icefish.
Pseudochaenichthys georgianus.	South Georgia icefish.

Antarctic marine living resources or *AMLR(s)* means the populations of finfish, mollusks, crustaceans, and all other species of living organisms, including birds, found south of the Antarctic Convergence, and their parts or products.

Commission means the Commission for the Conservation of Antarctic Marine Living Resources established under Article VII of the Convention.

Convention waters means all waters south of the Antarctic Convergence.

Directed fishing, with respect to any species or stock of fish, means any fishing that results in such fish comprising more than 1 percent by weight, at any time, of the catch on board the vessel.

Fish means finfish, mollusks, and crustaceans.

Fishery means:

(1) One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(2) Any fishing for such stocks.

Harvesting vessel means any vessel of the United States (this includes any boat, ship, or other craft), that is used for, equipped to be used for, or of a type that is normally used for harvesting.

Individual permit means an NSF permit issued under 45 CFR part 670; or an NSF award letter (demonstrating that the individual has received an award from NSF to do research in the Antarctic); or a marine mammal permit issued under § 216.31 of this chapter; or an endangered species permit issued under § 222.21 of this chapter.

Inspection vessel means a vessel carrying a CCAMLR inspector and displaying the pennant approved by the Commission to identify such vessel.

Land or *landing* means to begin offloading any fish, to arrive in port with the intention of offloading any fish, or to cause any fish to be offloaded.

NSF means National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Recreational fishing means fishing with hook and line for personal use and not for sale.

Scientific research activity means any activity for which a person has a permit from NMFS under § 216.31 of this title or an award letter from NSF or a permit from the NSF under 45 CFR part 670. Scientific research activities may also include harvesting or other associated activities if such activities are designated as scientific research activities by the Assistant Administrator.

§ 300.102 Relationship to other treaties, conventions, laws, and regulations.

(a) Other conventions and treaties to which the United States is a party and other Federal statutes and implementing regulations may impose additional restrictions on the harvesting and importation into the United States of AMLRs.

(b) The ACA implements the Antarctic Treaty Agreed Measures for the Conservation of Antarctic Fauna and Flora (12 U.S.T. 794). The ACA and its implementing regulations (45 CFR part 670) apply to certain defined activities of U.S. citizens south of 60° S. lat.

(c) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*), and their implementing regulations also apply to the harvesting and importation of AMLRs.

§ 300.103 Procedure for according protection to CCAMLR Ecosystem Monitoring Program Sites.

(a) *General.* (1) Any person subject to the jurisdiction of the United States must apply for and be granted an entry permit authorizing specific activities prior to entering a CCAMLR Ecosystem Monitoring Program (CEMP) Protected Site designated in accordance with the CCAMLR Conservation Measure describing the Procedures for According Protection for CEMP Sites.

(2) If a CEMP Protected Site is also a site specially protected under the Antarctic Treaty (or the Protocol on Environmental Protection to the Antarctic Treaty and its Annexes, when it enters into force), an applicant seeking to enter such a Protected Site must apply to the Director of the NSF for a permit under applicable provisions of the ACA or any superseding legislation. The permit granted by NSF shall constitute a joint CEMP/ACA Protected Site permit and any person holding such a permit must comply with the appropriate CEMP Protected Site Management Plan. In all other cases, an applicant seeking a permit to enter a CEMP Protected Site must apply to the Assistant Administrator for a CEMP permit in accordance with the provisions of this section.

(b) *Responsibility of CEMP permit holders and persons designated as agents under a CEMP permit.* (1) The CEMP permit holder and person designated as agents under a CEMP permit are jointly and severally responsible for compliance with the Act, this subpart, and any permit issued under this subpart.

(2) The CEMP permit holder and agents designated under a CEMP permit are responsible for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or forbidden by the CEMP permit holder or agents, and regardless of knowledge concerning their occurrence.

(c) *Prohibitions regarding the Antarctic Treaty System and other applicable treaties and statutes.* Holders of permits to enter CEMP Protected Sites are not permitted to undertake any activities within a CEMP Protected Site that are not in compliance with the provisions of:

(1) The Antarctic Treaty, including the Agreed Measures for the Conservation of Antarctic Fauna and Flora (including the Protocol on the Environmental Protection to the Antarctic Treaty and its Annexes when it enters into force), as implemented under by the ACA and any superseding legislation. (Persons interested in

conducting activities subject to the Antarctic Treaty or the Protocol should contact the Office of Polar Programs, NSF).

(2) The Convention for the Conservation of Antarctic Seals.

(3) The Convention and its Conservation Measures in force, implemented under the Act.

(d) *Prohibitions on takings.* Permits issued under this section do not authorize any takings as defined in the applicable statutes and implementing regulations governing the activities of persons in Antarctica.

(e) *Issuance criteria.* Permits designated in this section may be issued by the Assistant Administrator upon a determination that:

(1) The specific activities meet the requirements of the Act.

(2) There is sufficient reason, established in the permit application, that the scientific purpose for the intended entry cannot be served elsewhere.

(3) The actions permitted will not violate any provisions or prohibitions of the Protected Site's Management Plan submitted in compliance with the CCAMLR Conservation Measure describing the Procedures for According Protection to CEMP Sites.

(f) *Application process.* An applicant seeking a CEMP permit from the Assistant Administrator to enter a CEMP Protected Site shall include the following in the application.

(1) A detailed justification that the scientific objectives of the applicant cannot be accomplished elsewhere and a description of how said objectives will be accomplished within the terms of the Protected Site's Management Plan.

(2) A statement signed by the applicant that the applicant has read and fully understands the provisions and prohibitions of the Protected Site's Management Plan. Prospective applicants may obtain copies of the relevant Management Plans and the CCAMLR Conservation Measure describing the Procedures for According Protection to CEMP Sites by requesting them from the Assistant Administrator.

(g) *Conditions.* CEMP permits issued under this section will contain special and general conditions including a condition that the permit holder shall submit a report describing the activities conducted under the permit within 30 days of the expiration of the CEMP permit.

(h) *Duration.* Permits issued under this section are valid for a period of 1 year. Applicants requesting a permit to reenter a Protected Site must include the report required by the general condition in the previously issued CEMP permit describing the activities conducted under authority of that permit.

(i) *Transfer.* CEMP permits are not transferable or assignable. A CEMP permit is valid only for the person to whom it is issued.

(j) *Modification.* (1) CEMP permits can be modified by submitting a request to the Assistant Administrator. Such requests shall specify:

(i) The action proposed to be taken along with a summary of the reasons therefore.

(ii) The steps that the permit holder may take to demonstrate or achieve compliance with all lawful requirements.

(2) If a requested modification is not in compliance with the terms of the Protected Site's Management Plan, the Assistant Administrator will treat the requested modification as an application for a new CEMP permit and so notify the holder. Modifications will be acted upon within 30 days of receipt. The CEMP permit holder must report to the Assistant Administrator any change in previously submitted information within 10 days of the change.

(3) Additional conditions and restrictions. The Assistant Administrator may revise the CEMP permit effective upon notification of the permit holder, to impose additional conditions and restrictions as necessary to achieve the purposes of the Convention, the Act and the CEMP Management Plan. The CEMP permit holder must, as soon as possible, notify any and all agents operating under the permit of any and all revisions or modifications to the permit.

(k) *Revocation or suspension.* CEMP permits may be revoked or suspended based upon information received by the Assistant Administrator and such revocation or suspension shall be effective upon notification to the permit holder.

(1) A CEMP permit may be revoked or suspended based on a violation of the permit, the Act, or this subpart.

(2) Failure to report a change in the information submitted in a CEMP permit application within 10 days of the change is a violation of this subpart and voids the application or permit, as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

(l) *Exceptions.* Entry into a Protected Site described in this section is lawful if committed under emergency conditions to prevent the loss of human life, compromise human safety, prevent the loss of vessels or aircraft, or to prevent environmental damage.

(m) *Protected sites.* (1) Sites protected by the Antarctic Treaty and regulated under the ACA are listed at 45 CFR part 670 subparts G and H.

(2) The following sites have been identified as CEMP Protected Sites subject to the regulatory authority of the Act:

(i) *Seal Islands, South Shetland Islands*—The Seal Islands are composed of islands and skerries located approximately 7 km north of the northwest corner of Elephant Island, South Shetland Islands. The Seal Islands CEMP Protected Site includes the entire Seal Islands group, which is defined as Seal Island plus any land or rocks exposed at mean low tide within a distance of 5.5 km of the point of highest elevation on Seal Island. Seal Island is situated at 60°59′14″ S. lat., 55°23′04″ W. long.

(ii) *Cape Shirreff and the San Telmo Islands.* This designation takes effect on May 1, 1995. Cape Shirreff is a low, ice-free peninsula towards the western end of the north coast of Livingston Island, South Shetland Islands, situated at 62°29′ S. lat., 60°47′ W. long., between Barclay Bay and Hero Bay. San Telmo Island is the largest of a small group of ice-free rock islets, approximately 2 km west of Cape Shirreff. The boundaries of the Cape Shirreff CEMP Protected Site are identical to the boundaries of the Site of Special Scientific Interest No. 32, as specified by ATCM Recommendation XV–7. No manmade boundary markers indicate the limits of the SSSI or protected site. The boundaries are defined by natural features and include the entire area of the Cape Shirreff peninsula north of the glacier ice tongue margin, and most of the San Telmo Island group. For the purposes of the protected site, the entire area of Cape Shirreff and the San Telmo Island group is defined as any land or rocks exposed at mean low tide within the area delimited by the map of SSSI No. 32 and available from the Assistant Administrator.

§ 300.104 Scientific research.

(a) The management measures issued pursuant to the procedures at § 300.111 do not apply to catches of less than 5 tons taken by any vessel for research purposes, unless otherwise indicated.

(b) Catches taken by any vessel for research purposes will be considered as part of any catch limit.

(c) The catch reporting procedure identified in management measures issued pursuant to the procedures at § 300.111 applies whenever the catch within any 5-day reporting period exceeds 5 tons, unless more specific

reporting requirements apply to the species being fished.

(d) Any person, organization or institution planning to use a vessel for research purposes, when the estimated catch is expected to be less than 50 tons, must provide the following vessel and research notification to the Assistant Administrator at least 2 months in advance of the planned research:

(1) Name and registration number of vessel.

(2) Division and subarea in which research is to be carried out.

(3) Estimated dates of entering and leaving CCAMLR Convention Area.

(4) Purposes of research.

(5) Fishing equipment to be used (bottom trawl, midwater trawl, longline, crab pots, other).

(e) The following measures apply to any person planning to use any vessel for research purposes, when the estimated catch is expected to be more than 50 tons:

(1) The person must use the CCAMLR Format for Reporting Plans for Finfish Surveys in the Convention Area when the Total Catch is Expected to be More Than 50 Tons to report the details of the research plan to the Assistant Administrator at least 7 months in advance of the planned starting date for the research. A copy of the format is available from the Assistant Administrator.

(2) The format requires:

(i) The name of the CCAMLR Member.

(ii) Survey details.

(iii) Description of the vessel.

(iv) Description of the fishing gear to be used.

(v) Description of acoustic gear to be used.

(vi) Survey design and methods of data analyses.

(vii) Data to be collected.

(3) A summary of the results of any research fishing subject to these provisions must be provided to the Assistant Administrator within 150 days of the completion of the research fishing and a full report must be provided within 11 months.

(4) Catch and effort data resulting from the research fishing must be reported to the Assistant Administrator using the CCAMLR C4 haul-by-haul reporting format for research vessels.

§ 300.105 Initiating a new fishery.

(a) A new fishery, for purposes of this section, is a fishery on a species using a particular method in a statistical subarea for which:

(1) Information on distribution, abundance, demography, potential yield and stock identity from comprehensive research/surveys or exploratory fishing has not been submitted to CCAMLR;

(2) Catch and effort data have never been submitted to CCAMLR; or

(3) Catch and effort data from the two most recent seasons in which fishing occurred have not been submitted to CCAMLR.

(b) An individual subject to these regulations intending to develop a new fishery shall notify the Assistant Administrator no later than July 1 of the year in which he or she intends to initiate the fishery and shall not initiate the fishery pending CCAMLR review.

(c) The notification shall be accompanied by information on:

(1) The nature of the proposed fishery, including target species, methods of fishing, proposed region and any minimum level of catches that would be required to develop a viable fishery.

(2) Biological information from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity.

(3) Details of dependent and associated species and the likelihood of them being affected by the proposed fishery.

(4) Information from other fisheries in the region or similar fisheries elsewhere that may assist in the valuation of potential yield.

§ 300.106 Exploratory fisheries.

(a) An exploratory fishery, for purposes of this section, is a fishery that was previously defined as a new fishery under § 300.105.

(b) A fishery will continue to be classified as an exploratory fishery until sufficient information is available to:

(1) Evaluate the distribution, abundance, and demography of the target species, leading to an estimate of the fishery's potential yield.

(2) Review the fishery's potential impacts on dependent and related species.

(3) Allow the CCAMLR Scientific Committee to formulate and provide advice to the Commission on appropriate harvest catch levels and fishing gear.

(c) Each vessel participating in an exploratory fishery must carry a scientific observer.

(d) The operator of any vessel engaging in an exploratory fishery must submit, by the date specified in the operator's harvesting permit, catch, effort, and related biological, ecological, and environmental data as required by a data collection plan for the fishery formulated by the CCAMLR Scientific Committee.

(e) In addition to the requirements in § 300.112, any individual planning to enter an exploratory fishery must notify the Assistant Administrator no later than 4 months in advance of the annual meeting of CCAMLR. The Assistant Administrator will not issue a permit to enter an exploratory fishery until after the requirements of § 300.112 have been met and the meeting of CCAMLR, which receives and considers the notice made to the Assistant Administrator, has been concluded.

§ 300.107 Reporting and recordkeeping requirements.

The operator of any vessel required to have a permit under this subpart must:

(a) Accurately maintain on board the vessel a fishing logbook and all other reports and records required by its permit.

(b) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector.

(c) Within the time specified in the permit, submit a copy of such reports and records to the Assistant Administrator.

§ 300.108 Vessel and gear identification.

(a) *Vessel identification.* (1) The operator of each harvesting vessel assigned an IRCS must display that call sign amidships on both the port and starboard sides of the deckhouse or hull, so that it is visible from an enforcement or inspection vessel, and on an appropriate weather deck so that it is visible from the air.

(2) The operator of each harvesting vessel not assigned an IRCS, such as a small trawler associated with a mothership or one of a pair of trawlers, must display the IRCS of the associated vessel, followed by a numerical suffix specific for the non-assigned vessel.

(3) The vessel identification must be in a color in contrast to the background and must be permanently affixed to the harvesting vessel in block roman alphabet letters and arabic numerals at least 1 m in height for harvesting vessels over 20 m in length, and at least 0.5 m in height for all other harvesting vessels.

(b) *Navigational lights and shapes.* Each harvesting vessel must display the lights and shapes prescribed by the International Regulations for Preventing Collisions at Sea, 1972 (TIAS 8587, and 1981 amendment TIAS 10672), for the activity in which the harvesting vessel is engaged (as described at 33 CFR part 81).

(c) *Gear identification.* (1) The operator of each harvesting vessel must ensure that all deployed fishing gear that is not physically and continuously attached to a harvesting vessel is clearly marked at the surface with a buoy displaying the vessel identification of

the harvesting vessel (see paragraph (a) of this section) to which the gear belongs, a light visible for 2 miles at night in good visibility, and a radio buoy. Trawl codends passed from one vessel to another are considered continuously attached gear and do not have to be marked.

(2) The operator of each harvesting vessel must ensure that deployed longlines, strings of traps or pots, and gillnets are marked at the surface at each terminal end with a buoy displaying the vessel identification of the harvesting vessel to which the gear belongs (see paragraph (a) of this section), a light visible for 2 miles at night in good visibility, and a radio buoy.

(3) Unmarked or incorrectly identified fishing gear may be considered abandoned and may be disposed of in accordance with applicable Federal regulations by any authorized officer or CCAMLR inspector.

(d) *Maintenance.* The operator of each harvesting vessel must:

(1) Keep the vessel and gear identification clearly legible and in good repair.

(2) Ensure that nothing on the harvesting vessel obstructs the view of the markings from an enforcement or inspection vessel or aircraft.

(3) Ensure that the proper navigational lights and shapes are displayed for the harvesting vessel's activity and are properly functioning.

§ 300.109 Gear disposal.

(a) The operator of a harvesting vessel may not dump overboard, jettison or otherwise discard any article or substance that may interfere with other fishing vessels or gear, or that may catch fish or cause damage to any marine resource, including marine mammals and birds, except in cases of emergency involving the safety of the ship or crew, or as specifically authorized by communication from the appropriate USCG commander or authorized officer. These articles and substances include, but are not limited to, fishing gear, net scraps, bale straps, plastic bags, oil drums, petroleum containers, oil, toxic chemicals or any manmade items retrieved in a harvesting vessel's gear.

(b) The operator of a harvesting vessel may not abandon fishing gear in Convention waters.

(c) The operator of a harvesting vessel must provide a copy of the CCAMLR information brochure ''Marine Debris—A Potential Threat to Antarctic Marine Mammals'' to each member of the crew of the harvesting vessel and must display copies of the CCAMLR placard ''Avoidance of Incidental Mortality of Antarctic Marine Mammals'' in the wheelhouse and crew quarters of the harvesting vessels. Copies of the brochure and placard will be provided to each holder of a harvesting permit by NMFS when issuing the permit.

§ 300.110 Mesh size.

(a) The use of pelagic and bottom trawls having the mesh size in any part of a trawl less than indicated is prohibited for any directed fishing for the following Antarctic finfishes:

(1) *Notothenia rossii* and *Dissostichus eleginoides*—120 mm.

(2) *Champsocephalus gunnari*—90 mm.

(3) *Gobionotothen gibberifrons, Notothenia kempi* and *Lepidorhirus squamifrons*—80 mm.

(b) Any means or device that would reduce the size or obstruct the opening of the meshes is prohibited.

(c) The following procedure will be used for determining compliance with mesh size requirements.

(1) *Description of gauges.* (i) Gauges for determining mesh sizes will be 2 mm thick, flat, of durable material and capable of retaining their shape. They may have either a series of parallel-edged sides connected by intermediate tapering edges with a taper of one to eight on each side, or only tapering edges with the taper defined above. They will have a hole at the narrowest extremity.

(ii) Each gauge will be inscribed on its face with the width in millimeters both on the parallel-sided section, if any, and on the tapering section. In the case of the latter, the width will be inscribed every 1 mm interval, but the indication of the width may appear at regular intervals other than 1 mm.

(2) *Use of the gauge.* (i) The net will be stretched in the direction of the long diagonal of the meshes.

(ii) A gauge as described in paragraph (c)(1) of this section will be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net.

(iii) The gauge may be inserted into the mesh opening either with a manual force or using a weight or dynamometer, until it is stopped at the tapering edges by the resistance of the mesh.

(3) *Selection of meshes to be measured.* (i) Meshes to be measured will form a series of 20 consecutive meshes chosen in the direction of the long axis of the net, except that the meshes to be measured need not be consecutive if the application of paragraph (c)(3)(ii) of this section prevents it.

(ii) Meshes less than 50 cm from lacings, ropes, or codline will not be measured. This distance will be measured perpendicular to the lacings, ropes or codline with the net stretched in the direction of that measurement. No mesh will be measured which has been mended or broken or has attachments to the net fixed at that mesh.

(iii) Nets will be measured only when wet and unfrozen.

(4) The measurement of each mesh will be the width of the gauge at the point where the gauge is stopped, when using this gauge in accordance with paragraph (c)(2) of this section.

(5) Determination of the mesh size of the net will be the arithmetical mean in millimeters of the measurements of the total number of meshes selected and measured as provided for in paragraphs (c) (3) and (4) of this section, the arithmetical mean being rounded up to the next millimeter.

(6) *Inspection procedure.* (i) One series of 20 meshes, selected in accordance with paragraph (c)(3) of this section, will be measured by inserting the gauge manually without using a weight or dynamometer. The mesh size of the net will then be determined in accordance with paragraph (c)(5) of this section. If the calculation of the mesh size shows that the mesh size does not appear to comply with the rules in force, then two additional series of 20 meshes selected in accordance with paragraph (c)(3) of this section will be measured. The mesh size will then be recalculated in accordance with paragraph (c)(5) of this section, taking into account the 60 meshes already measured; this recalculation will be the mesh size of the net.

(ii) If the captain of the vessel contests the mesh size determined in accordance with paragraph (c)(6)(i) of this section, such measurement will not be considered for the determination of the mesh size and the net will be remeasured.

(A) A weight or dynamometer attached to the gauge will be used for remeasurement. The choice of weight or dynamometer is at the discretion of the inspectors. The weight will be fixed to the hole in the narrowest extremity of the gauge using a hook. The dynamometer may either be fixed to the hole in the narrowest extremity of the gauge or be applied at the largest extremity of the gauge.

(B) The accuracy of the weight or dynamometer must be certified by the appropriate national authority.

(C) For nets of a mesh size of 35 mm or less as determined in accordance with paragraph (c)(6)(i) of this section, a force of 19.61 newtons (equivalent to a mass of 2 kg) will be applied, and for other nets, a force of 49.03 newtons (equivalent to a mass of 5 kg).

(D) For the purposes of determining the mesh size in accordance with paragraph (c)(5) of this section, when using a weight or dynamometer, one series of 20 meshes only will be measured.

§ 300.111 Framework for annual management measures.

(a) *Introduction.* New management measures may be added and others modified through publication of a regulatory action in the Federal Register. The following framework process authorizes the implementation of measures that may affect the operation of the commercial or exploratory fisheries, gear, area restrictions, or changes in catch and/or effort.

(b) *Preliminary notice.* The Secretary of State shall publish preliminary notice in the Federal Register of the management measures adopted by the parties to the Convention.

(c) *Procedure.* At its annual meeting, usually in October or November, the Commission may recommend new measures and that established measures be modified, removed, or re-instituted. After public notice of those recommendations by the Secretary of State and opportunity for public comment, and after considering the impact of instituting the measures and any public comment received by the Secretary of State, the Assistant Administrator may implement the management measures by notice in the Federal Register, with immediate force and effect. The notification in the Federal Register will summarize new management measures, and respond to any public comments received by the Secretary of State on the preliminary notice.

(d) *Types of management measures to be frameworked.* Management measures that may be implemented by regulatory notice rather than by codified regulation are those that generally will not remain in effect for more than 12 months and include catch restrictions, time and area closures, and gear restrictions.

§ 300.112 Harvesting permits.

(a) *General.* (1) Every vessel subject to the jurisdiction of the United States that attempts to reduce or reduces any AMLR to possession must have a harvesting permit authorizing the attempt or reduction, unless the attempt or reduction occurs during recreational fishing or is covered by an individual permit. Boats launched from a vessel issued a harvesting permit do not require a separate permit, but are covered by the permit issued the launching vessel. Any enforcement action that results from the activities of a launched boat will be taken against the launching vessel.

(2) Permits issued under this section do not authorize vessels or persons subject to the jurisdiction of the United States to harass, capture, harm, kill, harvest, or import marine mammals. No marine mammals may be taken in the course of commercial fishing operations unless the taking is allowed under the Marine Mammal Protection Act and/or the Endangered Species Act pursuant to an exemption or permit granted by the appropriate agency.

(b) *Responsibility of owners and operators.* (1) The owners and operators of each harvesting vessel are jointly and severally responsible for compliance with the Act, this subpart, and any permit issued under the Act and this subpart.

(2) The owners and operators of each such vessel are responsible for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or forbidden by the owners or operators, and regardless of knowledge concerning their occurrence.

(3) The owner of such vessel must report any sale, change in ownership, or other disposition of the vessel to the Assistant Administrator within 15 days of the occurrence.

(c) *Application.* Application forms for harvesting permits are available from the Assistant Administrator (Attn: CCAMLR permits). A separate fully completed and accurate application must be submitted for each vessel for which a harvesting permit is requested at least 90 days before the date anticipated for the beginning of harvesting.

(d) *Issuance.* The Assistant Administrator may issue a harvesting permit to a vessel if the Assistant Administrator determines that the harvesting described in the application will meet the requirements of the Act and will not:

(1) Decrease the size of any harvested population to levels below those that ensure its stable recruitment. For this purpose, the Convention recommends that its size not be allowed to fall below a level close to that which ensures the greatest net annual increment.

(2) Upset the ecological relationships between harvested, dependent, and related populations of AMLRs and the restoration of depleted populations to levels that will ensure stable recruitment.

(3) Cause changes or increase the risk of changes in the marine ecosystem that are not potentially reversible over 2 or 3 decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of AMLRs.

(4) Violate the management measures issued pursuant to § 300.111 of this subpart.

(5) Violate any other conservation measures in force with respect to the United States under the Convention or the Act.

(e) *Duration.* A harvesting permit is valid from its date of issuance to its date of expiration unless it is revoked or suspended.

(f) *Transfer.* Permits are not transferable or assignable. A permit is valid only for the vessel to which it is issued.

(g) *Display.* Each harvesting vessel when engaged in harvesting must either have on board an up-to-date copy of its harvesting permit or a fully completed and up-to-date harvesting vessel certificate and the vessel operator must produce it for inspection upon the request of an authorized officer or CCAMLR inspector. In order for the certificate to be considered complete, the vessel owner or operator must enter on it the name and IRCS of the vessel issued the harvesting permit, the number of the harvesting permit and its date of issuance and expiration, the harvesting authorized by the permit, and all conditions and restrictions contained in the permit. Blank certificates are available from the Assistant Administrator.

(h) *Changes in information submitted by permit applicants or holders*—(1) *Changes in pending applications.* Applicants for a harvesting permit must report to the Assistant Administrator in writing any change in the information contained in the application. The processing period for the application will be extended as necessary to review the change.

(2) *Changes occurring after permit issuance*—(i) *Changes other than in the manner and amount of harvesting.* The owner or operator of a vessel that has been issued a harvesting permit must report to the Assistant Administrator in writing any change in previously submitted information other than a proposed change in the location, manner, or amount of harvesting within 15 days of the change. Based on such reported information, the Assistant Administrator may revise the permit effective upon notification to the permit holder. As soon as possible, the vessel owner or operator must revise any

harvesting vessel certificate evidencing the permit, accordingly.

(ii) *Requested changes in the location, manner, or amount of harvesting.* Any changes in the manner or amount of harvesting must be proposed in writing to the Assistant Administrator and may not be undertaken unless authorized by the Assistant Administrator through a permit revision or issuance of a new permit. If a requested change in the location, manner, or amount of harvesting could significantly affect the status of any Antarctic marine living resource, the Assistant Administrator will treat the requested change as an application for a new permit and so notify the holder.

(i) *Additional conditions and restrictions.* The Assistant Administrator may revise the harvesting permit, effective upon notification to the permit holder, to impose additional conditions and restrictions on the harvesting vessel as necessary to achieve the purposes of the Convention or the Act. The permit holder must, as soon as possible, direct the vessel operator to revise the harvesting vessel certificate, if any, accordingly.

(j) *Revision, suspension, or revocation for violations.* A harvesting permit may be revised, suspended, or revoked if the harvesting vessel is involved in the commission of any violation of its permit, the Act, or this subpart. Failure to report a change in the information contained in an application within 15 days of the change is a violation of this subpart and voids the application or permit, as applicable. If a change in vessel ownership is not reported, the violation is chargeable to the previous owner. Title 15 CFR part 904 governs permit sanctions under this subpart.

§ 300.113 Import permits.

(a) *General.* (1) Any AMLR may be imported into the United States if its harvest is authorized by an individual permit or a harvesting permit. The harvesting permit, the harvesting vessel certificate, or the individual permit, or a copy of any thereof, must accompany the import. AMLRs harvested by entities not subject to U.S. jurisdiction and, thus, not harvested under a U.S. issued permit (i.e., a harvesting permit or an individual permit), also may be imported into the United States if such harvesting will meet or met the requirements of the Act and will not or did not violate any conservation measure in force with respect to the United States under the Convention or the Act or violate any of the regulations in this subpart, including resource management measures contained therein. A NMFS issued import permit or copy thereof must accompany such an import as proof that the foreign harvested resources met such requirements. Further, the importer is required to complete and return to the Assistant Administrator, no later than 10 days after the date of the importation, an import ticket reporting the importation. However, in no event may a marine mammal be imported into the United States unless authorized and accompanied by an import permit issued under the Marine Mammal Protection Act and/or the Endangered Species Act.

(2) A permit issued under this section does not authorize the harvest of any AMLRs.

(b) *Application.* Application forms for import permits are available from the Assistant Administrator (Attn: CCAMLR permits). A fully completed and accurate application must be submitted for each import permit requested at least 30 days before the anticipated date of the importation.

(c) *Issuance.* The Assistant Administrator may issue an import permit if the Assistant Administrator determines that the importation meets the requirements of the Act and that the resources were not or will not be harvested in violation of any conservation measure in force with respect to the United States or in violation of any regulation in this subpart. Blank import tickets will be attached to the permit. Additional blank import tickets are available from the Assistant Administrator.

(d) *Duration.* An import permit is valid from its date of issuance to its date of expiration unless it is revoked or suspended.

(e) *Transfer.* An import permit is not transferable or assignable.

(f) *Changes in information submitted by permit applicants or holders*—(1) *Changes in pending applications.* Applicants for an import permit must report in writing to the Assistant Administrator any change in the information submitted in their import permit application. The processing period for the application will be extended as necessary to review the change.

(2) *Changes occurring after permit issuance.* Any entity issued an import permit must report in writing to the Assistant Administrator any changes in previously submitted information. Any changes that would not result in a change in the importation authorized by the permit must be reported on the import ticket required to be submitted to the Assistant Administrator no later than 10 days after the date of importation. Any changes that would result in a change in the importation authorized by the permit, such as country of origin, type and quantity of the resource to be imported, and Convention statistical subarea from which the resource was harvested, must be proposed in writing to the Assistant Administrator and may not be undertaken unless authorized by the Assistant Administrator by a permit revision or new permit.

(g) *Revision, suspension, or revocation.* An import permit may be revised, suspended, or revoked based upon information subsequently reported, effective upon notification to the permit holder. An import permit may be revised, suspended, or revoked, based upon a violation of the permit, the Act, or this subpart. Failure to report a change in the information contained in an import permit application is a violation of this subpart and voids the application or permit, as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

(h) *Disposition of resources not accompanied by required documentation.* (1) When AMLRs are imported into the United States unaccompanied by a permit authorizing import, the importer must either:

(i) Abandon the resources;

(ii) Waive claim to the resources; or

(iii) Place the resources into a bonded warehouse and attempt to obtain a permit authorizing their importation.

(2) If, within 60 days of such resources being placed into a bonded warehouse, the District Director of the U.S. Customs Service receives documentation that import of the resources into the United States is authorized by a permit, the resources will be allowed entry. If documentation of a permit is not presented within 60 days, the importer's claim to the resources will be deemed waived.

(3) When resources are abandoned or claim to them waived, the resources will be delivered to the Administrator of NOAA, or a designee, for storage or disposal as authorized by law.

§ 300.114 Appointment of a designated representative.

(a) All holders of permits authorizing fishing in subarea 48.3 must appoint a designated representative in the United States.

(b) The designated representative will be notified of closures under § 300.111 and must transmit this information to the vessel on the grounds.

(c) The designated representative may receive catch reports from the vessel and transmit the reports to NMFS in writing.

§ 300.115 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person to:

(a) Reduce to possession or attempt to reduce to possession any AMLRs without a permit for such activity as required by § 300.112.

(b) Import into the United States any AMLRs without either a permit to import those resources as required by § 300.113 or a permit to harvest those resources as required by § 300.112.

(c) Engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States under Article IX of the Convention.

(d) Ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any AMLR that he or she knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States under article IX of the Convention or in violation of any regulation promulgated under this subpart, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the AMLR.

(e) Refuse to allow any CCAMLR inspector to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for the purpose of conducting an inspection authorized by the Act, this subpart, or any permit issued under the Act.

(f) Refuse to provide appropriate assistance, including access as necessary to communications equipment, to CCAMLR inspectors.

(g) Refuse to sign a written notification of alleged violations of Commission measures in effect prepared by a CCAMLR inspector.

(h) Assault, resist, oppose, impede, intimidate, or interfere with a CCAMLR inspector in the conduct of any boarding or inspection authorized by the Act, this subpart, or any permit issued under the Act.

(i) Use any vessel to engage in harvesting after the revocation, or during the period of suspension, of an applicable permit issued under the Act.

(j) Fail to identify, falsely identify, fail to properly maintain, or obscure the identification of a harvesting vessel or its gear as required by this subpart.

(k) Fish in a closed area.

(l) Trawl with a mesh size in any part of the trawl net smaller than that allowed for any directed fishing for Antarctic finfishes as specified in management measures issued pursuant to § 300.111.

(m) Use any means or device that would reduce the size or obstruct the opening of the trawl meshes specified in management measures issued pursuant to § 300.111.

(n) Possess fish in violation of the catch limit specified in management measures issued pursuant to § 300.111.

(o) Discard netting or other substances in the Convention Area in violation of § 300.109.

(p) Violate or attempt to violate any provision of this subpart, the Act, any other regulation promulgated under the Act or any permit issued under the Act.

§ 300.116 Facilitation of enforcement and inspection.

In addition to the facilitation of enforcement provisions of § 300.5, the following requirements apply to this subpart.

(a) *Access and records.* (1) The owners and operator of each harvesting vessel must provide authorized officers and CCAMLR inspectors access to all spaces where work is conducted or business papers and records are prepared or stored, including but not limited to personal quarters and areas within personal quarters. If inspection of a particular area would interfere with specific on-going scientific research, and if the operator of the harvesting vessel makes such assertion and produces an individual permit that covers that specific research, the authorized officer or CCAMLR inspector will not disturb the area, but will record the information pertaining to the denial of access.

(2) The owner and operator of each harvesting vessel must provide to authorized officers and CCAMLR inspectors all records and documents pertaining to the harvesting activities of the vessel, including but not limited to production records, fishing logs, navigation logs, transfer records, product receipts, cargo stowage plans or records, draft or displacement calculations, customs documents or records, and an accurate hold plan reflecting the current structure of the vessel's storage and factory spaces.

(3) Before leaving vessels that have been inspected, the CCAMLR inspector will give the master of the vessel a Certificate of Inspection and a written notification of any alleged violations of Commission measures in effect and will afford the master the opportunity to comment on it. The ship's master must sign the notification to acknowledge receipt and the opportunity to comment on it.

(b) *Reports by non-inspectors.* All scientists, fishermen, and other non-inspectors present in the Convention area and subject to the jurisdiction of the United States are encouraged to report any violation of Commission conservation and management measures observed in the Convention area to the Office of Ocean Affairs (CCAMLR Violations), Department of State, Room 5801, Washington, DC 20520.

(c) *Storage of AMLRs.* The operator of each harvesting vessel storing AMLRs in a storage space on board the vessel must ensure that non-resource items are neither stowed beneath nor covered by resource items, unless required to maintain the stability and safety of the vessel. Non-resource items include, but are not limited to, portable conveyors, exhaust fans, ladders, nets, fuel bladders, extra bin boards, or other moveable non-resource items. These non-resource items may be in a resource storage space when necessary for the safety of the vessel or crew or for the storage of the items. Lumber, bin boards, or other dunnage may be used for shoring or bracing of product to ensure the safety of crew and to prevent shifting of cargo within the space.

§ 300.117 Penalties.

Any person or harvesting vessel found to be in violation of the Act, this subpart, or any permit issued under this subpart will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, 15 CFR part 904, and other applicable laws.

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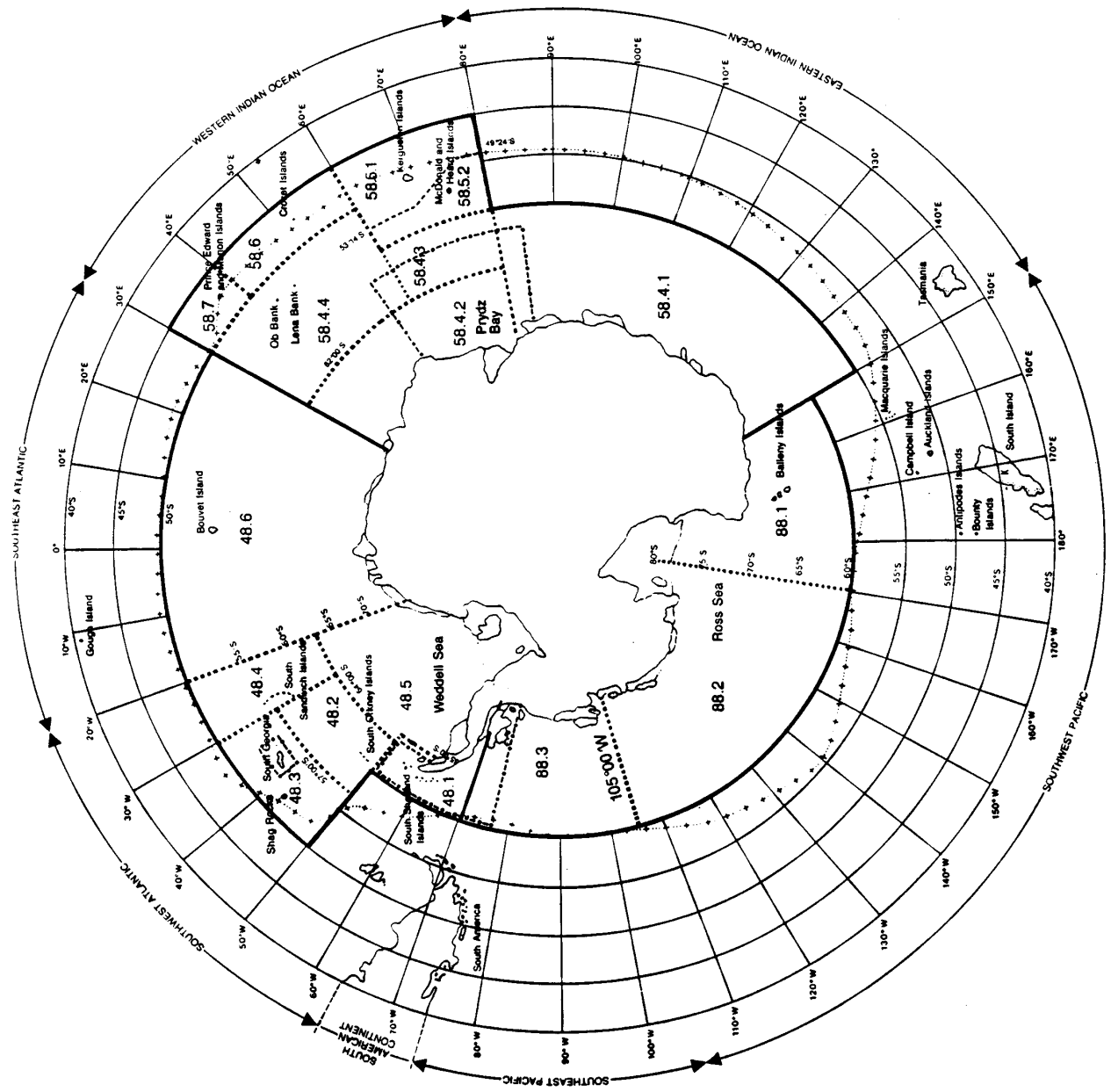
Figure 1 to Subpart G—Boundaries of the Statistical Reporting Area in the Southern Ocean



Boundaries of the Statistical Reporting Area in the Southern Ocean

CCAMLR

Boundaries of the Statistical Reporting Areas in the Southern Ocean

LEGEND

STATISTICAL AREA
ZONE STATISTIQUE
СТАТИСТИЧЕСКИЙ РАЙОН
AREA ESTADISTICA

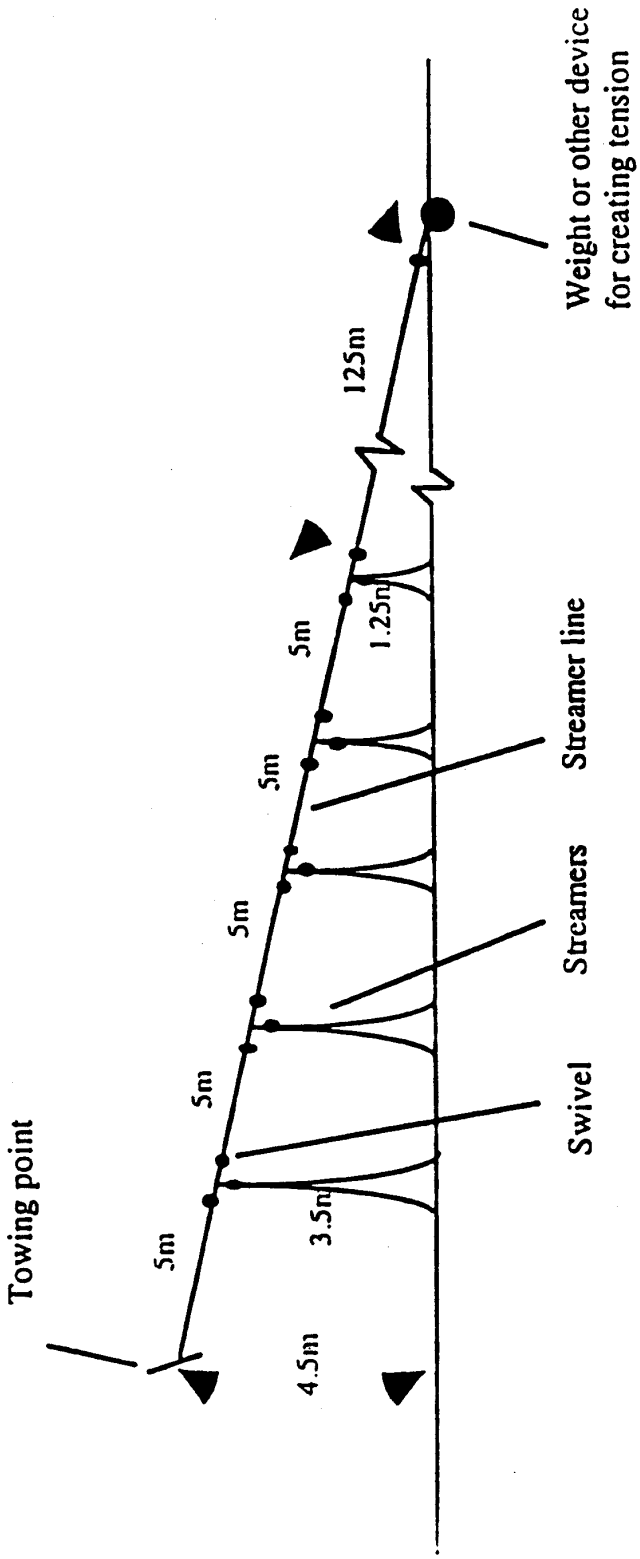
STATISTICAL SUBAREA
SOUS-ZONE STATISTIQUE
СТАТИСТИЧЕСКИЙ ПОДРАЙОН
SUBAREA ESTADISTICA

ANTARCTIC CONVERGENCE
CONVERGENCE ANTARCTIQUE
АНТАРКТИЧЕСКАЯ КОНВЕРГЕНЦИЯ
CONVERGENCIA ANTARTICA

CONTINENT, ISLAND
CONTINENT, ILE
МАТЕРИК, ОСТРОВ
CONTINENTE, ISLA

INTEGRATED STUDY REGION
ZONE D'ETUDE INTEGREE
РАЙОН КОМПЛЕКСНЫХ ИССЛЕДОВАНИЙ
REGION DE ESTUDIO INTEGRADO

Figure 2 to Subpart G—The Use of Streamer Lines to Minimize the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research Operations in the Convention Area



The Use of Streamer Lines to Minimize the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research Operations in the Convention Area.

BILLING CODE 3510–22–C

Subpart H—Vessels of the United States Fishing in Colombian Treaty Waters

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

§ 300.120 Purpose.

This subpart implements fishery conservation and management measures as provided in fishery agreements pursuant to the Treaty Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Status of Quita Sueno, Roncador and Serrana (TIAS 10120) (Treaty).

§ 300.121 Definitions.

In addition to the terms defined in § 300.2, the Magnuson Act, and § 600.10 of this title, and in the Treaty, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Magnuson Act, or the Treaty, the definition in this section shall apply.

Conch means *Strombus gigas.*

Factory vessel means a vessel that processes, transforms, or packages aquatic biological resources on board.

Lobster means one or both of the following:

(1) Smoothtail lobster, *Panulirus laevicauda.*

(2) Spiny lobster, *Panulirus argus.*

Regional Director means the Director, Southeast Region, or a designee.

Science and Research Director means the Director, Southeast Fisheries Science Center.

Treaty waters means the waters of one or more of the following:

(1) *Quita Sueno*, enclosed by latitudes 13°55′N. and 14°43′N. between longitudes 80°55′W. and 81°28′W.

(2) *Serrana*, enclosed by arcs 12 nautical miles from the low water line of the cays and islands in the general area of 14°22′N. lat., 80°20′W. long.

(3) *Roncador*, enclosed by arcs 12 nautical miles from the low water line of Roncador Cay, in approximate position 13°35′N. lat., 80°05′W. long.

§ 300.122 Relation to other laws.

(a) The relation of this subpart to other laws is set forth in § 600.705 of this title and paragraph (b) of this section. Particular note should be made to the reference in § 600.705 to the applicability of title 46 U.S.C., under which a Certificate of Documentation is invalid when the vessel is placed under the command of a person who is not a citizen of the United States.

(b) Minimum size limitations for certain species, such as reef fish in the Gulf of Mexico, may apply to vessels transiting the EEZ with such species aboard.

§ 300.123 Certificates and permits.

(a) *Applicability.* An owner of a vessel of the United States that fishes in treaty waters is required to obtain an annual certificate issued by the Republic of Colombia and an annual vessel permit issued by the Regional Director.

(b) *Application for certificate/permit.* (1) An application for a permit must be submitted and signed by the vessel's owner. An application may be submitted at any time, but should be submitted to the Regional Director not less than 90 days in advance of its need. Applications for the ensuing calendar year should be submitted to the Regional Director by October 1.

(2) An applicant must provide the following:

(i) A copy of the vessel's valid USCG certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(ii) Vessel name and official number.

(iii) Name, address, telephone number, and other identifying information of the vessel owner or, if the owner is a corporation or partnership, of the responsible corporate officer or general partner.

(iv) Principal port of landing of fish taken from treaty waters.

(v) Type of fishing to be conducted in treaty waters.

(vi) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, as specified on the application form.

(vii) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

(c) *Issuance.* (1) The Regional Director will request a certificate from the Republic of Colombia if:

(i) The application is complete.

(ii) The applicant has complied with all applicable reporting requirements of § 300.124 during the year immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 300.124 during the year immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(3) The Regional Director will issue a permit as soon as the certificate is received from the Republic of Colombia.

(d) *Duration.* A certificate and permit are valid for the calendar year for which they are issued, unless the permit is revoked, suspended, or modified under subpart D of 15 CFR part 904.

(e) *Transfer.* A certificate and permit issued under this section are not transferable or assignable. They are valid only for the fishing vessel and owner for which they are issued.

(f) *Display.* A certificate and permit issued under this section must be carried aboard the fishing vessel while it is in treaty waters. The operator of a fishing vessel must present the certificate and permit for inspection upon request of an authorized officer or an enforcement officer of the Republic of Colombia.

(g) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(h) *Alteration.* A certificate or permit that is altered, erased, or mutilated is invalid.

(i) *Replacement.* A replacement certificate or permit may be issued upon request. Such request must clearly state the reason for a replacement certificate or permit.

(j) *Change in application information.* The owner of a vessel with a permit must notify the Regional Director within 30 days after any change in the application information required by paragraph (b)(2) of this section. The permit is void if any change in the information is not reported within 30 days.

§ 300.124 Recordkeeping and reporting.

(a) *Arrival and departure reports.* The operator of each vessel of the United States for which a certificate and permit have been issued under § 300.123 must report by radio to the Port Captain, San Andres Island, voice radio call sign ''Capitania de San Andres,'' the vessel's arrival in and departure from treaty waters. Radio reports must be made on 8222.0 kHz or 8276.5 kHz between 8:00 a.m. and 12 noon, local time (1300–1700, Greenwich mean time) Monday through Friday.

(b) *Catch and effort reports.* Each vessel of the United States must report its catch and effort on each trip into treaty waters to the Science and Research Director on a form available from the Science and Research Director. These forms must be submitted to the Science and Research Director so as to be received no later than 7 days after the end of each fishing trip.

§ 300.125 Vessel identification.

(a) *Official number.* A vessel with a permit issued pursuant to § 300.123, when in treaty waters, must display its official number on the port and starboard sides of the deckhouse or hull,

and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft. The official number must be permanently affixed to or painted on the vessel and must be in block arabic numerals in contrasting color to the background at least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in length, and at least 10 inches (25.4 cm) in height for all other vessel.

(b) *Duties of operator.* The operator of each fishing vessel must—

(1) Keep the official number clearly legible and in good repair.

(2) Ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material aboard obstructs the view of the official number from an enforcement vessel or aircraft.

§ 300.126 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this title and the prohibited acts specified in § 300.4, it is unlawful for any person to do any of the following:

(a) Fish in treaty waters without the certificate and permit aboard, or fail to display the certificate and permit, as specified in § 300.123(a) and (f).

(b) Fail to notify the Regional Director of a change in application information, as specified in § 300.123(j).

(c) Fail to report a vessel's arrival in and departure from treaty waters, as required by § 300.124(a).

(d) Falsify or fail to display and maintain vessel identification, as required by § 300.125.

(e) Fail to comply immediately with instructions and signals issued by an enforcement officer of the Republic of Colombia, as specified in § 300.127.

(f) Operate a factory vessel in treaty waters, as specified in § 300.130(a).

(g) Use a monofilament gillnet in treaty waters, as specified in § 300.130(b).

(h) Use autonomous or semi-autonomous diving equipment in treaty waters, as specified in § 300.130(c).

(i) Use or possess in treaty waters a lobster trap or fish trap without a degradable panel, as specified in § 300.130(d).

(j) Possess conch smaller than the minimum size limit, as specified in § 300.131(a).

(k) Fish for or possess conch in the closed area or during the closed season, as specified in § 300.131(b) and (c).

(l) Retain on board a berried lobster or strip eggs from or otherwise molest a berried lobster, as specified in § 300.132(a).

(m) Possess a lobster smaller than the minimum size, as specified in § 300.132(b).

(n) Fail to return immediately to the water unharmed a berried or undersized lobster, as specified in § 300.132(a) and (b).

§ 300.127 Facilitation of enforcement.

(a) The provisions of § 600.730 of this title and paragraph (b) of this section apply to vessels of the United States fishing in treaty waters.

(b) The operator of, or any other person aboard, any vessel of the United States fishing in treaty waters must immediately comply with instructions and signals issued by an enforcement officer of the Republic of Colombia to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing this subpart.

§ 300.128 Penalties.

Any person committing or fishing vessel used in the commission of a violation of the Magnuson Act or any regulation issued under the Magnuson Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson Act, to part 600 of this title, to 15 CFR part 904, and to other applicable law. In addition, Colombian authorities may require a vessel involved in a violation of this subpart to leave treaty waters.

§ 300.129 Fishing year.

The fishing year for fishing in treaty waters begins on January 1 and ends on December 31.

§ 300.130 Vessel and gear restrictions.

(a) *Factory vessels.* Factory vessels are prohibited from operating in treaty waters.

(b) *Monofilament gillnets.* A monofilament gillnet made from nylon or similar synthetic material are prohibited from being used in treaty waters.

(c) *Tanks and air hoses.* Autonomous or semiautonomous diving equipment (tanks or air hoses) are prohibited from being used to take aquatic biological resources in treaty waters.

(d) *Trap requirements.* A lobster trap or fish trap used or possessed in treaty waters that is constructed of material other than wood must have an escape panel located in the upper half of the sides or on top of the trap that, when removed, will leave an opening no smaller than the throat or entrance of the trap. Such escape panel must be constructed of or attached to the trap with wood, cotton, or other degradable material.

(e) *Poisons and explosives.* [Reserved]

§ 300.131 Conch harvest limitations.

(a) *Size limit.* The minimum size limit for possession of conch in or from treaty waters is 7.94 oz (225 g) for an uncleaned meat and 3.53 oz (100 g) for a cleaned meat.

(b) *Closed area.* The treaty waters of Quita Sueno are closed to the harvest or possession of conch.

(c) *Closed season.* During the period July 1 through September 30 of each year, the treaty waters of Serrana and Roncador are closed to the harvest or possession of conch.

§ 300.132 Lobster harvest limitations.

(a) *Berried lobsters.* A berried (egg-bearing) lobster in treaty waters may not be retained on board. A berried lobster must be returned immediately to the water unharmed. A berried lobster may not be stripped, scraped, shaved, clipped, or in any other manner molested to remove the eggs.

(b) *Size limit.* The minimum size limit for possession of lobster in or from treaty waters is 5.5 inches (13.97 cm), tail length. Tail length means the measurement, with the tail in a straight, flat position, from the anterior upper edge of the first abdominal (tail) segment to the tip of the closed tail. A lobster smaller than the minimum size limit must be returned immediately to the water unharmed.

Subpart I—United States-Canada Fisheries Enforcement

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

§ 300.140 Purpose and scope.

This subpart implements the Agreement Between the Government of the United States of America and the Government of Canada on Fisheries Enforcement executed at Ottawa, Canada, on September 26, 1990 (Agreement), allowing each party to the Agreement to take appropriate measures, consistent with international law, to prevent its nationals, residents and vessels from violating those national fisheries laws and regulations of the other party. This subpart applies, except where otherwise specified in this subpart, to all persons and all places (on water and on land) subject to the jurisdiction of the United States under the Magnuson Act. This includes, but is not limited to, activities of nationals, residents and vessels of the United States (including the owners and operators of such vessels) within waters subject to the fisheries jurisdiction of Canada as defined in this subpart, as well as on the high seas and in waters subject to the fisheries jurisdiction of the United States.

§ 300.141 Definitions.

In addition to the terms defined in § 300.2 and those in the Magnuson Act and the Agreement, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Magnuson Act, or the Agreement, the definition in this section applies.

Applicable Canadian fisheries law means any Canadian law, regulation or similar provision relating in any manner to fishing by any fishing vessel other than a Canadian fishing vessel in waters subject to the fisheries jurisdiction of Canada, including, but not limited to, any provision relating to stowage of fishing gear by vessels passing through such waters, and to obstruction or interference with enforcement of any such law or regulation.

Authorized officer of Canada means any fishery officer, protection officer, officer of the Royal Canadian Mounted Police, or other employee authorized by the appropriate authority of any national or provincial agency of Canada to enforce any applicable Canadian fisheries law.

Canadian fishing vessel means a fishing vessel:

(1) That is registered or licensed in Canada under the Canada Shipping Act and is owned by one or more persons each of whom is a Canadian citizen, a person resident and domiciled in Canada, or a corporation incorporated under the laws of Canada or of a province, having its principal place of business in Canada; or

(2) That is not required by the Canada Shipping Act to be registered or licensed in Canada and is not registered or licensed elsewhere but is owned as described in paragraph (1) of this definition.

Waters subject to the fisheries jurisdiction of Canada means the internal waters, territorial sea, and the zone that Canada has established, extending 200 nautical miles from its coasts, in which it exercises sovereign rights for the purpose of exploration, exploitation, conservation and management of living marine resources, to the extent recognized by the United States.

§ 300.142 Prohibitions.

The prohibitions in this section apply within waters subject to the fisheries jurisdiction of Canada and during hot pursuit therefrom by an authorized officer of Canada. It is unlawful for any national or resident of the United States, or any person on board a vessel of the United States, or the owner or operator of any such vessel, to do any of the following:

(a) Engage in fishing in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada.

(b) Take or retain fish in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada.

(c) Be on board a fishing vessel in waters subject to the fisheries jurisdiction of Canada, without stowing all fishing gear on board either:

(1) Below deck, or in an area where it is not normally used, such that the gear is not readily available for fishing; or

(2) If the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; unless the vessel has been authorized by the Government of Canada to fish in the particular location within waters subject to the fisheries jurisdiction of Canada in which it is operating.

(d) While on board a fishing vessel in waters subject to the fisheries jurisdiction of Canada, fail to respond to any inquiry from an authorized officer of Canada regarding the vessel's name, flag state, location, route or destination, and/or the circumstances under which the vessel entered such waters.

(e) Violate the Agreement, any applicable Canadian fisheries law, or the terms or conditions of any permit, license or any other authorization granted by Canada under any such law.

(f) Fail to comply immediately with any of the enforcement and boarding procedures specified in § 300.143.

(g) Destroy, stave, or dispose of in any manner, any fish, gear, cargo or other matter, upon any communication or signal from an authorized officer of Canada, or upon the approach of such an officer, enforcement vessel or aircraft, before the officer has had the opportunity to inspect same, or in contravention of directions from such an officer.

(h) Refuse to allow an authorized officer of Canada to board a vessel for the purpose of conducting any inspection, search, seizure, investigation or arrest in connection with the enforcement of any applicable Canadian fisheries law.

(i) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere, in any manner, with an authorized officer of Canada in the conduct of any boarding, inspection, search, seizure, investigation or arrest in connection with the enforcement of any applicable Canadian fisheries law.

(j) Make any false statement, oral or written, to an authorized officer of Canada in response to any inquiry by that officer in connection with enforcement of any applicable Canadian fisheries law.

(k) Falsify, cover, or otherwise obscure, the name, home port, official number (if any), or any other similar marking or identification of any fishing vessel subject to this subpart such that the vessel cannot be readily identified from an enforcement vessel or aircraft.

(l) Attempt to do any of the foregoing.

§ 300.143 Facilitation of enforcement.

(a) *General.* Persons aboard fishing vessels subject to this subpart must immediately comply with instructions and/or signals issued by an authorized officer of the United States or Canada, or by an enforcement vessel or aircraft, to stop the vessel, and with instructions to facilitate safe boarding and inspection for the purpose of enforcing any applicable Canadian fisheries law, the Agreement, or this subpart. All of the provisions of § 300.5 regarding communications, boarding, and signals apply to this subpart. For purposes of this subpart, authorized officer in § 305 means an authorized officer of the United States or Canada. (See paragraph (b) of this section for specific requirements for complying with signals and instructions issued by an authorized officer of Canada.)

(b) *Canadian signals.* In addition to signals set forth in § 300.5, persons aboard fishing vessels subject to this subpart must immediately comply with the following signals by an authorized officer of Canada.

(1) Authorized officers of Canada use the following signals to require fishing vessels to stop or heave to:

(i) The hoisting of a rectangular flag, known as the International Code Flag ''L'', which is divided vertically and horizontally into quarters and colored so that:

(A) The upper quarter next to the staff and the lower quarter next to the fly are yellow; and

(B) The lower quarter next to the staff and the upper quarter next to the fly are black;

(ii) The flashing of a light to indicate the International Morse Code letter ''L'', consisting of one short flash, followed by one long flash, followed by two short flashes (. — . .); or

(iii) The sounding of a horn or whistle to indicate the International Morse Code letter ''L'', consisting of one short blast, followed by one long blast, followed by two short blasts (. — . .).

(2) Authorized officers of Canada use the following signals to require a fishing vessel to prepare to be boarded:

(i) The hoisting of flags representing the International Code Flag ''SQ3''; or

(ii) The flashing of a light, or the sounding of a horn or whistle, to indicate the International Morse Code Signal ''SQ3'' (. . .——.—. . .——).

§ 300.144 Penalties and sanctions.

Any person, any fishing vessel, or the owner or operator of any such vessel, who violates any provision of the Agreement or this subpart, is subject to the civil and criminal fines, penalties, forfeitures, permit sanctions, or other sanctions provided in the Magnuson Act, part 600 of this title, 15 CFR part 904 (Civil Procedures), and any other applicable law or regulation.

Subpart J—U.S. Nationals Fishing in Russian Fisheries

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

§ 300.150 Purpose.

This subpart regulates U.S. nationals fishing in the Russian fisheries and implements the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

§ 300.151 Definitions.

In addition to the terms defined in § 300.2 and those in the Magnuson Act, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2 or the Magnuson Act, the definition in this section shall apply.

Affiliates means two persons (including individuals and entities) related in such a way that—

(1) One indirectly or directly controls or has power to control the other; or

(2) A third party controls or has power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a reorganized entity having the same or similar management, ownership, or employees as a former entity.

Agreement means the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

Embassy of the Russian Federation means the Fisheries Attache of the embassy located in Washington, D.C.

Fishery resource means any fish, any stock of fish, any species of fish, and any habitat of fish.

Fishing or *to fish* means any activity that does, is intended to, or can reasonably be expected to result in catching or removing from the water fishery resources. Fishing also includes the acts of scouting, processing, and support.

Operator, with respect to any vessel, means the master or other individual on board and in charge of either the vessel, the vessel's fishing operation, or both.

Owner, with respect to any vessel, means any person who owns that vessel in whole or in part, whether or not it is leased or chartered to or managed by another person, or any charterer, whether bareboat, time, or voyage, and any person who acts in the capacity of a charterer, or manager, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel, any officer, director, manager, controlling shareholder of any entity described in this definition, any agent designated as such by any person described in this definition, and any affiliate of any person described in this definition.

Processing means any operation by a vessel to receive fish from a fishing vessel and/or the preparation of fish, including but not limited to cleaning, cooking, canning, smoking, salting, drying, or freezing, either on the vessel's behalf or to assist another vessel.

Regional Director means Director, Alaska Region, or a designee.

Relevant laws and regulations of the Russian Federation means those Russian laws and regulations that concern fishing for fishery resources over which Russia exercises sovereign rights or fishery management authority.

Russian and *Federation* mean the Russian Federation, its government, or any organ or entity of its government.

Russian continental shelf or *continental shelf of Russia* means the seabed and subsoil of the submarine areas over which, consistent with international law, Russia exercises sovereign rights.

Russian Economic Zone or *Russian EZ* means a zone of waters off the coast of Russia beyond and adjacent to the Russian territorial sea extending a distance of up to 200 nautical miles from the baseline from which the territorial sea is measured, within which, consistent with international law, Russia has sovereign rights over the fishery resources.

Russian Federation or *Russia* means the governing entity that succeeded the Union of Soviet Socialist Republics, and that is the successor party to the Agreement of May 31, 1988.

Russian fisheries, Russian fishery resources, or *fishery resources over which Russia exercises sovereign rights or fishery management authority* means fishery resources within the Russian EZ, fishery resources of the Russian continental shelf, and anadromous species that originate in the waters of Russia, whether found in the Russian EZ or beyond any exclusive economic zone or its equivalent.

Scouting means any operation by a vessel exploring (on behalf of the vessel or another vessel) for the presence of fish by any means that do not involve the catching of fish.

Support means any operation by a vessel assisting fishing by another vessel, including—

(1) Transferring or transporting fish or fish products; or

(2) Supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment, or other supplies.

§ 300.152 Procedures.

(a) *Application for annual permits.* U.S. vessel owners and operators must have a valid permit issued by the Russian Federation obtained pursuant to a complete application submitted through NMFS before fishing in the Russian EZ or for Russian fishery resources. Application forms and copies of applicable laws and regulations of the Russian Federation may be obtained from NMFS Headquarters.

(b) *Other application information.* Applications for motherships, processing or transport vessels must identify the type of fishing gear to be employed or the fishing quotas if the vessel has received or is requesting a quota. To facilitate processing, NMFS requests that permit applications for more than 10 vessels be grouped by type and fishing area, and provide the name, address, telephone, and FAX number(s) of an individual who will be the official point of contact for an application.

(c) *Review of Applications.* NMFS will review each application, and, if it is complete, forward it to the Department of State for submission to the competent authorities of the Russian Federation. NMFS will notify the permit applicant when the permit is submitted to the Russian Federation. NMFS will return incomplete applications to the applicant.

(d) *Direct Communication.* U.S. applicants may communicate directly with the Russian Federation with regard to the status of their applications or permits and are encouraged to do so.

Owners and operators should make direct contact and work with Russian industry and government authorities.

§ 300.153 Permit issuance.

(a) *Acceptance.* Once the Department of State has accepted the conditions and restrictions proposed by the Russian Federation and all fees have been paid, the competent authorities of the Russian Federation will approve the application. The Russian Federation will issue a permit to the vessel owner for each fishing vessel for which it has approved an application. That vessel will thereupon be authorized by the Russian Federation to fish in accordance with the Agreement and the terms and conditions set forth in the permit. The vessel owner is prohibited from transferring the permit to any other vessel or person. Any such transfer, or the sale or other transfer of the vessel, will immediately invalidate the permit. The vessel owner must notify NMFS of any change in the permit application information submitted to NMFS Headquarters under § 300.152 within 7 calendar days of the change.

(b) *Copies.* The vessel owner and operator must mail a copy of each permit and any conditions and restrictions issued for that vessel by the Russian Federation within 7 calendar days of its receipt to NMFS Headquarters.

(c) *Validity.* Any permit issued by the Russian Federation with respect to a vessel subject to this subpart will be deemed to be a valid permit only if:

(1) A completed permit application has been forwarded to the competent authorities of the Russian Federation as provided in § 300.152(b)(1).

(2) Such application has been approved and a permit issued by the competent authorities of the Russian Federation as provided in paragraph (a) of this section.

(3) The U.S. Department of State has notified the competent authorities of the Russian Federation that it has accepted the conditions and restrictions as provided in paragraph (a) of this section. The permit will be rendered invalid by: The transfer or sale of the permit specified in paragraph (a) of this section; the failure to submit to NMFS any changes in permit application information as required by paragraph (a) of this section; failure to submit to NMFS any permit copy required by paragraph (b) of this section or any other information or report required by any other provision of this subpart; or the failure to pay required permit fees.

(d) *Russian-imposed sanctions.* (1) The Russian Federation will impose appropriate fines, penalties, or forfeitures in accordance with its laws, for violations of its relevant laws or regulations.

(2) In the case of arrest and seizure of a U.S. vessel by Russian authorities, notification will be given promptly through diplomatic channels informing the United States of the facts and actions taken.

(3) The Russian Federation will release U.S. vessels and their crews promptly, subject to the posting of reasonable bond or other security.

(4) The sanctions for violations of limitations or restrictions on fishing operations will be appropriate fines, penalties, forfeitures, or revocations or suspensions of fishing privileges.

§ 300.154 Recordkeeping and reporting.

(a) *General.* The owner and operator of a vessel subject to this subpart are responsible for complying with all recordkeeping and reporting requirements in this part in a timely and accurate manner. Reports and records required by this subpart must be in English, in the formats specified, and unless otherwise specified, based on Greenwich mean time (GMT).

(b) *Vessel permit abstract report.* (1) The owner and operator of a vessel subject to this subpart must submit to NMFS Headquarters a permit abstract report containing the following information:

(i) Vessel name.

(ii) Russian Federation permit number.

(iii) Duration of permit (e.g., 1/1/91–12/31/91).

(iv) Authorized areas of fishing operations in geographic coordinates.

(v) Authorized catch quota in tons.

(vi) Authorized fishing gear.

(vii) Type of permit (e.g., catcher).

(2) The report must be telefaxed to (301) 713–0596 within 5 calendar days of receipt of the Russian permit.

(c) *Activity reports.* The owner and operator of a vessel subject to this subpart must submit to the Regional Director by telefax to (907) 586–7313, the following reports:

(1) *Depart Report* (Action code DEPART). At least 24 hours before the vessel departs from the EEZ for the Russian EZ, NMFS must receive the following information:

(i) The date (month and day), and time (hour and minute GMT), and position (latitude and longitude to the nearest degree and minute), at which the vessel will depart the EEZ for the Russian EZ.

(ii) The weight in metric tons (to the nearest hundredth of a metric ton) of all fish and fish product (listed by species and product codes) on board the vessel at the time it will depart the EEZ.

(2) *Return Report (Action code RETURN).* At least 24 hours before a vessel that has been in the Russian EZ enters the EEZ, NMFS must receive the following information:

(i) The date (month and day), time (hour and minute GMT), and position (latitude and longitude to the nearest degree and minute), at which the vessel will enter the EEZ.

(ii) The weight in metric tons (to the nearest hundredth of a metric ton) of all fish and fish products (listed by species and product codes) on board the vessel at the time it will enter the EEZ, and the areas (Russian EZ, U.S. EEZ, or other) in which such fish products were harvested or received.

(3) All reports must specify: The appropriate action code (''DEPART'' or ''RETURN''); the vessel's name and international radio call sign (IRCS); the sender's name and telephone number, and FAX, TELEX, and COMSAT numbers; the date (month and day) and time (hour and minute GMT) that the report is submitted to NMFS; and the intended date and U.S. port of landing. A list of species and product codes may be obtained from the Regional Director.

(d) *Recordkeeping.* The owner and operator of a vessel subject to this subpart must retain all copies of all reports required by this subpart on board the vessel for 1 year after the end of the calendar year in which the report was generated. The owner and operator must retain and make such records available for inspection upon the request of an authorized officer at any time for 3 years after the end of the calendar year in which the report was generated, whether or not such records on board the vessel.

§ 300.155 Requirements.

(a) *Compliance with permit requirements.* (1) U.S. nationals and vessels subject to this subpart must have a valid permit, as specified in § 300.153(c) in order to fish for Russian fishery resources.

(2) U.S. nationals and vessels subject to this subpart that are fishing for Russian fishery resources must comply with all provisions, conditions, and restrictions of any applicable permit.

(b) *Compliance with Russian law.* U.S. nationals and vessels fishing for Russian fishery resources must comply with the relevant laws and regulations of the Russian Federation.

(c) *Protection of marine mammals.* U.S. nationals and vessels fishing for Russian fishery resources may not harass, hunt, capture, or kill any marine mammal within the Russian EZ, attempt to do so, except as may be provided for by an international agreement to which

both the United States and Russia are parties, or in accordance with specific authorization and controls established by the Russian Federation. The provisions of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* also apply to any person or vessel subject to the jurisdiction of the United States while in the Russian EZ, and it shall not be a defense to any violation of the MMPA that the person or vessel was acting in accordance with any permit or authorization issued by the Russian Federation.

(d) *Cooperation with enforcement procedures.* (1) The operator of, or any person aboard, any U.S. vessel subject to this subpart must immediately comply with instructions and signals issued by an authorized officer of the Russian Federation to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the relevant laws and regulations of Russia.

(2) The operator of, and any person aboard, any U.S. vessel subject to this subpart, must comply with directions issued by authorized officers of the Russian Federation in connection with the seizure of the vessel for violation of the relevant laws or regulations of the Russian Federation.

(3) U.S. nationals and vessels subject to this subpart must pay all fines and penalties and comply with forfeiture sanctions imposed by the Russian Federation for violations of its relevant laws and regulations.

(4) The operator of, and any person aboard, any U.S. vessel subject to this subpart must immediately comply with instructions and signals issued by an authorized officer of the United States to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing records, and catch for purposes of enforcing the Magnuson Act, the Agreement, and this subpart.

(e) *Compliance with observer requirements.* The owner of, operator of, and any person aboard, any U.S. vessel fishing in the Russian EZ or for Russian fishery resources to which a Russian observer is assigned must—

(1) Allow and facilitate, on request, boarding of a U.S. vessel by the observer.

(2) Provide to the observer, at no cost to the observer or the Russian Federation, the courtesies and accommodations provided to ship's officers.

(3) Cooperate with the observer in the conduct of his or her official duties.

(4) Reimburse the Russian Federation for the costs of providing an observer aboard the vessel.

§ 300.156 Prohibited acts.

In addition to the prohibited acts specified at § 300.4, it shall be unlawful for any U.S. national or vessel, or the owner or operator of any such vessel:

(a) To fish for Russian fishery resources without a valid permit issued by the competent authorities of the Russian Federation.

(b) To violate the provisions, conditions, and restrictions of an applicable permit.

(c) To violate the relevant laws and regulations of Russia.

(d) To harass, hunt, capture, or kill any marine mammal within the Russian EZ, or while fishing for Russian fishery resources, except as provided in § 300.155 (c).

(e) To fail to comply immediately with enforcement and boarding procedures specified in § 300.155 (d).

(f) To refuse to allow an authorized officer of the Russian Federation to board and inspect a vessel subject to this subpart for purposes of conducting any search, inspection, arrest, or seizure in connection with the enforcement of the relevant laws and regulations of the Russian Federation.

(g) To assault, resist, oppose, impede, intimidate, threaten, or interfere with, in any manner, any authorized officer of the Russian Federation in the conduct of any search, inspection, seizure, or arrest in connection with enforcement of the relevant laws and regulations of the Russian Federation.

(h) To fail to pay fines or penalties or comply with forfeitures imposed for a violation of the relevant laws and regulations of the Russian Federation.

(i) To refuse or fail to allow a Russian observer to board a vessel subject to this subpart while fishing in the Russian EZ, or for Russian fishery resources.

(j) To fail to provide to a Russian observer aboard a vessel fishing in the Russian EZ or for Russian fishery resources, the courtesies and accommodations provided to ship's officers.

(k) To assault, resist, oppose, impede, intimidate, threaten, interfere with, harass, or fail to cooperate, in any manner, with a Russian observer placed aboard a vessel subject to this subpart.

(l) To fail to reimburse the Russian Federation for the costs incurred in the utilization of Russian observers placed aboard such vessel.

(m) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, transship, import, export, or traffic in any manner, any fish or parts thereof taken or retained, landed, purchased, sold, traded, acquired, or possessed, in any manner, in violation of the relevant laws and regulations of the Russian Federation, the Magnuson Act, or this subpart.

(n) To enter the Russian EZ to fish unless a permit application has been submitted through NMFS to the competent authorities of the Russian Federation by the U.S. Department of State for such vessel as provided in this subpart.

(o) To fish for Russian fisheries or to possess fish taken in Russian fisheries on board a vessel subject to this subpart without a valid permit or other valid form of authorization issued by the competent authorities of the Russian Federation on board the vessel.

(p) To falsify, or fail to report to NMFS, any change in the information contained in a permit application subject to this subpart within 7 calendar days of such change.

(q) To attempt to do, cause to be done, or aid and abet in doing, any of the foregoing.

(r) To violate any other provision of this subpart.

§ 300.157 Penalties.

In addition to any fine, penalty, or forfeiture imposed by the Russian Federation, nationals and vessels of the United States violating the prohibitions of § 300.156 are subject to the fines, penalties, and forfeitures and the adjudicative procedures provided in the Magnuson Act, 16 U.S.C. 1858, 1860, 1861, and any other applicable laws and regulations of the United States.

Subpart K—Transportation and Labeling of Fish or Wildlife

Authority: 16 U.S.C. 3371–3378.

§ 300.160 Requirement for marking of containers or packages.

Except as otherwise provided in this subpart, all persons are prohibited from importing, exporting, or transporting in interstate commerce any container or package containing any fish or wildlife (including shellfish) unless each container or package is conspicuously marked on the outside with both the name and address of the shipper and consignee and an accurate list of its contents by species and number of each species.

§ 300.161 Alternatives and exceptions.

(a) The requirements of § 300.160 may be met by complying with one of the following alternatives to the marking requirement:

(1)(i) Conspicuously marking the outside of each container or package

containing fish or wildlife with the word ''fish'' or ''wildlife'' as appropriate for its contents, or with the common name of its contents by species, and

(ii) Including an invoice, packing list, bill of lading, or similar document to accompany the shipment that accurately states the name and address of the shipper and consignee, states the total number of packages or containers in the shipment, and for each species in the shipment specifies: The common name that identifies the species (examples include: chinook (or king) salmon; bluefin tuna; and whitetail deer); and the number of that species (or other appropriate measure of quantity such as gross or net weight). The invoice, packing list, bill of lading, or equivalent document must be securely attached to the outside of one container or package in the shipment or otherwise physically accompany the shipment in a manner that makes it readily accessible for inspection; or

(2) Affixing the shipper's wildlife import/export license number preceded by ''FWS'' on the outside of each container or package containing fish or wildlife if the shipper has a valid wildlife import/export license issued under authority of part 14 of this title. For each shipment marked in accordance with this paragraph (a)(2), the records maintained under § 14.93(d) of this title must include a copy of the invoice, packing list, bill of lading, or other similar document that accurately states the information required by paragraph (a)(1)(ii) of this section.

(3) In the case of subcontainers or packages within a larger packing container, only the outermost container must be marked in accordance with this section, provided, that for live fish or wildlife that are packed in subcontainers within a larger packing container, if the subcontainers are numbered or labeled, the packing list, invoice, bill of lading, or other similar document, must reflect that number or label.

(4) A conveyance (truck, plane, boat, etc.) is not considered a container for purposes of requiring specific marking of the conveyance itself, provided that:

(i) The fish or wildlife within the conveyance is carried loosely or is readily identifiable, and is accompanied by the document required by paragraph (a)(1)(ii) of this section; or

(ii) The fish or wildlife is otherwise packaged and marked in accordance with this subpart.

(b) The requirements of § 300.160 of chapter III of this title do not apply to containers or packages containing—

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul that have been bred and born in captivity, or their products, if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Fish or shellfish contained in retail consumer packages labeled pursuant to the Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*; or

(3) Fish or shellfish that are landed by, and offloaded from, a fishing vessel (whether or not the catch has been carried by the fishing vessel interstate), as long as the fish or shellfish remain at the place where first offloaded.

50 CFR Chapter VI

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

5. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 16 U.S.C. 1801 *et seq.*

6. In § 679.2, paragraph (1) under the definition of ''IFQ regulatory area'' and the definition for ''IPHC'' are revised to read as follows:

§ 679.2 Definitions.

* * * * *

IFQ regulatory area means:

(1) With respect to IFQ halibut, areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title.

* * * * *

IPHC means International Pacific Halibut Commission (see part 300 of chapter III of this title).

* * * * *

7. In § 679.3, paragraphs (a) and (c) are revised to read as follows:

§ 679.3 Relation to other laws.

(a) *Foreign fishing for groundfish.* Regulations governing U.S. nationals fishing in the Russian fisheries are set forth in part 300 of chapter III of this title.

* * * * *

(c) *Halibut.* Additional regulations governing the conservation and management of halibut are set forth in subpart E of part 300 of chapter III of this title.

* * * * *

8. In § 679.4, paragraph (d)(1) introductory text and (f)(1)(i) are revised to read as follows:

§ 679.4 Permits.

* * * * *

(d) * * * (1) *General.* In addition to the permit and licensing requirements prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title and in the permit requirements of this section, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have on board:

* * * * *

(f) * * * (1) * * * (i) *Applicability.* In addition to the permit and licensing requirements prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title and paragraphs (b) and (d) of this section, and except as provided in paragraph (f)(1)(ii) of this section, a processor of fish from a Research Plan fishery must have a Federal processor permit issued by the Regional Director.

* * * * *

9. In § 679.5, paragraph (l) introductory text is revised to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) *IFQ recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section and as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title, the following reports are required.

* * * * *

10. In § 679.7, paragraphs (a)(6)(i), (b)(3), (f)(4), and (f)(11)(i) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(6) * * *

(i) Deployment of hook-and-line gear by operators of vessels fishing for halibut during seasons prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title.

* * * * *

(b) * * *

(3) *Halibut.* With respect to halibut caught with hook-and-line gear deployed from a vessel fishing for groundfish, except for vessels fishing for halibut as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title:

* * * * *

(f) * * *

(4) Except as provided in § 679.5(l)(3), retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the

vessel category and IFQ regulatory area in which the vessel is deploying fixed gear, and that is currently held by all IFQ card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title and § 679.5.

* * * * *

(11) * * *

(i) Discard of halibut is required as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title;

* * * * *

11. In § 679.21, paragraph (b)(1) is revised to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(b) * * * (1) *Definition*. Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), halibut, Pacific herring (*Clupea harengus pallasi*), king crab, and Tanner crab caught by a vessel regulated under this part while fishing for groundfish in the BSAI or GOA, unless retention is authorized by other applicable laws, including the annual management measures published in the Federal Register pursuant to § 300.62 of this title.

* * * * *

12. In § 679.23, paragraphs (e)(4)(i) and (f) are revised to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(4) * * * (i) *CDQ halibut*. Fishing for CDQ halibut with fixed gear under an approved CDQ allocation may begin on the effective date of the allocation, except that CDQ fishing may occur only during the fishing periods specified in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title.

* * * * *

(f) *IFQ halibut*. The fishing period(s) for IFQ halibut are established by the IPHC and are specified in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title. Catches of halibut by fixed gear at times other than during the specified fishing periods must be treated as prohibited species as prescribed at § 679.21(b).

* * * * * *

13. In § 679.24, the introductory paragraph is revised to read as follows:

§ 679.24 Gear limitations.

Regulations pertaining to vessel and gear markings are set forth in this section and as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title.

* * * * *

14. In § 679.30, paragraph (b)(1)(ii) is revised to read as follows:

§ 679.30 General CDQ regulations.

* * * * *

(b) * * *

(1) * * *

(ii) *Allocation request*. The allocation of each CDQ species requested for each subarea or district of the BSAI, as defined at § 679.2 and for each IPHC regulatory area, as prescribed in the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title.

* * * * *

15. In § 679.40, the introductory paragraph is revised to read as follows:

§ 679.40 Sablefish and halibut QS.

The Regional Director shall annually divide the TAC of halibut and sablefish that is apportioned to the fixed gear fishery pursuant to the annual management measures published in the Federal Register pursuant to § 300.62 of chapter III of this title and § 679.20, minus the CDQ reserve, among qualified halibut and sablefish quota share holders, respectively.

* * * * *

PART 695—[REMOVED]

16. Under the authority of 16 U.S.C. 1801 *et seq.*, 50 CFR part 695 is removed.

[FR Doc. 96–16723 Filed 7–1–96; 8:45 am]

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federal register

Friday
July 5, 1996

Part VI

Department of Labor

Employment and Training Administration

Department of Education

Office of Vocational and Adult Education; School-to-Work Opportunities; Urban/Rural Opportunities Grants; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education School-to-Work Opportunities; Urban/Rural Opportunities Grants

AGENCIES: Employment and Training Administration, Department of Labor; Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of Final Priority for School-to-Work Urban/Rural Opportunities Grants Using Fiscal Year (FY) 1995 Funds.

SUMMARY: The Secretaries of Labor and Education (the Secretaries) announce a competitive priority for the Urban/Rural Opportunities Grants competition authorized by Title III of the School-to-Work Opportunities Act of 1994 (the Act) using FY 1995 funds. This priority provides for a competitive preference to be given to applications from local partnerships proposing to implement a School-to-Work Opportunities initiative for youth residing or attending school in an Empowerment Zone or Enterprise Community (EZ/EC) designated under section 1391 of the Internal Revenue Code (IRC), as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993. The Secretaries announce that they intend to use this priority, along with the selection criteria published in the November 14, 1995, issue of the Federal Register (60 FR 57276), to select applications for funding under the Urban/Rural Opportunities Grants competition using FY 1995 funds. The Secretaries take this action to focus Federal financial assistance on implementing School-to-Work Opportunities initiatives in urban or rural areas of high poverty.

EFFECTIVE DATE: This priority takes effect on August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Karen Clark, National School-to-Work Office, U.S. Departments of Labor and Education, 400 Virginia Avenue, S.W., Room 210, Washington, D.C. 20024. Telephone: (202) 401–6222 (this is not a toll-free number). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Secretaries intend to award grants to local partnerships to implement School-to-Work Opportunities initiatives serving youth residing or attending school in urban or rural high poverty areas. The Secretaries recognize the particular challenges faced by local partnerships serving youth in urban and rural high-poverty areas in preparing the youth for first jobs in high-skill, high-wage careers and in increasing their opportunities for further education and training. Similarly, the EZ/EC initiative is aimed at rebuilding communities in America's poverty-stricken inner cities and rural heartlands. Under the EZ/EC initiative, the Federal Government has designated certain geographic areas as EZs and as ECs in accordance with Internal Revenue Code (IRC) section 1391, as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). The selected areas were designated as EZs or ECs based on the quality of their strategic plans addressing how each zone or community would link economic development with education and training, as well as how community development, public safety, human services, and environmental initiatives together would support sustainable community improvement efforts.

On December 6, 1995, the Secretaries published a notice of proposed priority for this competition in the Federal Register (60 FR 62698).

Note: This notice of final priority does not solicit applications. A solicitation for grant applications under this competition was published in the Federal Register on November 14, 1995 (60 FR 57276).

Analysis of Comments and Changes

In response to the Secretaries' invitation in the notice of proposed priority, 34 parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority follows. Technical and other minor changes—and suggested changes the Secretaries are not legally authorized to make under the applicable statutory authority—are not addressed.

Comments: Several commenters expressed support for the Secretaries' proposal to give competitive preference to applications from partnerships that propose to implement a School-to-Work Opportunities initiative serving youth who reside or attend school in an area designated as an EZ or EC.

Discussion: The EZ/EC initiative seeks to implement a broad-based strategy for meeting the needs of youth in high poverty areas, and the Urban/Rural Opportunities Grants are well-suited for inclusion in such an overarching strategy. Similarly, as a part of the EZ/EC designation process, communities designated as EZs or ECs have already demonstrated a capacity for the type of collaboration and cooperative planning that is critical to developing and implementing successful School-to-Work Opportunities initiatives.

Changes: None.

Comment: Two commenters stated that there are typographical errors in the list of ECs that appeared in the Federal Register notice. One commenter suggested that five San Francisco neighborhoods that were also designated as ECs should have been included in the list.

Discussion: The Secretaries agree with the commenters about the typographical errors and the addition of the five San Francisco neighborhoods to the ECs list.

Changes: In the list of ECs, ''New Mexico: Moro, Rico Arriba, Taos Counties'' has been changed to ''New Mexico: Mora, Rio Arriba, Taos Counties'' and ''California: San Francisco, Bayview, Hunters Point'' has been changed to ''California: San Francisco, Bayview-Hunters Point, Southeast Section.'' In addition, the following San Francisco neighborhoods have been added to the list of Enterprise Communities: Tenderloin, Chinatown, South of Market, Mission, and Visitacion Valley. This revised list is included as an appendix to this notice.

Comment: One commenter noted that there was no mention in the proposed priority of special populations (such as individuals with disabilities, economically and educationally disadvantaged individuals, individuals with limited English proficiency, individuals in non-traditional occupations by gender, and individuals in corrections programs) in the discussion of the target service population. The commenter argued that the failure to include a reference to those special populations would result in selecting EZs or ECs that do not serve those most in need.

Discussion: The inclusion of special populations in a local partnership's plan to serve high poverty area youth is covered in Criterion 3 of the selection criteria to be used for this competition. These criteria were published in the November 14, 1995, Federal Register notice. Criterion 3 requires that a local partnership describe its strategies for effectively ensuring opportunities for the participation of all students and to identify ways of overcoming barriers to the participation of any student. Like the Act, Criterion 3 refrains from

requiring applicants to design specific programs for each specific group of students. Rather, the focus is on building a school-to-work system for all students. The Secretaries agree that to receive the maximum points for Criterion 3, applicants may not neglect the needs of any student and must convincingly describe how the local partnership's School-to-Work Opportunities system will provide the same options and produce the same results for all participating students, while recognizing that certain groups of students have different needs and, therefore, that specific strategies may be required for the target groups listed in the definition of ''all students.'' Applications that fail to address the critical needs of various student populations and fail to develop effective strategies based on identified student needs will not be as competitive as applications that have comprehensive and effective strategies for all students.

Changes: None.

Comments: Several commenters disagreed with the Secretaries' proposal to give competitive preference to partnerships in EZs and ECs. Five commenters expressed concern that this would create a disincentive to the point of deterring innovation among existing effective high-poverty models and efforts at collaboration. One commenter suggested changing the way points are awarded by giving partnerships in EZ/ECs 5 to 10 points rather than giving them a preference among applications of comparable merit. Another commenter argued that giving priority to partnerships in EZ/ECs discounts the value of projects implemented by partnerships that do not serve EZ/EC areas and impedes the effective use of other Federal dollars by those partnerships. One commenter suggested that the proposed competitive preference would serve to exclude youth who would be denied the career and academic skills they need. Two commenters argued that this preference is unfair in general, and one of them requested a waiver from the preference. Finally, one commenter suggested that the preference is unfair to certain high-poverty rural areas that have not been able to receive an EZ/EC designation.

Discussion: The Secretaries recognize that certain otherwise worthy local areas may not have been designated as EZ/ECs. However, the Secretaries believe that the missions of the EZ/EC initiative and the School-to-Work Opportunities initiative, particularly with regard to Urban/Rural Opportunities Grants, effectively complement one another. The purpose of the EZ/EC priority is to encourage collaboration between those initiatives, not to deny services to youth in any area. Moreover, Criterion 5 of the selection criteria requires a partnership to develop a strategy for using other resources, including other Federal funds, when Federal resources under the School-to-Work Opportunities Act are no longer available. As with previous competitions, applications that fail to address a partnership's ability to leverage additional resources, including other Federal resources, will not be as competitive as other applications that demonstrate the partnership's ability to effectively use additional funding. The Secretaries believe that all Federal funds are important for building an effective School-to-Work Opportunities system and do not believe that the EZ/EC preference discounts the value of or impedes the effective use of other Federal dollars in any way. Although it is unfortunate that it is too late for high-poverty areas to gain an EZ or EC designation in time for the current Urban/Rural Opportunities Grant competition, applicants are reminded that this priority merely provides a line of distinction when two applications are of comparable merit. Applicants are also reminded that the President is expected to announce a second round of EZ/EC designations in the coming months. The Secretaries preferred this priority method over assigning a specific number of points to EZ/ECs to avoid increasing an applicant's score merely on the basis of EZ/EC designation. Finally, granting waivers of a competitive preference established as applicable to a particular grant competition is not an available option under either the Act or under applicable Department regulations.

Changes: None.

Comment: One commenter suggested that the criteria for funding programs should include the provider's background, commitment, and experience in developing partnerships in his or her community rather than giving preference to partnerships serving areas designated as EZs or ECs.

Discussion: The Secretaries agree that the quality of a provider's background, commitment, and experience are important for the implementation of successful School-to-Work Opportunities systems. Toward that end, Criterion 2 of the selection criteria requires that applicants demonstrate an effective and convincing strategy for continuing the commitment of required partners and other interested parties in the local School-to-Work Opportunities system. In addition, Criterion 5 requires that applicants develop a feasible and effective strategy for using other resources, including private sector resources, to maintain the system when Federal resources under the School-to-Work Opportunities Act are no longer available. Applications that fail to adequately address these criteria, regardless of EZ/EC designation, will not be as competitive as applications that effectively demonstrate the ability of the partnership to develop resources and commitments that will build a long-lasting, quality school-to-work system.

Changes: None.

Comments: Two commenters suggested that communities that operate Youth Fair Chance programs should be given the same preference as EZ/ECs because their areas meet the same demographic requirements as listed in the grant announcement for EZ/ECs.

Discussion: Both EZ/ECs and Urban/Rural Opportunities Grant local partnerships are called upon to carry out activities that require a high degree of collaboration as indicated in the Federal Register notice announcing the competition. Because EZ/ECs already demonstrate such a high degree of collaboration at the local level, the Secretaries believe that the activities and goals of Urban/Rural Opportunities Grant local partnerships and those who implement the EZ/EC initiative effectively complement each other, resulting in a high degree of collaboration among school-to-work activities. The Secretaries are sympathetic to these commenters and recognize Youth Fair Chance projects as worthwhile initiatives; however, in taking into account the scarcity of resources that promote community collaboration, they believe this competitive preference is the most effective way to channel Urban/Rural Opportunities Grant funds and foster local collaborative efforts.

Changes: None.

Comment: One commenter protested the late notification of the EZ/EC priority in the Federal Register, arguing that the announcement was made after the partnership submitted its application to the State for review.

Discussion: The Secretaries believe applicants had fair notice of their intent to give a competitive preference to applicants from EZs or ECs. First, on December 6, 1995, a notice of proposed priority appeared in the Federal Register more than three weeks before applications were due to the States. Second, applicants were asked to indicate their collaboration with other programs, including EZs or ECs, under Criterion 2 of the selection criteria. Finally, the preference is based on whether the applicant is part of an EZ or EC, not on anything else in the application, so the timing of the priority

notice would not have affected the way the applicants wrote their applications.

Changes: None.

Comment: One commenter suggested that giving priority preference to EZ/ECs discriminates against Indian Reservations because they were excluded from the EZ/EC application process and that areas eligible for priority preference should include Indian reservations and USDA Champion designated areas.

Discussion: Many programs for Indian youth are eligible for School-to-Work Opportunities funding under Urban/Rural Opportunities Grants, Local Partnership Grants, and State Implementation subgrants to local partnerships. In addition, a special set-aside for School-to-Work Indian Program Grants is available for local partnerships that include the involvement of schools funded by the Bureau of Indian Affairs (BIA) and is used to create school-to-work systems that serve Indian youth. Last year, $593,219 was awarded under this set-aside in nine School-to-Work Indian Program Grants to develop and implement those systems. This year, $1.225 million is available for new grants and continuations to partnerships serving Indian youth.

Changes: None.

Priority

Under 34 CFR 75.105(c)(2)(ii), the Secretaries give preference to applications that meet the following competitive priority. An application that meets this competitive priority is selected by the Secretaries over applications of comparable merit that do not meet the priority:

This priority is for local partnerships serving youth residing or attending school in urban or rural high poverty areas designated as Empowerment Zones (EZs) or Enterprise Communities (ECs).

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 and 29 CFR Part 17. The objective of the Executive order is to foster an intergovernmental partnership and to strengthen 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 Departments' specific plans and actions for this program.

Program Authority: 20 U.S.C. 6101, *et seq.* (Catalog of Federal Domestic Assistance (CFDA) Number 278D of School-to-Work Opportunities of Urban/Rural Opportunities Grants)

Dated: June 28, 1996.

Timothy M. Barnicle,

Assistant Secretary for Employment and Training, U.S. Department of Labor.

Patricia McNeil,

Assistant Secretary for Vocational and Adult Education, U.S. Department of Education.

Appendix

Empowerment Zones and Enterprise Communities

Note: Many EZ/ECs cover only a portion of the listed city or county. To meet the competitive priority, the local partnership must serve youth residing or attending school in the EZ/EC, not just in the city or county listed.

EMPOWERMENT ZONES (EZ)

Georgia: Atlanta
Illinois: Chicago
Kentucky: Kentucky Highlands*
Maryland: Baltimore
Michigan: Detroit
Mississippi: Mid Delta*
New York: Harlem, Bronx
Pennsylvania/New Jersey: Philadelphia, Camden
Texas: Rio Grande Valley*

SUPPLEMENTAL EMPOWERMENT ZONES (SEZ)

California: Los Angeles
Ohio: Cleveland

ENTERPRISE COMMUNITIES (EC)

Alabama: Birmingham
Alabama: Chambers County*
Alabama: Greene, Sumter Counties*
Arizona: Phoenix
Arizona: Arizona Border*
Arkansas: East Central*
Arkansas: Mississippi County*
Arkansas: Pulaski County
California: Imperial County*
California: Los Angeles, Huntington Park
California: San Diego
California: San Francisco, Bayview-Hunters Point, Southeast Section
California: San Francisco, Tenderloin
California: San Francisco, Chinatown
California: San Francisco, South of Market
California: San Francisco, Mission
California: San Francisco, Visitacion Valley
California: Watsonville*
Colorado: Denver
Connecticut: Bridgeport
Connecticut: New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*
Florida: Tampa
Florida: Miami, Dade County
Georgia: Albany
Georgia: Central Savannah*
Georgia: Crisp, Dooley Counties*
Illinois: East St. Louis
Illinois: Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville
Louisiana: Northeast Delta*
Louisiana: Macon Ridge*
Louisiana: New Orleans
Louisiana: Ouachita Parish
Massachusetts: Lowell
Massachusetts: Springfield
Michigan: Five Cap*
Michigan: Flint
Michigan: Muskegon
Minnesota: Minneapolis
Minnesota: St. Paul
Mississippi: Jackson
Mississippi: North Delta*
Missouri: East Prairie*
Missouri: St. Louis
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque
New Mexico: Mora, Rio Arriba, Taos Counties*
New York: Albany, Schenectady, Troy
New York: Buffalo
New York: Newburgh, Kingston
New York: Rochester
North Carolina: Charlotte
North Carolina: Halifax, Edgecombe, Wilson Counties*
North Carolina: Robeson County*
Ohio: Akron
Ohio: Columbus
Ohio: Greater Portsmouth*
Oklahoma: Choctaw, McCurtain Counties*
Oklahoma: Oklahoma City
Oregon: Josephine*
Oregon: Portland
Pennsylvania: Harrisburg
Pennsylvania: Lock Haven*
Pennsylvania: Pittsburg
Rhode Island: Providence
South Carolina: Charleston
South Carolina: Williamsburg County*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*
Tennessee: Memphis
Tennessee: Nashville
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas
Texas: El Paso
Texas: San Antonio
Texas: Waco
Utah: Ogden
Vermont: Burlington
Virginia: Accomack*
Virginia: Norfolk
Washington: Lower Yakima*
Washington: Seattle
Washington: Tacoma
West Virginia: West Centeral*
West Virginia: Huntington
West Virginia: McDowell*
Wisconsin: Milwaukee

*denotes rural designee

ENHANCED ENTERPRISE COMMUNITIES (EEC)

California: Oakland
Massachusetts: Boston
Missouri/Kansas: Kansas City, Kansas City
Texas: Houston

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federal register

Friday
July 5, 1996

Part VII

The President

Proclamation 6908—A National Month of Unity, 1996

Federal Register
Vol. 61, No. 130
Friday, July 5, 1996

Presidential Documents

Title 3—

The President

Proclamation 6908 of July 1, 1996

A National Month of Unity, 1996

By the President of the United States of America

A Proclamation

Our Nation was founded by people who sought the right to worship freely, and religious liberty is enshrined in our Constitution as the ''first freedom'' granted by our Bill of Rights. The United States is now the most multi-ethnic, multi-religious democracy in history, and we must preserve this precious freedom while making the most of our diversity. Ours is a great and noble struggle to make our national voice a chorus of unity—varied by differing intonations, but carried and lifted by a rich harmony.

The recent rash of arson attacks against black churches and other houses of worship is a stark reminder that our work to build common ground is far from over and that our progress can be threatened by forces that tear at the very fabric of our society. It is hard to think of a more heinous act than the destruction of a sacred structure. The violence that charred and defaced these buildings challenges our fundamental right to worship in safety, and has left us grim emblems of the hatred and alienation that too often darken our daily experience.

And so we must look into our hearts as America approaches the new century, pledging to devote our energies to reinvigorating the shared values that will enable us to embrace the future together. We must never go back to the terrible days of racial and ethnic division, nor can we afford to dismiss our problems by ascribing them to isolated groups or areas of the country. Instead, let us join hands to lighten our burdens and build bridges among people and communities so that we can be one America—a Nation of extraordinary possibility with opportunity, freedom, and respect for all.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 1996, as A National Month of Unity. I call upon religious leaders of all faiths to emphasize the need for healing and tolerance. I ask all Americans to join these efforts by working together to mend divisions and promote understanding; by reaching out to friends and neighbors of all races and faiths in a spirit of fellowship; and by seeking to strengthen, through words and actions, the ideals of equality and community cherished by generations of Americans. In this birth month of our Nation, let us set an example for the world we welcome to Atlanta for the Centennial Olympic Games by rededicating ourselves to America's fundamental truth: E pluribus unum—from many, one.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of July, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

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Exportation and importation of animals and animal products:

Horses; importation permit applications and health certificate requirements; comments due by 7-9-96; published 5-10-96

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Texas citrus fruit crop; comments due by 7-8-96; published 6-5-96

ARMS CONTROL AND DISARMAMENT AGENCY

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COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Gulf of Mexico reef fish; comments due by 7-8-96; published 5-14-96

National Weather Service; modernization criteria; comments due by 7-8-96; published 6-6-96

COMMODITY FUTURES TRADING COMMISSION

Contract markets:

Trading cards and trading records; correction of erroneous information; procedures; comments due by 7-8-96; published 6-6-96

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act:

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ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Open access same-time information system (formerly real-time information networks) and standards of conduct for public utilities

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Air pollutants, hazardous; national emission standards:

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Direct sale elimination and independent power producers written guarantee program; comments due by 7-8-96; published 6-6-96

Drinking water:

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Health Care Financing Administration

Medicare and Medicaid:

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HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service

Interstate shipment of etiologic agents:

Facilities transferring or receiving select infectious agents; additional requirements; comments due by 7-10-96; published 6-10-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs:

Home equity conversion mortgage insurance demonstration; use of direct endorsement program; comments due by 7-9-96; published 5-10-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Federal regulatory review:

Permanent program and abandoned mine land reclamation plan submissions; comments due by 7-8-96; published 5-8-96

Permanent program and abandoned mine land reclamation plan submissions:

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Virginia; comments due by 7-11-96; published 6-11-96

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Communications Assistance for Law Enforcement Act of 1994; cost recovery regulations; comments due by 7-9-96; published 5-10-96

JUSTICE DEPARTMENT

Civil Liberties Act redress provisions:

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Individuals who relocated to Japan as minors during World War II; guidelines; comments due by 7-12-96; published 6-12-96

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Occupational Safety and Health Administration

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Copyright Office, Library of Congress

Copyright licenses; subscription digital transmissions; notice and recordkeeping; comments due by 7-12-96; published 5-13-96

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

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Federal Highway Administration

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Omnibus Transportation Employee Testing Act of 1991:

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National Highway Traffic Safety Administration

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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