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# federal register

Wednesday
September 4, 1996

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# Presidential Documents

Title 3—

The President

Presidential Determination No. 96–43 of August 27, 1996

## Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

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

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on September 8, 1995 (60 FR 47659), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1996.

I hereby determine that the extension for 1 year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

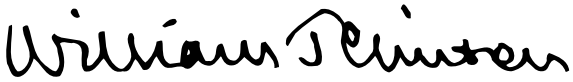
Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I extend for 1 year, until September 14, 1997, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505; and

(3) the Cuban Assets Control Regulations, 31 CFR Part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the Federal Register.



THE WHITE HOUSE,
*Washington, August 27, 1996.*

[FR Doc. 96–22710
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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.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 317 and 412

**RIN 3602–AF96**

### Executive, Management, and Supervisory Development

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to eliminate the 3-year limitation on the validity of Qualifications Review Board (QRB) certification for appointment to the Senior Executive Service (SES). The Office is also revising its regulations governing executive and management development. The coverage has been expanded to include supervisory development. The revised regulations present broad program criteria on the systematic development of executives, managers, supervisors, and candidates for these positions. They also establish minimum requirements for formal SES candidate development programs. The revisions are intended to promote training and development activities which foster a corporate perspective of Government within the Federal executive cadre.

**EFFECTIVE DATE:** October 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Constance Maravell at 202–606–1832.

**SUPPLEMENTARY INFORMATION:** OPM published proposed regulations to make changes in parts 317 and 412 on December 11, 1995 (60 FR 63454). We received comments from 7 agencies, 1 individual, and the Senior Executives Association (SEA). Most comments were supportive of the changes. There were some reservations about requirements for SES candidate development programs.

Part 317—Employment in the Senior Executive Service

The proposed regulations included a change in 5 CFR 317.501(c)(5) which would have allowed Executive Resources Boards to refer to the selecting official all candidates as best qualified when there were less than 10 applicants for a position. This was proposed in response to a recommendation from the Executive Resources Management Group's (ERMG) Staffing Work Group, with the goal of simplifying and streamlining the merit staffing process. However, we recognize that such a provision presents difficulties in the context of other requirements of 5 CFR 317.501(c), calling for the ''relative ranking of the candidates'' and requiring selection ''from among the candidates identified as best qualified.'' Two agencies as well as the Senior Executives Association raised concerns relating to the interpretation and application of the proposed revision. In evaluating the proposal and the subsequent comments, we placed primary emphasis on the language of the merit principle requiring selection and advancement ''solely on the basis of relative ability, knowledge, and skills * * *'' (5 U.S.C. 2301(b)(1)). In light of these considerations, the proposals has been deleted from the final regulation.

Another recommendation put forward by the ERMG's Staffing Work Group involves a larger role for agencies in the management of the QRB process. Two agencies commenting on these proposed regulations recommended that the QRB process be delegated to agencies or, alternatively, eliminated entirely. Our research of the legislative history of the Civil Service Reform Act indicates that Congressional intent in legislating Qualifications Review Boards was to assure an independent review of executive qualifications outside the selecting agency. This is incompatible with full delegation of the QRB process to agencies. We currently have an interagency advisory group reviewing the function and operations of the QRBs as they are presently conducted. If we conclude that the QRB process does not ''add value'' to the selection of Federal executives, we will recommend appropriate changes, including revisions to the statute if necessary.

Part 412—Executive, Management, and Supervisory Development

One agency raised a question about sabbaticals, which are spelled out in statute (5 U.S.C. 3396(c)) and which are not covered in this final rule. The question concerned whether agencies would have complete authority for deciding the merits of requests for sabbaticals. Agencies have always had complete decision-making authority regarding the use of sabbaticals. Agencies should continue to report the use of sabbaticals to OPM, including submission of appropriate documentation (currently OPM Form 1390, Executive Personnel Transaction).

One agency suggested including the role of ''team leader'' in the supervisory, managerial, and executive continuum. At this time the role of the team leader is still evolving and may vary widely, depending on the type of team or the specific agency. There is no prohibition barring an agency from setting whatever training policies it deems appropriate for the training of teams and team leaders. However, we are not broadening the scope of part 412 to incorporate such a requirement for all agencies.

Another agency asked for verification of its assumption that a person who leaves the Government and has been certified as qualified for the SES by a QRB retains that certification. Since the certification has no time limit, this is a correct assumption. The individual could use that certification to return to the Government and receive a noncompetitive appointment to the SES, provided that he or she had competed Governmentwide to enter the Candidate Development Program (CDP).

One agency commented that agencies should be encouraged to train their managerial corps as needed to meet their program needs rather than being required to provide managerial training generally. The regulations require that training and development programs be consistent with an agency's strategic plan. We would like to emphasize the importance of training for enhancing organizational achievement. Training and development play a critical role in assuring high quality customer service, information management, and improved management skills. This is widely recognized in the private sector as well as in Government. Furthermore, the requirements for managerial

development are flexible enough to allow agencies to comply within the limits of their financial resources.

*Section 412.104 Formal Candidate Development Programs for SES Positions*

OPM believes that formal SES Candidate Development Programs (CDPs) provide an excellent vehicle for creating and reinforcing a corporate perspective within the SES. The idea of a ''corporate SES'' originated with the Civil Service Reform Act of 1978 and was reinforced by the National Performance Review (NPR) in 1994. One agency asked us to clarify the concept of corporate SES perspective; another questioned whether it was a valid objective. We believe that a corporate SES ( a Governmentwide executive service with shared values, a common identity, and a certain fundamental uniformity in personnel systems) contributes to stronger Government, and we will continue our efforts to promote a corporate SES culture in our policies and programs.

The essence of a corporate SES is shared values. These values must transcend a commitment to agency mission; they must extend beyond an executive's individual profession and aspirations. The SES values must respect and embrace the dynamics of American democracy, an approach to governance that provides a continuing vehicle for change. The NPR report on the SES captures the original vision of the SES:

> to serve the twin objectives of change and continuity: On one hand helping the top officials of a new administration to steer their agencies in the direction set by the newly elected President; on the other hand carrying forward the institutional memory of government and maintaining high standards of public service.

We believe that this vision is still valid, and we believe that balancing continuity and change is the fundamental responsibility of the Senior Executive. Inherent in this responsibility is respect for both merit and diversity, both the dignity and importance of the individual and the richness and wisdom that diversity of individuals brings to organizations and societies.

Two agencies commented in favor of adding a provision to establish a cadre of ''precertified'' managers in order to expedite the filling of executive positions. The ERMG's Staffing Work Group has recommended that OPM examine ways to allow agencies to precertify the qualifications of executive candidates outside of the candidate development process. We are currently considering the feasibility of possible options for implementing such a recommendation. We recognize that even experienced managers, who would otherwise meet the requirements for SES appointment, can benefit from the training and development provided through a formal CDP. However, given the limitations of formal training budgets, the CDP is not a cost-effective vehicle for certifying executive qualifications obtained outside a formal program.

One agency advocated substituting a general statement of purpose for formal candidate development programs, in place of the specific program requirements at § 412.104(e), saying that such specifications are ''unnecessary and rigid.'' Another agency took exception to the requirement specifying the aggregate length of developmental assignment(s) outside the candidate's position of record. We do not find these requirements to be unnecessary, and it is not our intention to be rigid in their application or interpretation. In all cases except where competition for entry into the CDP is restricted to agency employees, QRB certification based on successful completion of an OPM-approved executive development program makes an individual eligible Governmentwide for noncompetitive appointment to the SES. Therefore, to support development of a corporate perspective in Government, there is a Governmentwide interest in assuring that a minimum level of training and development is shared by successful DCP participants. The regulations allow a great deal of flexibility in choosing the formal interagency training experience, and the 4 months of developmental assignments can be accomplished through a series of shorter assignments. Furthermore, OPM will work with agencies to develop program plans that are tailored to specific agency needs and circumstances, and we will permit individual participants to have development plans which deviate from their agencies' approved program plans, provided these deviations are approved by OPM in advance. We absolutely agree with the comment that developmental assignments should be ''tailored to the individual developmental needs of each candidate.''

At the same time, some work experiences would not normally provide the depth and breadth of experience needed to enhance a candidate's executive qualifications. For example, one agency asked if a candidate could stay in his/her current position and have extra duties added to that position. This does not go far enough to achieve the principal goal of the developmental assignment, which is to have the person gain a broader perspective on his/her agency and the Federal Government. To achieve this requires experience in other lines of work and/or in different working relationships within the organization, or in different organizations. Adding duties to an existing position does not accomplish that purpose.

One agency commented that not all candidates have equivalent backgrounds and, therefore, that development should be based on individual requirements needed to reach a set level of expected job performance. As we have previously indicated, we agree that development plans should be tailored to the individual needs of each candidate. The regulations require that each candidate have a development plan prepared from a competency-based needs assessment. The minimum standards are sufficiently broad so that individual development plans can be tailored to meet each candidate's needs.

Another agency requested that OPM not restrict formal training to ''interagency sources.'' In fact, the regulations do not restrict formal training to any particular source or sources. The regulations allow agencies to choose any source, including nongovernmental, for the required training experience, which must be Governmentwide or multi-agency in its nature and scope. The purpose of this requirement is to expose potential executives to multiple points of view and foster a corporate perspective.

One agency questioned the necessity of requiring OPM approval of agency programs prior to announcement for the first time under the new regulations. We believe these regulations are a significant departure from the superseded regulations, such that prior OPM review and approval will contribute to the development of agency programs that both meet minimum regulatory standards and are tailored to individual agency needs. We encourage agencies to meet with us early in the development of their programs so that the concerns of all parties can be surfaced and adequately addressed. By engaging in such discussion before agencies' programs are announced for the first time, we can minimize problems which might arise as individual candidates are submitted for QRB certification.

The Senior Executives Association (SEA) commented on the requirement that agencies' recruitment efforts comply with statutory merit principles (1) and (2) and also take ''into consideration the goal of achieving a

diversified workforce'' (412.104(b)). SEA believes ''To provide additional emphasis will create an appearance that preferential treatment for some is the desired, but unclearly stated, goal.'' In *Adarand Constructors, Inc.* v. *Pena,* 115 S. Ct. 2097 (1995), the Supreme Court ruled that all Federal programs which use race-based decision-making are subject to strict judicial scrutiny. However, the provision in question speaks to the recruiting process and not to the selection process. In a Department of Justice memorandum to General Counsels providing guidance on the *Adarand* decision (February 29, 1996), agencies were advised:

> *Adarand* does not apply, however, to actions in which race is not used as a basis for making employment decisions about individuals. For example, action to increase minority applications for employment is not subject to *Adarand*. Outreach and recruitment efforts * * * which merely seek to expand the pool of qualified applicants generally would not be subject to strict scrutiny under *Adarand*.

Our purpose in highlighting the value of achieving a diversified workforce is not to influence selections or other employment decisions but to articulate the principle that members of all groups should have an opportunity for consideration.

The SEA suggested that we list in the regulations the 22 generic competencies identified in the Leadership Effectiveness Framework to assist potential candidates in assessing their qualifications for SES positions. For purposes of assessing an individual's executive qualifications, these 22 competencies are grouped into five ''executive core qualification:'' strategic vision, human resources management, program development and evaluation, resource planning and management, and organizational representation and liaison. It is against these five core qualifications that individuals are evaluated by Qualifications Review Boards to determine ''demonstrated executive experience'' and/or ''likelihood of executive success,'' as required by 5 U.S.C. 3393. OPM has already published guidance which describes the five core qualifications and provides additional information on how to present a candidate's executive qualifications for consideration by a QRB.

*Operational Issues*

One agency raised a number of operational issues, such as the appropriate organizational level for seeking OPM approval of agency programs and the lowest organizational level appropriate for seeking exceptions to Governmentwise recruitment under section 412.104(a)(2). We plan to discuss these and other procedural questions with all stake holders and issue operational guidance at the time the regulations become final.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because they affect only federal employees and agencies.

List of Subjects in 5 CFR Parts 317 and 412

Government employees.

James B. King,

*Director, Office of Personnel Management.*

Accordingly, the Office of Personnel Management is amending 5 CFR parts 317 and 412 as follows:

## PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

1. The authority citation for part 317 continues to read as follows:

Authority: 5 U.S.C. 3392, 3393, 3393a, 3395, 3395, 3397, 3593, and 3595.

2. In subpart E, § 317.502, paragraph (c) is revised to read as follows:

### Subpart E—Career Appointments

#### § 317.502 Qualifications Review Board certification.

* * * * *

(c) Qualifications Review Board certification of executive qualifications just be based on demonstrated executive experience; successful completion of an OPM-approved candidate development program; or possession of special or unique qualities that indicate a likelihood of executive success. Any existing time limit on a previously approved certification is removed.

* * * * *

## PART 412—EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

3. Part 412 is revised to read as follows:

### Subpart A—General Provisions

Sec.

412.101 Coverage.
412.102 Purpose.
412.103 Criteria for programs for the systematic training and development of executives, managers, supervisors, and candidates.
412.104 Formal candidate development programs for Senior Executive Service positions.

### Subpart B—Senior Executive Service Status and Nonstatus Candidate Development Programs

412.201 Purpose.
412.202 ''Status'' programs.
412.203 ''Non-status'' programs.

Authority: 5 U.S.C. 3397, 4101, *et seq.*

### Subpart A—General Provisions

#### § 412.101 Coverage.

This subpart applies to all incumbents of or candidates for supervisory, managerial, and executive positions in the General Schedule, the Senior Executive Service (SES), or equivalent pay systems who are also covered by part 410 of this chapter.

#### § 412.102 Purpose

(a) This subpart implements for supervisors, managers, and executives the provisions of chapter 41 of title 5 of the United States Code related to training and section 3396 of title 5 related to the criteria for programs of systematic development of candidates for the SES and the continuing development of SES members.

(b) The subpart identifies a continuum of preparation starting with supervisory positions and proceeding through management and executive positions Governmentwide. For this reason, the subpart establishes a comprehensive system that is intended to:

(1) Provide the competencies needed by supervisors, managers, and executives to perform their current functions at the mastery level of proficiency; and

(2) Provide learning through development and training in the context of succession planning and corporate perspective to prepare individuals for advancement, thus supplying the agency and the government with an adequate number of well prepared and qualified candidates to fill supervisory, managerial, and executive positions Governmentwide.

#### § 412.103 Criteria for programs for the systematic training and development of executives, managers, supervisors, and candidates.

Each agency must provide for the initial and continuing development of individuals in executive, managerial, and supervisory positions, and candidates for those positions. The agency must issue a written policy to assure that their development programs:

(a) Are designed as part of the agency's strategic plan and foster a corporate perspective.

(b) Make assignments to training and development consistent with the merit

system principles set forth in 5 U.S.C. 2301(b) (1) and (2).

(c) Provide for:

(1) Initial training as an individual makes critical career transitions to become a new supervisor, a new manager, or a new executive consistent with the results of needs assessments;

(2) Continuing learning experiences, both short- and long-term, throughout an individual's career in order for the individual to achieve the mastery level of proficiency for his or her current management level and position; and

(3) Systematic development of candidates for advancement to a higher management level. Formal candidate development programs leading to noncompetitive placement eligibility represent one, but not the only, type of systematic development.

**§ 412.104 Formal candidate development programs for Senior Executive Service positions.**

Formal SES candidate development programs permit the certification of the executive qualifications of graduates by a Qualifications Review Board under the criterion of 5 U.S.C. 3393(c)(2)(B) and selection for the SES without further competition. The agency must have a written policy describing how the program will operate. The agency must obtain OPM approval of the program before it is conducted for the first time under these regulations and whenever there are substantive changes to the program. Agency programs must meet the following criteria.

(a) Recruitment.

(1) Recruitment for the program is from all groups of qualified individuals within the civil service, or all groups of qualified individuals whether or not within the civil service.

(2) Agencies may request an exception to the provision in paragraph (a) of this section if they can show that during the 5-year period prior to the announcement of a program they have made at least 15% of their career SES appointments from sources outside the agency. Notwithstanding this exception recruitment must be competitive and be announced at least agencywide. Graduates of these programs who have been certified by a QRB must then compete Governmentwide for entry to the SES, but do not have to obtain a second QRB certification before appointment.

(b) In recruiting, the agency, consistent with the merit system principles in 5 U.S.C. 2301(b) (1) and (2), takes into consideration the goal of achieving a diversified workforce.

(c) All candidates are selected through SES merit staffing procedures. The number selected shall be consistent with the number of expected vacancies.

(d) Each candidate has an SES development plan covering the period of the program. The plan is prepared from a competency-based needs determination. It is approved by the Executive Resources Board.

(e) The minimum program requirements, unless an exception is obtained in advance of the beginning of the candidate's program, for an SES development plan are as follows:

(1) There is a formal training experience that addresses the executive core qualifications and their application to SES positions Governmentwide. The training experience must include interaction with a wide mix of Federal employees outside the candidate's department or agency to foster a corporate perspective but may include managers from the private sector and state and local governments. The nature and scope of the training must have Governmentwide or multi-agency applicability. If formal interagency training is used to meet this requirement, it must total at least 80 hours. If an interagency work experience is used, it must be of significantly longer duration than 80 hours.

(2) There are developmental assignments that total at least 4 months of full-time service outside the candidate's position of record. The purpose of the assignments is to broaden the candidate's experience and/or increase knowledge of the overall functioning of the agency so that the candidate is prepared for a range of agency positions.

(3) There is a member of the Senior Executive Service as a mentor.

(f) Each candidate's performance in the program is evaluated periodically, and there is a written policy for discontinuing a candidate's participation in the program. A candidate can be discontinued or may withdraw from the program without prejudice to his or her ability to apply directly for SES positions.

(g) Each candidate has a documented starting and finishing date in the program.

## Subpart B—Senior Executive Service Status and Nonstatus Candidate Development Programs

**§ 412.201 Purpose.**

Section 3393 of title 5, United States Code, requires that career appointees to the SES be recruited either from all groups of qualified individuals within the civil service, or from all groups of qualified individuals whether or not within the civil service. This subpart sets forth regulations establishing two types of SES candidate development programs, ''status'' and ''non-status.''

**§ 412.202 ''Status'' programs.**

Only employee serving under career appointments, or under career-type appointments as defined in § 317.304(a)(2) of this chapter, may participate in ''status'' candidate development programs.

**§ 412.203 ''Non-status'' programs.**

(a) *Eligibility.* Candidates are from outside Government and/or from among employees serving on other than career or career-type appointments within the civil service.

(b) *Requirements.*

(1) Candidates must be appointed using the Schedule B authority authorized by § 213.3202(j) of this chapter. The appointment may not exceed or be extended beyond 3 years.

(2) Assignments must be to a full-time position created for developmental purposes connected with the SES candidate development program. Candidates serving under Schedule B appointment may not be used to fill an agency's regular positions on a continuing basis.

(3) Schedule B appointments must be made in the same manner as merit staffing requirements prescribed for the SES, except that each agency shall follow the principle of veteran preference as far as administratively feasible. Positions filled through this authority are excluded under § 302.101(c)(6) of this chapter from the appointment procedures of part 302.

[FR Doc. 96–22366 Filed 9–3–96; 8:45 am]

BILLING CODE 6325–01–M

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## DEPARTMENT OF JUSTICE

## Immigration and Naturalization Service

## 8 CFR Parts 210, 245a, 264, 274a and 299

**[INS No. 1399 E–96]**

**RIN 1115–AB73**

## Introduction of New Employment Authorization Document

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** The Immigration and Naturalization Service (Service) is publishing a final rule introducing a more secure Employment Authorization Document (EAD), Form I–766. The

Service will begin issuing Form I–766 on or after October 4, 1996. This rule will confer authority for INS to begin issuing Form I–766 to certain classes of aliens as evidence of authorization to work temporarily in the United States. Form I–766 may be used by employees and employers for purposes of employment verification eligibility requirements on the Service Form I–9. No action is necessary for those aliens who have valid evidence of employment authorization on Service Forms I–688A and I–688B.

**EFFECTIVE DATE:** October 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** MayBurn DeBoe, Senior Immigration Examiner, Immigration and Naturalization Service, Adjudications and Nationality Division, 425 I Street NW., room 3214, Washington, DC. 20536, telephone (202) 514–5014.

**SUPPLEMENTARY INFORMATION:** The Service published a supplemental proposed rule (INS No. 1399S–94) in the Federal Register at 60 FR 32472–32477 on June 22, 1995. That rule, among other things, proposed to introduce a new, more secure Employment Authorization Document (EAD), Form I–766. This final rule introduces Form I–766 as a designated employment authorization document and, for Form I–688A and I–688B Employment Authorization Document holders, evidence of alien registration; while also amending 8 CFR parts 210 and 245a to reflect revised document numbers.

The Service will begin to issue Form I–766 on October 4, 1996. At this time, the Service is publishing in final form those provisions which will allow for the use of Form I–766. Form I–766 will eventually replace two existing Employment Authorization Documents, Forms I–688A and I–688B. These provisions were contained in the proposed document reduction rule (INS No. 1399–92) published on November 23, 1993, at 58 FR 61846–61850, and the supplemental proposed rule (INS No. 1399S–94) published on June 22, 1995. The Service has elected to publish only these select provisions in final form at this time. The remainder of the provisions contained in the proposed document reduction rule and supplemental proposed rule will be published in final form at a later date.

## Centralized EAD Production

The Service will centralize I–766 production at the service centers. The Service has determined that utilizing state-of-the-art technology at one or more of its service centers will enable the Service to produce a more secure EAD which will benefit employers, aliens who have been granted employment authorization, and the Service as well.

Currently, more than half of all EAD applications are filed and processed at the service centers through direct mail, and the Service plans to shift all remaining EAD applications to direct mail as a new production system becomes available in the service centers. As noted in the proposed supplemental rule, direct mail is a Service program which allows the public to file certain applications and petitions for benefits under the Immigration and Nationality Act (Act), as amended, at service centers instead of field offices. This centralization has improved inventory control, data integrity, and overall service.

## Introduction of Form I–766

In the proposed rule published November 23, 1993, the Service proposed amending 8 CFR parts 210 and 245a to reflect the eventual replacement of Form I–688A with Form I–766. The Service will amend those parts to include specific references to the form number of Service-issued employment authorization documents (e.g., Form I–688B and Form I–766). In addition, current language in sections under 8 CFR parts 210 and 245a provide for employment authorization in 6-month increments. This rule amends those sections to make them consistent with language in 8 CFR 274a.12(c) which provides for employment authorization in increments not to exceed 1 year.

## Related Regulatory and Process Changes

To clarify the regulatory provisions for legalization applicant work authorization in 8 CFR 274a.12, the Service is adding paragraphs to (c) (20) and (22) to include these legalization groups as classes of aliens who must apply for employment authorization while their applications are pending before the Service. The addition of these *two (2)* paragraphs will permit the Service to indicate on the EAD, the different terms and conditions of legalization applicants under sections 210 and 245A of the Act.

In addition, since Form I–688A, which is issued to legalization applicants, is designated by existing regulation as evidence of alien registration, 8 CFR part 264 will be amended to permit Form I–766, which eventually will replace Form I–688A, to be used as evidence of alien registration. Also, because an employment authorization document is considered an alien registration document for purposes of identity and employment eligibility (List A) of the Form I–9, the Service is amending part 264 to add Forms I–688B and I–766.

## Elimination of Certain Service-Issued Paper Documents

In the supplemental proposed rule published on June 22, 1995, the Service notified the public of its intent to eliminate from circulation an unknown number of paper work authorization documents issued prior to June 1, 1987. These pre-1987 paper work authorization documents neither adhered to uniform standards for issuance and recordkeeping nor contained security features. The Service, by its own regulation, intended that these paper documents be terminated automatically on June 1, 1988. However, the Service was not in a state of readiness to issue a secure employment authorization document on June 1, 1988 and published in the Federal Register a stay and suspension of this paragraph of its regulation. The Service is now prepared to issue a highly secure document, Form I–766. Accordingly, effective December 31, 1996, consistent with the provisions of 8 CFR 274a.14(c), this rule will lift the stay on the expiration of Service-issued paper work permits issued before June 1, 1987, that was noticed at 53 FR 20086–87 on June 1, 1988. The stay was imposed ''to promote clarity in the issuance of employment authorization documents'' while the Service investigated technologies for a secure, standardized employment authorization system. The technology behind Form I–766 represents an important step towards such a system. Holders of such documents will be required to obtain the new, secure Form I–766, through the prescribed process for filing an Application for Employment Authorization (Form I–765. This provision applies exclusively to paper documents evidencing periods of temporary employment authorization issued prior to June 1, 1987. Although the Service does not know the precise number of aliens holding these pre-1987 paper work permits, it is reasonable to expect that most such aliens have applied for immigration benefits under the legalization program enacted in 1986 or otherwise sought immigration benefits at which time the question of employment authorization would have been revisited.

## Comments

Many of the comments received on the proposed supplement relate to sections that are not the subject of this final rule. Those will be addressed when the Service publishes the final

document reduction rule. One commenter supported the eventual elimination of the Form I–688B in conjunction with Form I–688A with the introduction of the Form I–766. However, another commenter requested that prompt adjudication of EAD applications be ensured. The commender expressed concern that the processing time for Form I–766 will further increase overall adjudication and processing time. The commenter also encouraged the Service to engage in an aggressive informational campaign to make affected aliens aware of the need to eventually replace their EADs and to advise employers about the proposed changes so that inadvertent discrimination and verification mistakes do not occur.

The Service is prepared to institute an aggressive informational and educational campaign advising both employers and employees of the introduction of the Form I–766. The Form I–766 is a more secure card and is being introduced by the Service as a means to ensure quicker processing time, as well as greater uniformity and consistency among EADs. It is anticipated that the new EAD will ultimately result in less confusion for the employment community.

*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 impact on a substantial number of small entities. Employers, including small entities, are required to comply with existing employment verification eligibility requirements under the Act. Introduction of the more secure EAD, Form I–766, imposes no such additional requirement. Rather, introduction of the more secure EAD and centralizing its production are intended to streamline the current process and simplify existing employment verification eligibility requirements imposed on employers.

*Executive Order 12866*

This rule is 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 has been reviewed by the Office of Management and Budget (OMB). As noted in the supplementary section of this rule, this action is intended to streamline and simplify compliance with the employment eligibility verification requirements of the Act.

*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 responsibility 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.

List of Subjects

*8 CFR Part 210*

Aliens, Reporting and recordkeeping requirements.

*8 CFR Part 245a*

Aliens, Immigration, Reporting and recordkeeping requirements.

*8 CFR Part 264*

Aliens, Reporting and recordkeeping requirements.

*8 CFR Part 274a*

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

*8 CFR Part 299*

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

## PART 210—SPECIAL AGRICULTURAL WORKERS

1. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160; 8 CFR part 2.

2. In § 210.4 paragraphs (b) (2) and (3) are revised to read as follows:

### § 210.4 Status and benefits.

* * * * *

(b) * * *

(2) *Employment and travel authorization prior to the granting of temporary resident status.* Permission to travel abroad and to accept employment will be granted to the applicant after an interview has been conducted in connection with a nonfrivolous application at a Service office. If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments not exceeding 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the Employment Authorization Document (Form I–766, Form I–688A or Form I–688B) that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office. Persons submitting applications who currently have work authorization incident to status as defined in § 274a.12(b) of this chapter shall be granted work authorization by the Service effective on the date the alien's prior work authorization expires. Permission to travel abroad shall be granted in accordance with the Service's advance parole provisions contained in § 212.5(e) of this chapter.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office, and upon surrender of the previously issued Employment Authorization Document, will be issued Form I–688, Temporary Resident Card. An alien whose status is adjusted to that of a lawful temporary resident under section 210 of the Act has the right to reside in the United States, to travel abroad (including commuting from a residence abroad), and to accept employment in the United States in the same manner as aliens lawfully admitted to permanent residence.

* * * * *

## PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT

3. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

4. In § 245a.2 paragraph (n)(2) heading, and paragraphs (n)(2)(ii) and (n)(3) are revised to read as follows:

### § 245a.2 Application for temporary residence.

* * * * *

(n) * * *

(2) *Employment authorization prior to the granting of temporary resident status.*

* * * * *

(ii) If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments of 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the Employment Authorization Document (Form I–766, Form I–688A or Form I–688B), that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office and, upon surrender of the previously issued Employment Authorization Document, will be issued Form I–688, Temporary Resident Card, authorizing employment and travel abroad.

* * * * *

## PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

5. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

6. In § 264.1 paragraph (b) is amended by adding the entries for ''Form I–766'' and ''Form I–688B'' to the listing of forms, in proper numerical sequence, to read as follows:

### § 264.1 Registration and fingerprinting.

* * * * *

(b) * * *

Form No. and Class

* * * * *

I–688B, Employment Authorization Document.

I–766, Employment Authorization Document.

* * * * *

## PART 274A—CONTROL OF EMPLOYMENT OF ALIENS

7. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

8. Section 274a is amended by revising paragraph (b)(1)(v)(A)(*6*) and removing and reserving paragraphs (b)(1)(v)(A)(*7*) and (b)(1)(v)(A)(*10*) to read as follows:

### § 274a.2 Verification of employment eligibility.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(A) * * *

(*6*) An unexpired Employment Authorization Document issued by the Immigration and Naturalization Service which contains a photograph, Form I–766; Form I–688, Form I–688A, or Form I–688B;

(*7*) [Reserved]

* * * * *

(*10*) [Reserved]

* * * * *

9. In § 274a.12, new paragraphs (c)(20) and (c)(22) are added, to read as follows:

### § 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *

(20) Any alien who has filed a completed legalization application pursuant to section 210 of the Act (and part 210 of this chapter). Employment authorization shall be granted in increments not exceeding 1 year during the period the application is pending (including any period when an administrative appeal is pending) and shall expire on a specified date.

* * * * *

(22) Any alien who has filed a completed legalization application pursuant to section 245A of the Act (and part 245a of this chapter). Employment authorization shall be granted in increments not exceeding 1 year during the period the application is pending (including any period when an administrative appeal is pending) and shall expire on a specified date.

* * * * *

10. In 274a.14 paragraphs (c)(1) and (c)(2) are revised to read as follows:

### § 274a.14 Termination of employment authorization.

* * * * *

(c) *Automatic termination of temporary employment authorization granted prior to June 1, 1987*—(1) Temporary employment authorization granted prior to June 1, 1987, pursuant to 8 CFR 274a.12(c) (§ 109.1(b) contained in the 8 CFR edition revised as of January 1, 1987), shall automatically terminate on the date specified by the Service on the document issued to the alien, or on December 31, 1996, whichever is earlier. Automatic termination of temporary employment authorization does not preclude a subsequent application for temporary employment authorization.

(2) A document issued by the Service prior to June 1, 1987, that authorized temporary employment authorization for any period beyond December 31, 1996, is null and void pursuant to paragraph (c)(1) of this section. The alien shall be issued a new employment authorization document upon application to the Service if the alien is eligible for temporary employment authorization pursuant to 274A.12(c).

* * * * *

## PART 299—IMMIGRATION FORMS

11. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

12. Section 299.1 is amended by adding the entry for ''Form I–766'' in proper numerical sequence to the listing of forms, to read as follows:

### § 299.1 Prescribed forms.

* * * * *

| Form No. | Edition date | Title |
|---|---|---|
| * | * | * |
| I–766 ..... | 01–03–96 | Employment Authorization Document. |
| * | * | * |

Dated: May 20, 1996.

Doris Meissner,

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 96–22426 Filed 9–3–96; 8:45 am]

BILLING CODE 4410–10–M

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Chapter I

## Issuance of Report on the NRC Regulatory Agenda

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of NRC Regulatory Agenda.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has issued the *NRC Regulatory Agenda* for the period covering January through June of 1996. This agenda provides the public with information about NRC's rulemaking activities. The NRC Regulatory Agenda is a compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition. Issuance of this publication is consistent with Section 610 of the Regulatory Flexibility Act.

**ADDRESSES:** A copy of this report, designated NRC Regulatory Agenda (NUREG–0936), Vol. 15, No. 1, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512–2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 415–7163, toll-free number (800) 368–5642.

Dated at Rockville, Maryland, this 28th day of August 1996. For the Nuclear Regulatory Commission.

Michael T. Lesar,

*Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.*

[FR Doc. 96–22508 Filed 9–3–96; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 95–CE–54–AD; Amendment 39–9731; AD 96–18–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Bellanca, Incorporated Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to Bellanca, Incorporated (Bellanca) Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC airplanes. This action requires repetitively inspecting, testing, and possibly replacing the nose landing gear (NLG) strut and brackets. A collapse of a Bellanca airplane's NLG during a landing prompted this action. The actions specified by this AD are intended to prevent possible failure of the nose landing gear, which, if not detected and corrected, could result in loss of control of the airplane during landing operations.

**DATES:** Effective October 25, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 25, 1996.

**ADDRESSES:** Service information that applies to this AD may be obtained from Bellanca, Incorporated, P.O. Box 964, Alexandria, Minnesota 56308; telephone (612) 762–1501. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–54–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Steven J. Rosenfeld, Aerospace Engineer, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Rm. 232, Des Plaines, Illinois 60018; (847) 294–7030; facsimile (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Bellanca Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC airplanes was published in the Federal Register on January 22, 1996 (61 FR 1532). The action proposed to require repetitively inspecting, testing, and possibly replacing the nose landing gear (NLG) strut and brackets. Accomplishment of the proposed action would be in accordance with Bellanca Service Letter (SL) B–107, dated September 20, 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 1,109 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 24 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $160 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,774,400 or approximately $1,600 per airplane. Bellanca has informed the FAA that no parts have been distributed to owners/operators for this replacement; therefore, this figure is based on the assumption that no owners/operators have accomplished the proposed inspection, testing, and replacement. In addition, the FAA has no way of determining the number of repetitive inspections each owner/operator will incur prior to replacing the bracket.

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 a new airworthiness directive (AD) to read as follows:

96–18–07. Bellanca, Incorporated: Amendment 39–9731; Docket No. 95–CE–54–AD.

*Applicability:* The following airplane models and serial numbers, certificated in any category:

| Model | Serial Nos. |
|---|---|
| 17–30 | (30123 through 30262) |
| 17–30A | (30263 through 78–30905, except 76–30824) |
| 17–31 | (32–1 through 32–14) |
| 17–31A | (32–15 through 78–32172) |
| 17–31TC | (31001 through 31003) |
| 17–31ATC | (31004 through 79–31155) |

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 (g) 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 initially upon accumulating 500 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter as indicated in the body of this AD.

To prevent failure of the nose landing gear (NLG), which, if not detected and corrected, could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Inspect the NLG drag strut brackets for cracks or bends in accordance with the instructions in section 4, NLG DRAG STRUT BRACKET INSPECTION, of Bellanca Service Letter (SL) B–107, dated September 20, 1995. Prior to further flight, replace any cracked or bent bracket with a part number (P/N) 194650–0 (right side) bracket or a P/N 194383–0 (left side) bracket in accordance with the instructions in section 5, INSTALLATION NEW BRACKETS, of Bellanca SL B–107, dated September 20, 1995.

(b) Inspect the NLG installation, including the upper and lower leg assemblies, upper and lower drag struts, over-center spring assembly, and engine mount for corroded or worn bolts in accordance with the instructions in Section 6, NLG DRAG STRUT INSPECTION, of Bellanca SL B–107, dated September 20, 1995. Prior to further flight, replace any corroded or worn bolts.

(c) Check the NLG drag strut rigging, the overcenter of the drag strut, and the NLG cylinder actuator stroke limit, and adjust any discrepancies in accordance with the applicable instructions contained in the following:

(1) Section 7, PRELIMINARY NLG DRAG STRUT RIGGING CHECK (including section 7.1, Preliminary Nose-Wheel-In-The-Well Test, and section 7.2, Preliminary NLG Cylinder Down Test), of Bellanca SL B–107, dated September 20, 1995.

(2) Section 8, DRAG STRUT OVERCENTER TEST AND ADJUSTMENT, of Bellanca SL B–107, dated September 20, 1995.

(3) Section 9, NLG CYLINDER DOWN TEST AND ADJUSTMENT, of Bellanca SL B–107, dated September 20, 1995.

(d) If any discrepancies are found during any of the checks accomplished as required by paragraph (c) of this AD, and the right side NLG drag strut bracket has not been replaced with P/N 194650–0 (accomplished as possible requirement of paragraph (a) of this AD), accomplish the following:

(1) Reinspect the NLG drag strut brackets for cracks or bends at intervals not to exceed 50 hours TIS in accordance with Section 4, NLG DRAG STRUT BRACKET INSPECTION, of Bellanca SL B–107, dated September 20, 1995.

(2) Prior to further flight, replace any cracked or bent bracket with a P/N 194650–0 (right side) bracket or a P/N 194383–0 (left side) bracket in accordance with the instructions in section 5, INSTALLATION NEW BRACKETS, of Bellanca SL B–107, dated September 20, 1995. Installing the P/N 194650–0 (right side) bracket eliminates the repetitive inspection requirement in paragraph (d)(1) of this AD.

(3) The P/N 194650–0 (right side) bracket may be installed at any time to eliminate the repetitive inspection requirement of this AD.

(e) Check the NLG retraction (NLG-In-The-Well Test) in accordance with the instructions in Section 10, NLG–IN–THE–WELL TEST AND NLG CYLINDER MODIFICATION, of Bellanca SL B–107, dated September 20, 1995. If the nose gear cylinder rod motion is greater than 0.015 inches, prior to further flight, replace the cylinder internal stroke limiting sleeve with a new sleeve, P/N 195577–4, in accordance with the instructions in Section 10, NLG–IN–THE–WELL TEST AND NLG CYLINDER MODIFICATION, of Bellanca SL B–107, dated September 20, 1995.

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

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Rm. 232, Des Plaines, Illinois 60018. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago Aircraft Certification Office.

(h) The inspections, modifications, and replacements required by this AD shall be done in accordance of Bellanca Service Letter B–107, dated September 20, 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 Bellanca, Incorporated, P.O. Box 964, Alexandria, Minnesota 56308; telephone (612) 762–1501. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment (39–9731) becomes effective on October 25, 1996.

Issued in Kansas City, Missouri, on August 23, 1996.

Michael Gallagher,

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22247 Filed 9–3–96; 8:45 am]

BILLING CODE 4910–13–U

**14 CFR Part 39**

**[Docket No. 95–NM–237–AD; Amendment 39–9736; AD 96–18–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A320 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires an inspection to detect damage to the electrical wiring of the fuel tank of the wings and to verify if the proper P-clip is installed in the electrical wiring. This amendment also requires re-fitting any proper P-clip, replacing any improper P-clip with a new P-clip, and repairing damaged electrical wiring. This amendment is prompted by a report that incorrect P-clips were found installed in the electrical wiring of the fuel system on these airplanes. The actions specified by this AD are intended to ensure that the proper P-clips are installed. Improper P-clips could fail to adequately safeguard the fuel tank of the wing against a lightning strike, which could result in electrical arcing and resultant fire.

**DATES:** Effective October 9, 1996.

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

**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:** Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

**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 Airbus Model A320 series airplanes was published in the Federal Register on April 29, 1996 (61 FR 18709). That action proposed to require a one-time inspection to detect damage to the electrical wiring and to verify if the proper P-clip is installed in the electrical wiring at outboard rib 6 in the inner cell of the fuel tank of the wings. That action also proposed to require re-fitting proper P-clips, replacing improper P-clips with certain new fuel-resistant P-clips, and repairing damaged electrical wiring.

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

All commenters support the proposed rule.

### 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 as proposed.

### Cost Impact

The FAA estimates that 44 Airbus Model A320 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 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 $100 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $12,320, or $280 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:

96–18–12 Airbus Industrie: Amendment 39–9736. Docket 95–NM–237–AD.

*Applicability:* Model A320 series airplanes, manufacturer's serial numbers 129 through 343 inclusive, 345 through 347 inclusive, and 349 through 363 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 ensure that the proper P-clips are installed, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a one-time inspection to detect damage to the electrical wiring and to verify if the proper P-clip is installed in the electrical wiring at outboard rib 6 in the inner cell of the fuel tank of the wings, in accordance with Airbus Service Bulletin A320–28–1052, Revision 2, dated September 8, 1994.

Note 2: Accomplishment of the actions specified in this paragraph in accordance with Airbus Service Bulletin A320–28–1052, Revision 1, dated July 7, 1993, prior to the effective date of this AD is considered acceptable for compliance with this paragraph.

(1) If any damage is detected to the wiring, prior to further flight, repair it in accordance with the Airplane Wiring Manual.

(2) If a P-clip having P/N NSA5515–03NF or NSA5516–03NV is installed, prior to further flight, re-fit it in accordance with the service bulletin.

(3) If a P-clip having P/N NSA5516–03NJ is installed, prior to further flight, replace it with a new fuel-resistant P-clip having P/N NSA5515–03NF or NSA5516–03NV, in accordance with the service bulletin.

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

(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 actions shall be done in accordance with Airbus Service Bulletin A320–28–1052, Revision 2, dated September 8, 1994, which contains the following list of effective pages:

| Page No. | Revision level shown on page | Date shown on page |
|---|---|---|
| 1–5 ... | 2 ..... | September 8, 1994. |
| 6–9 ... | Original ..... | July 7, 1993. |

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 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.

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

Issued in Renton, Washington, on August 26, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22263 Filed 9–3–96; 8:45 am]

**BILLING CODE 4910–13–U**

## 14 CFR Part 39

**[Docket No. 95–NM–175–AD; Amendment 39–9734; AD 96–18–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A300–600 and A310 Series Airplanes Equipped With General Electric Model CF6–80 Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300–600 and A310 series airplanes, that requires an inspection to detect defects of the directional pilot valves (DPV); and replacement of any defective DPV with a new DPV, or deactivation of the thrust reverser system, if necessary. This amendment is prompted by a report indicating that, during a maintenance check, an uncommanded deployment and stowage of the thrust reverser occurred due to improperly modified DPV's. The actions specified by this AD are intended to prevent uncommanded deployment and stowage of the thrust reverser during maintenance activities, as a result of improperly modified DPV's, which could result in injury to maintenance personnel or other people on the ground.

**DATES:** Effective October 9, 1996.

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

**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:** Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

**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 Airbus Model A300–600 and A310 series airplanes was published in the Federal Register on April 29, 1996 (61 FR 18699). That action proposed to require a one-time inspection to detect defects of the DPV. If a defective DPV is detected, it will be required to be replaced with a new DPV, or the thrust reverser system will be required to be deactivated until the DPV is replaced.

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.

Both commenters support the proposed rule.

### 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 as proposed.

### Cost Impact

The FAA estimates that 43 Airbus Model A300–600 and A310 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required one-time inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $25,800, or $600 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:

96–18–10 Airbus Industrie: Amendment 39–9734. Docket 95–NM–175–AD.

*Applicability:* Model A300B4–601, –603, –605R, A300–F4–605R, and A310–203, –203C, –204, –304, –308 series airplanes, equipped with General Electric Model CF6–80 engines; on which General Electric Service Bulletin 78–031 has been accomplished; 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 (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 uncommanded deployment and stowage of the thrust reverser during maintenance activities, accomplish the following:

(a) Within 600 flight hours after the effective date of this AD, perform an inspection to detect defects of the directional pilot valves (DPV), in accordance with Airbus All Operators Telex (AOT) 78–05, Revision 01, February 8, 1995.

(1) If no defects are detected, no further action is required by this AD.

(2) If any defect is detected, prior to further flight, either replace the defective DPV with a new DPV in accordance with the AOT; or deactivate the thrust reverser system in accordance with approved procedures of the Minimum Equipment List (MEL) until the DPV is replaced.

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

(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 inspection and replacement shall be done in accordance with Airbus All Operators Telex (AOT) 78–05, Revision 01, February 8, 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 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.

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

Issued in Renton, Washington, on August 26, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22260 Filed 9–3–96; 8:45 am]

BILLING CODE 4910–13–U

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## 14 CFR Part 39

**[Docket No. 95–NM–165–AD; Amendment 39–9733; AD 96–18–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes, that requires modification of the TKS metering pump in the airframe ice protection system. This amendment is prompted by a report that the pump was found fitted with silver plated wiring. The actions specified by this AD are intended to ensure that silver plated wiring is removed from these pumps; silver plated wiring carrying a direct current can ignite the ice protection fluid (glycol) when exposed to it, which could result in a possible fire hazard.

**DATES:** Effective October 9, 1996.

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

**ADDRESSES:** The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. 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:** Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

**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 Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes was published in the Federal Register on May 13, 1996 (61 FR 21979). That action proposed to require modification of the TKS metering pump in the airframe ice protection system.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. 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 23 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour.

Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,380, or $60 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:

96–18–09 Beech Aircraft Company (Formerly DeHavilland; Hawker Siddeley; British Aerospace, PLC; Raytheon Corporate Jets, Inc.): Amendment 39–9733. Docket 95–NM–165–AD.

*Applicability:* Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes; on which Modification 257676A has not been accomplished (reference Hawker Service Bulletin SB.30–61–7676A or Aerospace Systems and Technology Service Bulletin S.B.30–25); 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.

Note 2: Beech (Raytheon) Model BAe 125–800B and BAe 125–1000B series airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, also may be subject to the unsafe condition addressed by this AD. However, as of the effective date of this AD, those models are not type certificated for operation in the United States. Airworthiness authorities of countries in which the Model BAe 125–800B and BAe 125–1000B series airplanes are approved for operation should consider adopting corrective action, applicable to those models, that is similar to the corrective action required by this AD.

*Compliance:* Required as indicated, unless accomplished previously.

To ensure that silver plated wiring is removed from the TKS metering pump and a possible fire hazard eliminated, accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the TKS metering pump in the airframe ice protection system in accordance with Hawker Service Bulletin SB.30–61–7676A, dated February 15, 1995.

(b) As of the effective date of this AD, no person shall install on any airplane a TKS metering pump, having part number XA9511E003–3 or XA9511E009, unless it has been modified in accordance with the requirements of paragraph (a) of this AD.

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

(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 modification shall be done in accordance with Hawker Service Bulletin SB.30–61–7676A, dated February 15, 1995. (NOTE: The issue date of this service bulletin is indicated only on Page 1; no other page of the document is dated.) 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 Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. 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 October 9, 1996.

Issued in Renton, Washington, on August 26, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22261 Filed 9–3–96; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 177

**[Docket No. 95F–0402]**

## Indirect Food Additives: Polymers

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *di*(4-methylbenzoyl) peroxide as an accelerator for silicone polymers and elastomers for use in contact with food. This action is in response to a petition filed by Registration and Consulting Co., Ltd., on behalf of Peroxid-Chemie GmbH.

**DATES:** Effective September 4, 1996; written objections and requests for a hearing by October 4, 1996.

**ADDRESSES:** Submit written objections 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:** In a notice published in the Federal Register of December 20, 1995 (60 FR 65658), FDA announced that a food additive petition (FAP 6B4489) had been filed by Registration and Consulting Co., Ltd., on behalf of Peroxid-Chemie GmbH, c/o Bruce A. Schwemmer, Bruce EnviroExcel Group, Inc., 94 Buttermilk Bridge Rd., Washington, NJ 07882 (formerly 55 River Dr. South No. 1808, Jersey City, NJ 07310). The petition proposed to amend the food additive regulations in § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) to provide for the safe use of *di*(4-methylbenzoyl) peroxide as an accelerator for silicone polymers and elastomers complying with § 177.2600 for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, that it will achieve its intended technical effect, and that the regulations in § 177.2600 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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.

Any person who will be adversely affected by this regulation may at any time on or before October 4, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

## PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.2600 is amended in paragraph (c)(4)(ii)(*b*) by alphabetically adding a new entry for ''*Di*(4-methylbenzoyl) peroxide'' to read as follows:

**§ 177.2600 Rubber articles intended for repeated use.**

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(*b*) * * *

*Di*(4-methylbenzoyl) peroxide (CAS Reg. No. 895–85–2) for use only as a crosslinking agent in silicone polymers and elastomers identified under paragraph (c)(4)(i) of this section at levels not to exceed 1 percent by weight of such polymers and elastomers where the total of all accelerators does not exceed 1.5 percent by weight of rubber product.

* * * * *

Dated: August 22, 1996.

Fred R. Shank,

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 96–22482 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

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## 21 CFR Part 178

**[Docket No. 96F–0092]**

## Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester for use as an antioxidant and/or stabilizer at levels not to exceed 0.05 percent by weight of olefin polymers intended for use in contact with food. This action is in response to a petition filed by Asahi Denka Kogyo K. K.

**DATES:** Effective September 4, 1996; written objections and requests for a hearing by October 4, 1996.

**ADDRESSES:** Submit written objections 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:** In a notice published in the Federal Register of March 25, 1996 (61 FR 12075), FDA announced that a food additive petition (FAP 6B4498) had been filed by Asahi Denka Kogyo K. K., 2–13 Shirahata 5–Chome, Urawa City, Saitama 336, 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 as an antioxidant and/or stabilizer at levels not to exceed 0.05 percent by weight of olefins complying with 21 CFR 177.1520 intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material.

Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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.

Any person who will be adversely affected by this regulation may at any time on or before October 4, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for ''Phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester'' under the heading ''Substances'' and by adding a new entry ''2.'' under the heading ''Limitations'' to read as follows:

**§ 178.2010 Antioxidants and/or stabilizers for polymers.**

* * * * *

(b) * * *

| Substances | Limitations |
|---|---|
| * * * | * * * * |
| Phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-*tert*-butyl-4-methylphenyl)ester (CAS Reg. No. 80693–00–1). | For use only:<br>1. At levels not to exceed 0.25 percent by weight of polypropylene complying with § 177.1520 of this chapter. * * *<br>2. At levels not to exceed 0.05 percent by weight of polymers complying with § 177.1520(c) of this chapter, item 3.1 or 3.2, and with a maximum thickness of 100 micrometers (0.004 inch) for use with all food types under conditions of use B, C, D, E, F, G, and H described in Table 2 of § 176.170(c) of this chapter. |
| * * * | * * * * |

Dated: August 20, 1996.

Fred R. Shank,

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 96–22483 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## 21 CFR Part 178

**[Docket No. 96F–0027]**

## Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of bis(2,4-di-*tert*-butyl-6-methylphenyl) ethyl phosphite as a processing stabilizer for olefin polymers intended for use in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

**DATES:** Effective September 4, 1996; written objections and requests for a hearing by October 4, 1996.

**ADDRESSES:** Submit written objections 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:** In a notice published in the Federal Register of February 9, 1996 (61 FR 5001), FDA announced that a food additive petition (FAP 6B4492) had been filed by Ciba-Geigy Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005, proposing that food additive regulations be amended in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of bis(2,4-di-*tert*-butyl-6-methylphenyl) ethyl phosphite as a processing stabilizer for olefin polymers complying with 21 CFR 177.1520 intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and that the regulations in § 178.2010(b) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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.

Any person who will be adversely affected by this regulation may at any time on or before October 4, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry for bis(2,4-di-*tert*-butyl-6-methylphenyl) ethyl phosphite to read as follows:

**§ 178.2010 Antioxidants and/or stabilizers for polymers**

* * * * *

(b) * * *

| List of Substances | Limitations |
|---|---|
| * * * * * * * | |
| Bis(2,4-di-*tert*-butyl-6-methylphenyl) ethyl phosphite (CAS Reg. No. 145650–60–8). | For use only:<br>1. At levels not to exceed 0.3 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter. The finished polymers may only be used with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories I, II, IV-B, VI-A, VI-B, VII-B, and VIII, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.<br>2. At levels not to exceed 0.1 percent by weight of propylene polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 3.2b, 3.4, or 3.5, or 3.1a (where the density of this polymer is at least 0.85 gram per cubic centimeter and less than 0.91 gram per cubic centimeter). The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV-A, V, VI-C, VII-A, and IX, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. |

| List of Substances | Limitations |
|---|---|
| | 3. At levels not to exceed 0.1 percent by weight of high-density ethylene polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1a, 3.1b, 3.2a, or 3.6 (where the density of each of these polymers is at least 0.94 gram per cubic centimeter), or 5. The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV-A, V, VI-C, VII-A, and IX, and under conditions of use C (maximum temperature 70 °C) through G described in Table 2 of § 176.170(c) of this chapter. *Provided*, that the finished food contact articles have a volume of at least 18.9 liters (5 gallons).<br>4. At levels not to exceed 0.01 percent by weight of low-density ethylene polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1a, 3.1b, 3.2a, 3.4, 3.5, or 3.6 (where the density of each of these polymers is less than 0.94 gram per cubic centimeter). The finished polymers may only be used in contact with food of the types identified in § 176.170(c) of this chapter, Table 1, under Categories III, IV-A, V, VI-C, VII-A, and IX, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. *Provided*, that the average thickness of such polymers in the form in which they contact food shall not exceed 0.001 inch. |
| * * * | * * * * |

* * * * *

Dated: August 22, 1996.

Fred R. Shank,

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 96–22484 Filed 9–3–96; 8:45 am]

**BILLING CODE 4160–01–F**

## 21 CFR Part 510

## New Animal Drugs; Change of Sponsor Name and Address

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from Roussel-UCLAF to Roussel-UCLAF SA.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

**SUPPLEMENTARY INFORMATION:** Roussel-UCLAF, Division Agro-Veterinaire, 163 Avenue Gambetta, 75020 Paris, France, has informed FDA of a change of sponsor name and address to Roussel-UCLAF SA, Animal Health Division, 102 Route de Noisy, 93235 Romainville Cedex, France. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name and address.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

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 510 is amended as follows:

## PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry ''Roussel-UCLAF'' and adding in its place a new entry for ''Roussel-UCLAF SA'' and in the table in paragraph (c)(2) in the entry for ''012579'' by revising the sponsor name and address to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * | * * * * |
| Roussel-UCLAF SA, Animal Health Division, 102 Route de Noisy, 93235 Romainville Cedex, France | 012579 |
| * * * | * * * * |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * | * * * * |
| 012579 | Roussel-UCLAF SA, Animal Health Division, 102 Route de Noisy, 93235 Romainville Cedex, France. |
| * * * | * * * * |

Dated: August 20, 1996.

Robert C. Livingston,

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 96–22486 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## 21 CFR Part 522

## Implantation or Injectable Dosage Form New Animal Drugs; Xylazine Injection

**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 an abbreviated new animal drug application (ANADA) filed by Chanelle Pharmaceuticals Manufacturing Ltd. The ANADA provides for intravenous, intramuscular, or subcutaneous use of xylazine injection in dogs and cats to produce sedation accompanied by a shorter period of analgesia.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sandra K. Woods, Center For Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

**SUPPLEMENTARY INFORMATION:** Chanelle Pharmaceuticals Manufacturing Ltd., Loughrea, County Galway, Ireland, filed ANADA 200–184, which provides for intravenous, intramuscular, and subcutaneous use of Chanazine® (20 milligrams/milliliter (mg/mL)) Injectable (xylazine hydrochloride equivalent to 20 mg xylazine per mL) in dogs and cats to produce sedation accompanied by a shorter period of analgesia. The drug is limited to use by or on the order of a licensed veterinarian.

Approval of ANADA 200–184 for Chanelle's Chanazine® (xylazine 20 mg/mL) Injectable is as a generic copy of Bayer's NADA 47–955 for Rompun® (xylazine 20 mg/mL) injectable. The ANADA is approved as of July 12, 1996, and the regulations are amended by revising 21 CFR 522.2662(b) to reflect the approval. The basis of 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.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 522.2662 is amended by revising the first two sentences in paragraph (b) to read as follows:

**§ 522.2662 Xylazine hydrochloride injection.**

* * * * *

(b) *Sponsor.* See 000856 in § 510.600(c) of this chapter for use in horses, wild deer, and elk. See 000859 and 061651 in § 510.600(c) of this chapter for use in horses, wild deer, elk, dogs, and cats. * * *

* * * * *

Dated: August 20, 1996.

Stephen F. Sundlof,

*Director, Center for Veterinary Medicine.*

[FR Doc. 96–22487 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 935

**[OH–238–FOR, #72]**

## Ohio Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the Ohio regulatory program (hereinafter referred to as the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions to rules pertaining to underground mining. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, OSM, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Ohio Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of

approval can be found in the August 10, 1982, Federal Register (42 FR 34668). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.12, 935.15, and 935.16.

## II. Submission of the Proposed Amendment

By letter dated May 23, 1996, (Administrative Record No. OH–2166–00) Ohio submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Ohio proposed to revise the Ohio Administrative Code (OAC) at sections 1501:13–4–12(G)(3)(d) and 4(f),(I)—Requirements for Special Categories of Mining; 1501:13–9–08(A),(B)—Protection of Underground Mining; and 1501:13–13–01—Concurrent Surface and Underground Mining.

OSM announced receipt of the proposed amendment in the June 24, 1996, Federal Register (61 FR 32382), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on July 24, 1996.

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

### *A. Revisions to Ohio's Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations*

| State regulation | Subject | Federal counterpart |
|---|---|---|
| OAC 1501:13–4–12(G)(3)(d) | Variances | 30 CFR 785.18(b)(4) |
| OAC 1501:13–4–12(G)(4)(f) | Permit Issuance | 30 CFR 785.18(c)(6) |
| OAC 1501:13–4–12(G)(4)(i) | Permit Issuance | 30 CFR 785.18(c)(9)(iii) |
| OAC 1501:13–9–08(A)(1) | Protection of Underground Mining | 30 CFR 816.79(b) |

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Ohio's proposed rules are no less effective than the Federal rules.

### *B. Revisions to Ohio's Regulations With No Corresponding Federal Regulations*

Ohio proposed to delete OAC 1501:13–9–08(B) which required that surface mining operations be designed to protect disturbed surface areas, including spoil disposal sites, so as not to endanger any present or future coal mining operation. There is no corresponding Federal requirement to this provision. Therefore, the Director finds that the proposed deletion will not render the State program less effective than the Federal regulations.

Ohio proposed to delete OAC 1501:13–13–01 which specifies performance standards for concurrent surface and underground mining activities operating under a variance from contemporaneous reclamation requirements. These provisions have no corresponding Federal requirements. Ohio's provisions for variances in contemporaneous reclamation appear in OAC 1501:13–4–12(G). The Director finds that the proposed deletion will not render the State program less effective than the Federal regulations.

## IV. Summary and Disposition of Comments

### *Public Comments*

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Two public comments were received. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

One commenter stated that by rescinding OAC 1501:13–13–01, underground and surface coal reserves will be sterilized needlessly. The commenter suggests that this provision provides a degree of flexibility and that the 500 foot barrier was meant for underground and surface mines in the same seam. The Director notes that the changes proposed by Ohio simplify its rule structure by eliminating OAC 1501:13–13–01 which duplicates requirements found under 1501:13–4–12(G) (contemporaneous reclamation) and 1501:13–9–08 (concurrence). The revisions are not intended to create the loss of any flexibility nor cause any impact that would sterilize or impact the ability to mine certain reserves beyond those that currently exist in the Ohio program and do not render the program less effective than the Federal regulations.

The second commenter, the Ohio Historic Preservation Office (OHPO), expressed several concerns. OHPO feels that proposed rule changes pertaining to surface mining operations are not routinely sent to OHPO for review. OHPO is particularly concerned that there is no basis for selecting the 500 foot distance requirement specified in OAC 1501:13–9–08. If feels this could create situations where there are adverse effects to a property eligible for inclusion in the National Register of Historic Places (NRHP). OHPO is also concerned that the proposed changes could result in an acceleration of surface affectment actions with increased risks for adverse effects to properties that may be eligible for inclusion in the NRHP. The Director acknowledges that all requirements of coordination and consultation between agencies responsible for implementing the National Historic Preservation Act (NHPA) must be met. However, the changes proposed by Ohio do not impact compliance with NHPS and the OHPA comments are, therefore, outside the scope of this amendment. The Director notes that the referenced 500 foot distance concerns the amount of barrier that may be necessary to ensure the protection of underground coal miners and is consistent with Federal requirements. The barrier is a hydrologic and structural consideration and not considered as a direct limitation on surface impacts as OHPA suggests. The Director concludes that none of the changes proposed by Ohio create barriers to compliance with the NHPA.

### *Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(I), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. None were received.

### *Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et. seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions Ohio proposed to make in its amendment pertains to air or water quality standards. Nevertheless, OSM requested EPA's concurrence with the proposed amendment. EPA did not respond to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on May 23, 1996.

The Federal regulations at 30 CFR Part 935, codifying decisions concerning the Ohio program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

*Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*Executive Order 12778*

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extend allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 19, 1996.

Tim L. Dieringer,

*Acting Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended by adding paragraph (bbbb) to read as follows:

**§ 935.15 Approval of regulatory program amendments.**

* * * * *

(bbbb) The following rules, as submitted to OSM on May 23, 1996 are approved effective September 4, 1996.

OAC 1501:13–4–12(G)(3)(d)—Variance
OAC 1501:13–4–12(G)(4)(f),(i)—Permit Issuance
OAC 1501:13–9–08(A)(1)—Protection of Underground Mining
OAC 1501:13–9–08(B) (Deletion)—Protection of Underground Mining
OAC 1501:13–13–01 (Deletion)—Concurrent Surface and Underground Mining

[FR Doc. 96–22447 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–05–M

## 30 CFR Part 944

**[SPATS No. UT–034]**

## Utah Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is announcing approval of a proposed amendment to the Utah regulatory program (hereinafter, the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to rules pertaining to petitions to initiate rulemaking, and backfilling and grading and highwall retention. The amendment revises the Utah program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 672–5524.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, Federal Register (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated November 30, 1995, and March 11, 1996, Utah submitted to OSM rules that it had promulgated for its program (administrative record Nos. UT–1079 and UT–1081) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). With three exceptions, these rules were substantively identical to rules that

Utah had previously submitted to OSM and for which the Director made a decision in the May 30, 1995, Federal Register (60 FR 28040, administrative record No. UT–1057). The three exceptions occurred in rules that Utah revised in response to required amendments and in response a disapproval that OSM set forth in the May 30, 1995, notice. In response to the required program amendments at 30 CFR 944.16 (c) and (d) (May 30, 1995, 60 FR 28040, 28043–4, finding Nos. 4 and 5), Utah proposed to revise Utah Admin. R. 645–301–553.110 and Utah Admin. R. 534–301–553.120. In response to the Director not approving proposed Utah Admin. R. 645–301–553.651 (May 30, 1995, 60 FR 28040, 28046–7, finding No. 15), Utah did not promulgate the rule. The rule concerned a proposed applicability date for the backfilling and grading of highwalls.

In addition to the aforementioned revisions, Utah by letter dated December 4, 1995, submitted to OSM a proposed revision to Utah Admin. R. 645–100–500, pertaining to petitions to initiate rulemaking (administrative record No. UT–1080). Utah submitted the proposed revision in response to a November 22, 1995, OSM letter (administrative record No. UT–1078) notifying Utah of a needed revision to Utah's rule.

These revisions constitute a proposed amendment to Utah's program. OSM announced receipt of the proposed amendment in the March 20, 1996, Federal Register (61 FR 11350), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–1085). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 19, 1996.

## III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Utah on November 30 and December 4, 1995, and March 11, 1996, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

### *1. Utah Admin. R. 645–100–500, Petitions To Initiate Rulemaking*

Utah proposed to revise Utah Admin. R. 645–100–500 to provide that persons other than the Division or Board of Oil, Gas and Mining may petition to initiate rulemaking pursuant to Utah Admin. R. Part 641 and the Utah Administrative Rulemaking Act at Utah Code Annotated (U.C.A.) ''63–46a–1, *et seq.*'' instead of ''63–46–8.''

Utah deleted the reference to the statute at U.C.A. 63–46–8 because it previously repealed it. Newly referenced ''U.C.A. 63–46a–1 *et seq.*'' includes the statutory provisions at U.C.A. 63–46a–12, which allow interested persons to petition agencies requesting the making, amendment, or repeal of rules.

The Federal counterpart regulation to proposed Utah Admin. R. 645–100–500 is at 30 CFR 700.12. The Federal counterpart statutory provision to U.C.A. 63–46a–12 is at section 201(g)(1) of SMCRA. They both provide for persons to petition OSM requesting the issuance, amendment, or repeal of a rule.

The proposed revision to Utah Admin. R. 645–100–500 is no less effective than the Federal regulations at 30 CFR 700.12 and no less stringent than section 201(g)(1) of SMCRA. Therefore, the Director approves the proposed revision to Utah Admin. R. 645–100–500.

### *2. Utah Admin. R. 645–301–553.110 and .120, Backfilling and Grading and Highwall Retention*

*Utah Admin. R. 645–301–553.110.*—On May 30, 1995, OSM at 30 CFR 944.16(c) (finding No. 4, 60 FR 28040, 28043) required Utah to revise Utah Admin. R. 645–301–553.110 to correct the cross referenced provisions in the phrase ''R645–301–500 through R645–301–540,'' regarding previously mined areas, continuously mined areas, and areas subject to the approximate original contour provisions, to read ''R645–301–*553*.500 through R645–301–*553*.540'' (emphasis added).

In response to the required amendment, Utah proposed to make the changes in the citations. For the reasons discussed in the May 30, 1995, Federal Register notice, the Director finds that the proposed revisions to Utah Admin. R. 645–301–553.110 are consistent with the Federal regulations at 30 CFR 816.102(k) and 817.102(k). Accordingly, the Director approves the proposed revisions to Utah Admin. R. 645–301–553.110 and removes the required amendment at 30 CFR 944.16(c).

*Utah Admin. R. 534–301–553.120.*—On May 30, 1995, OSM at 30 CFR 944.16(d) (finding No. 5, 60 FR 28040, 28043) required Utah to revise Utah Admin. R. 645–301–553.120 to correct the cross-referenced provisions in the phrase ''R645–301–553.500 through R645–301–540,'' regarding previously mined areas, continuously mined areas, and areas subject to the approximate original contour provisions, to read ''R645–031–553.500 through R645–301–*553*.540'' (emphasis added). In response to the required amendment, Utah made the revision in the citation.

OSM also at 30 CFR 944.16(d) required Utah to revise Utah Admin. R. 645–301–553.120 to correct the cross-referenced provisions in the phrase ''R645–301–553.650 through R645–301–553.653'' to read ''R645–301–553.650 through R645–301–553.*651*'' (emphasis added), or otherwise make a revision that had the same effect. As discussed in following finding No. 4, Utah did not promulgate Utah Admin. R. 645–301–553.651. Therefore, at Utah Admin. R. 645–301–553.120, Utah proposed to only reference Utah Admin. R. 645–301–553.650.

For the reasons discussed in the May 30, 1995, Federal Register notice, the Director finds that the proposed revisions to Utah Admin. R. 645–301–553.120 are consistent with the Federal regulations at 30 CFR 816.102(a)(2) and 817.102(a)(2). Accordingly, the Director approves the proposed revisions to Utah Admin. R. 645–301–553.120 and removes the required amendment at 30 CFR 944.16(d).

### *3. Utah Admin. R. 645–301–553.651, Applicability Date*

On May 30, 1995, the Director did not approve Utah's proposed rule at Utah Admin. R. 645–301–553.651 (finding No. 15, 60 FR 28040, 28046) because it was less stringent than section 515 of SMCRA, not in accordance with the Secretary's assumptions in approving the provisions of the Utah program that allow for the incomplete elimination of highwalls for areas with remaining highwalls subject to the approximate original contour provisions, and not in accordance with the Director's previous finding in the September 17, 1993, final rule Federal Register notice (58 FR 48600, 48605–6; finding No. 3(C)(3)(b)).

In response to this disapproval, Utah deleted the proposed rule at Utah Admin. R. 645–301–553.651 (i.e., did not promulgate the rule in the State rulemaking process). Utah's deletion of the proposed rule is consistent with the Director's disapproval.

## IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

*1. Public Comments*

OSM invited public comments on the proposed amendment, but none were received.

*2. Federal Agency Comments*

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program (administrative record No. UT–1082). None of the Federal agencies responded.

*3. Environmental Protection Agency (EPA) Concurrence and Comments*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Utah proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. UT–1082). It did not respond to OSM's request.

*4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. UT–1082). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves Utah's proposed amendment as submitted on November 30 and December 4, 1995, and March 11, 1996.

The Director approves, as discussed in: finding No. 1, Utah Admin. R. 645–100–500, concerning petitions to initiate rulemaking; and finding No. 2, Utah Admin. R. 645–301–553.110 and .120, concerning backfilling and grading and highwall retention.

The Federal regulations at 30 CFR Part 944, codifying decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

*1. Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*2. Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*3. National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*4. Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*5. Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*6. Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 21, 1996.

Peter A. Rutledge,

*Acting Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 944—UTAH

1. The authority citation for Part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding paragraph (hh) to read as follows:

**§ 944.15 Approval of amendments to the State regulatory program.**

* * * * *

(hh) Revisions to Utah Admin. R. 645–100–500, concerning petitions to initiate rulemaking, and revisions to Utah Admin. R. 645–301–553.110 and Utah Admin. R. 534–301–553.120, concerning backfilling and grading and highwall retention, as submitted to OSM on November 30 and December 4, 1995, and March 11, 1996, are approved effective September 4, 1996.

**§ 944.16 [Amended]**

3. Section 944.16 is amended by removing and reserving paragraphs (c) and (d).

[FR Doc. 96–22524 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–05–M

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## 30 CFR Part 946

**[VA–108–FOR]**

## Virginia Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the Virginia regulatory program (hereinafter referred to as the ''Virginia program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of regulatory changes to implement the remining standards of the Federal Energy Policy Act of 1992. The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal regulations as amended on November 27, 1995. (60 FR 58480)

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Penn, Director, Big Stone Gap Field Office, 1941 Neely Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219 Telephone: (540) 523–4303

**SUPPLEMENTARY INFORMATION:**

I. Background on the Virginia Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations.

## I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, Federal Register (46 FR 61088). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 946.11, 946.12, 946.13, 946.15, and 946.16.

## II. Submission of the Proposed Amendment

By letter dated May 28, 1996, (Administrative Record No. VA–885) Virginia submitted a proposed amendment to its program pursuant to SMCRA. Virginia submitted the proposed amendment at its own initiative. Virginia proposed amendments to implement the remining standards of the Federal Energy Policy Act of 1992.

OSM announced receipt of the proposed amendment in the June 19, 1996, Federal Register (61 FR 31071) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on July 19, 1996.

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

### *A. Revisions to Virginia Regulations That Are Substantively Identical to the Corresponding Federal Regulations*

The amendments proposed by Virginia are as follows:

#### *1. Section 480–03–19.700.5 Definitions*

(a) ''Lands eligible for remining'' has been added to mean those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4) of the Federal Act.

(b) ''Unanticipated event or condition'' has been added to mean (as used in § 480–03–19.773.15), an event or condition related to prior mining activity which arises from a surface coal mining and reclamation operation on lands eligible for remining and was not contemplated by the applicable permit.

#### *2. Section 480–03–19.773.15 Review of Permit Applications*

(a) New subsection (b)(4) has been added to provide, at (b)(4)(i) that subsequent to October 24, 1992, the prohibitions of paragraph (b) of this section regarding issuance of a new permit shall not apply to any violation that: occurs after that date; is unabated; and results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit which is issued before September 30, 2004, or any renewals thereof, and held by the person making applications for the new permit.

New subsection (b)(4)(ii) provides that for permits issued under § 480–03–19.785.25 of this chapter, an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it: arose after permit issuance; was related to prior mining; and was not identified in the permit.

(b) New subsection (c)(14) has been added to provide that for permits to be issued under § 480–03–19.785.25 of this chapter, the permit application must contain: lands eligible for remining; an identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of this chapter can be accomplished.

#### *3. Section 480–03–19.785.25 Lands Eligible for Remining*

This new section contains permitting requirements to implement § 480–03–19.773.15(b)(4), and provides that: any person who submits a permit application to conduct a surface coal mining operation on lands eligible for remaining must comply with this section; any application for a permit under this section shall be made according to all requirements of this subchapter applicable to surface coal mining and reclamation operations. In addition, the application shall: to the extent not otherwise addressed in the permit application, identify potential environmental and safety problems related to prior mining activity at the site and that could be reasonably anticipated to occur. This identification shall be based on a due diligence investigation which shall include visual observations at the site, a record review of past mining at the site, and environmental sampling tailored to current site conditions; with regard to potential environmental and safety problems referred to in paragraph (b)(1) of this section, describe the mitigative measures that will be taken to ensure that the applicable reclamation requirements of this chapter can be met; The requirements of this section shall not apply after September 30, 2004.

#### *4. Section 480–03–19.816/817.116 Revegetation: Standards for Success*

Subsections (c)(2)(i) have been amended by adding the phrase ''except as provided in paragraph (c)(2)(ii) of this section'' to the first sentence. This modification was made in response to the new language added at subsection (c)(2)(ii), and that is identified below.

New subsection (c)(2)(ii) provide that the responsibility period shall be two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by paragraph (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

Because the above proposed revisions are identical in meaning to the corresponding Federal regulation, the Director finds that Virginia's proposed rules are no less effective than the Federal rule.

IV. Summary and Disposition of Comments

*Public Comments*

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

*Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Virginia program. The U.S. Department of Agriculture, Natural Resources Conservation Service responded and recommended that the amendments be accepted. The U.S. Fish and Wildlife Service responded and stated that the proposed regulatory changes are not likely to adversely affect threatened or endangered species or critical habitats. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the amendments should be accepted.

*Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA on May 31, 1996. EPA responded that the amendment was acceptable.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. They did not respond.

V. Director's Decision

Based on the above finding(s), the Director approves the proposed amendment as submitted by Virginia on May 28, 1996.

The Federal regulations at 30 CFR Part 946, codifying decisions concerning the Virginia program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

*Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*Executive Order 12988*

The Department of the Interior has concluded the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a special State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumption for the counterpart Federal regulations.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 14, 1996.

Tim L. Dieringer,

*Acting Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 946—VIRGINIA

1. The authority citation for Part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 946.15 is amended by adding paragraph (ll) to read as follows:

**§ 946.15 Approval of regulatory program amendments.**

* * * * *

(ll) The amendment to the Virginia program concerning implementation of the remining standards of the Federal Energy Policy Act of 1992 as submitted to OSM on May 28, 1996, is approved effective September 4, 1996.

[FR Doc. 96–22448 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–05–M

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## National Park Service

## 36 CFR Parts 1 and 15

**RIN 1024–AC50**

## Use of Environman and Human Figure and Design Symbol

**AGENCY:** National Park Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) is adopting this final rule to

remove the regulations on the ''Environman'' symbol and program which was developed in the late 1960's during the early days of the NPS Division of Environmental Education. The Environman symbol was developed as the NPS symbol for environmental education. Portions of the environmental education program never materialized as envisioned, however, and the Environman symbol was seldom used and has not been used since the early 1970's. Therefore, these regulations are no longer necessary and will be removed from the CFR. A conforming amendment is also made to the regulation regarding symbolic signs.

**EFFECTIVE DATE:** The rule will become effective on September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dennis Burnett, Washington Office of Ranger Activities, P.O. Box 37127, Washington, D.C. 20013–7127. Telephone 202–208–4874.

**SUPPLEMENTARY INFORMATION:**

Background

On December 31, 1971, the NPS published in the Federal Register (36 FR 25406) a final rule adding a new Part 15 to the CFR. The purpose of the rule was to give notice that the name ''Environman'' and an Environman symbol named ''Human Figure and Design'', were owned and protected by the U.S. Government. The symbol was to identify the role of the NPS in promoting high-quality environmental education and to represent and symbolize such activities. The ''Human Figure and Design'' was the official sign to identify a National Environmental Study Area (NESA). The name ''Environman'' was used in connection with NESA's and that name and the ''Human figure and Design'' were used in connection with National Environmental Education Developments and National Environmental Education Landmarks.

The regulation provided the necessary protection of the symbol from unauthorized use, while listing guidelines for individuals wishing a license to reproduce, manufacture, sell or use either ''Environman'' or the ''Human Figure and Design''. Portions of the environmental education program never materialized as envisioned, however, and the Environman symbol has not been used since the early 1970's. Therefore, 36 CFR Part 15 is no longer needed and will be deleted from the CFR.

Administrative Procedure Act

In accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(B)), the NPS is promulgating this rule under the ''good cause'' exception of the Act from general notice and comment rulemaking. As discussed above, the NPS believes this exception is warranted because the existing regulations are no longer used. This final rule will not impose any additional restrictions on the public and comments on this rule are deemed unnecessary. Based upon this discussion, the NPS finds pursuant to 5 U.S.C. 533(b)(B) that it would be contrary to the public interest to publish this rule through general notice and comment rulemaking.

The NPS also believes that publishing this final rule 30 days prior to the rule becoming effective would be counterproductive and unnecessary for the reasons discussed above. A 30-day delay in this instance would be unnecessary and contrary to the public interest. Therefore, under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), it has been determined that this final rulemaking is excepted from the 30-day delay in the effective date and will therefore become effective on the date published in the Federal Register.

Drafting Information. The primary author of this rule is Dennis Burnett, Washington Office of Ranger Activities, National Park Service.

Paperwork Reduction Act

This final rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

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 determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et. seq.*). The economic effects of this rulemaking are nonexistent.

The 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.

The NPS has determined that this rule 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 non-compatible uses which 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 final rule is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations 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, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

*36 CFR Part 15*

National parks, Signs and symbols.

In consideration of the foregoing, and under the authority of 16 U.S.C. 1 and 5 U.S.C. 301, the NPS is amending 36 CFR Chapter I 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 1–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981)

**§ 1.10 [Amended]**

2. Section 1.10 is amended in paragraph (b) by revising the second page of symbolic signs to read as follows:

BILLING CODE 4310–70–M

AREA WHERE PETS UNDER PHYSICAL CONTROL PERMITTED

## ACCOMMODATIONS OR SERVICE

PUBLIC OVERNIGHT ACCOMMODATIONS (HOTEL, LODGE, MOTEL, ETC.)

PUBLIC TELEPHONE

RESTAURANT, CAFETERIA, SNACK SHOP, LUNCHROOM

U.S. POST OFFICE

GROCERIES, FOOD OR CAMP STORE

AUTOMOBILE OR BOAT REPAIRS

MEN'S RESTROOM

FACILITY FOR THE PHYSICALLY HANDICAPPED

RESTROOMS FOR BOTH MEN AND WOMEN

AIRPORT OR LANDING STRIP

WOMEN'S RESTROOM

LOCKED STORAGE

FIRST AID STATION

BUS OR TOUR VEHICLE STOP

**PART 15—[REMOVED]**

3. 36 CFR Part is removed.

Dated: August 13, 1996.

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 96–22430 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–70–C

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 25

**[CS Docket No. 96–83; IB Docket No. 95–59; FCC 96–328]**

### Telecommunications Act of 1996; Preemption of Restrictions on Over-the-Air Reception Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Report and Order (''R&O'') implements Section 207 of the Telecommunications Act of 1996. Section 207 directs that the Commission shall: ''pursuant to Section 303 of the Communications Act, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite services.'' The R&O prohibits restrictions that impair a viewer's ability to install, use and maintain devices used to receive TVBS, MMDS and DBS signals on property within the exclusive use or control of the antenna user and in which the user has a direct or indirect ownership interest. The Memorandum Opinion and Order (MO&O) addresses petitions for reconsideration in IB Docket No. 95–59 as they relate to implementation of Section 207. The intended effect of this R&O and MO&O is to complete the implementation of Section 207 of the Telecommunications Act of 1996. The R&O and MO&O will foster competition among video programming service providers and will increase consumer options for receiving video programming.

**EFFECTIVE DATE:** Upon approval by the Office of Management and Budget (OMB) of the new information collection requirements adopted herein, but no sooner than October 4, 1996. The Commission will publish a document at a later date advising of the effective date.

**ADDRESSES:** A copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20054, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW, Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

**FOR FURTHER INFORMATION, CONTACT:** Jacqueline Spindler, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained herein, contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's R&O and MO&O in CS Docket No. 96–83, IB Docket No. 95–59, FCC No. 96–328, adopted August 5, 1996 and released August 6, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW., Washington, DC 20554. This R&O and MO&O contain proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to comment on the modified information collections contained in this Report and Order, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due on September 27, 1996; OMB comments are due November 4, 1996. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060–0707.

*Title:* Preemption of Restrictions on Over-the-Air Reception Devices—Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking.

*Type of Review:* Revision of an existing collection. The following are burden estimates for the Order portion of the document, as well as the Further Notice of Proposed Rulemaking portion of the document. We account for the burdens estimates separately. If, in a subsequent rulemaking, the proposed rules in the Further Notice of Proposed Rulemaking are not adopted in part or in whole, the Commission will adjust its burden estimates accordingly.

*Respondents:* State and local governments; small organizations; small businesses.

*Number of Respondents for the Order:* 248. (100 requests for declaratory rulings, 24 comments on requests, 100 petitions for wavers, 24 comments on petitions.)

*Estimated Time Per Response for the Order:* 2–5 hours.

*Total Annual Burden for the Order:* 844 hours. It is estimated that 50% of declaratory rulings will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on declaratory rulings will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours. It is estimated that 50% of petitions for waivers will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on waivers will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours.

*Estimated Costs Per Respondent for the Order:* It is estimated that 50 requests for declaratory rulings, 12 comments on requests for declaratory rulings, 50 petitions for waivers and 12 comments on petitions for waivers will be prepared each year through outside counsel. The estimated annual costs are $89,400, illustrated as follows: 50 declaratory rulings × 5 hours × $150/hr. = $37,500. 12 comments on declaratory rulings × 4 hours × $150/hr. = $7,200. 50 petitions for waivers × 5 hours × $150/hr. = $37,500. 12 comments on petitions for waivers × 4 hours × $150/hr. = $7,200.

*Number of Respondents for the FNPRM:* 248. (100 requests for declaratory rulings, 24 comments on

requests, 100 petitions for waivers, 24 comments on petitions.)

*Estimated Time Per Response for the FNPRM:* 2–5 hours.

*Total Annual Burden for the FNPRM:* 844 hours. It is estimated that 50% of declaratory rulings will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on declaratory rulings will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours. It is estimated that 50% of petitions for waivers will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on waivers will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours.

*Estimated Costs Per Respondent for the FNPRM:* It is estimated that 50 requests for declaratory rulings, 12 comments on requests for declaratory rulings, 50 petitions for waivers and 12 comments on petitions for waivers will be prepared each year through outside counsel. The estimated annual costs are $89,400, illustrated as follows: 50 declaratory rulings × 5 hours × $150/hr. = $37,500. 12 comments on declaratory rulings × 4 hours × $150/hr. = $7,200. 50 petitions for waivers × 5 hours × $150/hr. = $37,500. 12 comments on petitions for waivers × 4 hours × $150/hr. = $7,200.

*Needs and Uses:* Submitted information will be used to evaluate requests for declaratory ruling regarding the reasonableness of state, local and nongovernmental restrictions, or to requests for waiver of the rule.

I. Synopsis of Report and Order, Memorandum Opinion and Order

1. On February 8, 1996, the Telecommunications Act of 1996 (''1996 Act'') became law. Section 207 of the 1996 Act directs that the Commission shall, ''pursuant to Section 303 of the Communications Act, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.'' In this Report and Order (R&O) and Memorandum Opinion and Order (MO&O) we consolidate two rulemaking proceedings, IB Docket No. 95–59, 11 FCC Rcd 5809 (1996) (61 FR 10710) (*DBS Order and Further Notice of Proposed Rulemaking*), and CS Docket No. 96–83, 11 FCC Rcd 6357 (1996) (61 FR 16890) (*TVBS-MMDS Notice of Proposed Rulemaking*), to implement Section 207 with respect to direct broadcast satellite (''DBS'') service, television broadcast signals (''TVBS'') and multichannel multipoint distribution service (''MMDS''). We adopt a rule that prohibits restrictions that impair a viewer's ability to install, maintain and use devices designed to receive these services on property within the exclusive use or control of the viewer and in which the viewer has a direct or indirect property interest.

2. In the *DBS Order and Further Notice of Proposed Rulemaking* and the *TVBS-MMDS Notice of Proposed Rulemaking* we adopted and proposed a rule, respectively, establishing a rebuttable presumption of unreasonableness for restrictions on TVBS, MMDS and DBS. In the R&O, we replace the presumptive approach with a *per se* preemption of such restrictions. Although the rebuttable presumption was created in an effort to be less intrusive in local government affairs, it was broadly viewed as creating unsustainable burdens on all parties, including the Commission. Consequently, we replaced the rebuttable presumption approach with a narrower, clearer preemption. In addition, the rule we adopt preempts restrictions and regulations that ''impair'' rather than ''affect'' reception, in order to narrow the preemption and adhere more closely to the language of the statute. A law, regulation or restriction impairs installation, maintenance or use of an antenna if it: (1) Unreasonably delays or prevents installation, maintenance or use, (2) unreasonably increases the cost of installation, maintenance or use, or (3) precludes reception of an acceptable quality signal.

3. In the *DBS Order and Further Notice of Proposed Rulemaking* and *TVBS-MMDS Notice of Proposed Rulemaking*, we proposed to preempt nongovernmental restrictions on DBS, TVBS, and MMDS reception devices, and did not provide any recourse for nongovernmental authorities seeking to enforce their restrictions. In the rule we adopt today, we preempt nongovernmental restrictions on the same basis as governmental, and provide the same declaratory ruling and waiver opportunities to nongovernmental associations as we offer to governmental authorities. The legislative history of Section 207 consists of the House Commerce Committee Report, which states clearly that the provision applies to nongovernmental restrictions, including restrictive covenants and homeowners' association rules. The final rule treats nongovernmental restrictions the same as governmental and establishes waiver and declaratory ruling processes.

4. The rule we adopt creates exemptions for regulations serving safety and historic preservation goals. The rule that we adopted in the *DBS Order and Further Notice of Proposed Rulemaking* and proposed in the *TVBS-MMDS Notice of Proposed Rulemaking* required that any governmental entity seeking to enforce a restriction or regulation that affects reception secure a declaration or waiver. Parties generally agree that some restrictions are *prima facie* justified, and we accordingly create exemptions for safety and historic preservation regulations. While these restrictions must be tailored to impose as little burden as possible on the use of receiving devices, they are permissible even if they impair the ability to receive video programming services.

5. To the extent that they receive video programming services, our rule applies to services closely related to DBS, TVBS and MMDS, including medium-power satellite services using antennas one meter or less in diameter or diagonal measurement to receive over-the-air video programming, and multipoint distribution services (MDS), instructional television fixed service (ITFS) and local multipoint distribution service (LMDS). Our rule defines DBS and MMDS by the size and shape of the services' receiving devices, and preempts restrictions on antennas one meter or less in diameter or diagonal measurement. We also include masts in our definition of MMDS, and preempt restrictions on antennas that extend 12 feet or less above the roofline; such

installations cannot require a permit or prior approval, absent a safety or historic preservation reason. In addition, governmental and nongovernmental authorities cannot require permits or prior approvals for installation of an antenna placed a distance at least as far from the lot line as the height of the antenna. Because there is no history of controversy concerning their size or shape, we decline to establish any size or shape limits on TVBS antennas. However, TVBS antennas are subject to the same height limitations as MMDS and DBS.

II. Regulatory Flexibility Analysis

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, the Commission's Regulatory Flexibility Analysis with respect to the R&O, MO&O is as follows:

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *DBS Order and Further Notice of Proposed Rulemaking* and the *TVBS-MMDS Notice of Proposed Rulemaking*. The Commission sought written public comments on the proposals in the two proceedings, including comments on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 847.

7. *Need for Action and Objectives of the Rule*. The rulemaking implements Section 207 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56. Section 207 directs the Commission to promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of TVBS, MMDS and DBS. This action is authorized under the Communications Act of 1934 section 1, *as amended*, 47 U.S.C. 151, pursuant to the Communications Act of 1934 section 303, *as amended*, 47 U.S.C. 303, and by Section 207 of the Telecommunications Act of 1996.

8. The Commission seeks to promote competition among video service providers and to enhance consumer choice. To accomplish these objectives, the Commission implements Congress' directive by adopting a rule that prohibits restrictions that impair a viewer's ability to install, maintain and use devices designed for over-the-air reception of video programming through TVBS, MMDS, and DBS services. The rule that we adopt preempts governmental and nongovernmental regulations and restrictions on property within the exclusive use or control of the viewer in which the viewer has a direct or indirect ownership interest. Our rule exempts regulations and restrictions which are clearly and specifically designed to preserve safety or historic districts, allowing for the enforcement of such restrictions even if they impair a viewer's ability to install, maintain or use a reception device.

9. *Summary and Assessment of Issues Raised by Commenters in Response to the Initial Regulatory Flexibility Analysis*. The Commission, in its *DBS Order and Further Notice of Proposed Rulemaking* and *TVBS-MMDS Notice of Proposed Rulemaking*, invited comment on the IRFA and the potential economic impact the proposed rules would have on small entities. NLC comments that the proposed rule would have a ''substantial economic and administrative impact'' on over 37,000 small local governments. NLC states that the proposed rule would require ''local governments to amend their laws and to file petitions at the FCC * * * for permission to enforce those laws.''

10. The Commission has modified its proposed rule and has addressed the concerns raised by NLC by providing greater certainty regarding the application of the rule, and by clarifying that local regulations need not be rewritten or amended. The Commission recognizes that some regulations are integral to local governments' ability to protect the safety of its citizens. The rule that we adopt exempts restrictions clearly defined as necessary to ensure safety, and permits enforcement of safety restrictions during the pendency of any challenges. In addition, limiting the rule's scope to regulations that ''impair,'' rather than the proposed preemption of regulations that ''affect,'' will minimize the impact on small local governments, while effectively implementing Congress' directive. Finally, the inclusion in the Report and Order of examples of permissible and prohibited restrictions will minimize the need for local governments to submit waiver or declaratory ruling petitions to the Commission, decreasing the potential economic burden.

11. Numerous apartment complexes filed comments seeking clarification of Section 207's impact on their lease terms. These filings express concern about the impact the rule will have on the rental property industry. This Report and Order applies only to property in the exclusive control or use of the viewer and in which the viewer has a direct or indirect ownership interest. Thus, this Order will have no major impact on the rental property industry. The question of the applicability of Section 207 and our rule to rental properties is raised in the Further Notice of Proposed Rulemaking.

12. Several neighborhood associations suggest that our rule will have a negative economic impact on the value of their land and that such a prohibition would constitute a taking, requiring compensation under the Fifth Amendment of the Constitution. We do not believe that implementation of our rule results in a taking of property. There is nothing in the record here to indicate that nullifying a homeowner's ability to prevent his neighbor from installing antennas has a measurable economic impact on the homeowner's property, nor that it interferes with investment-backed expectations. In support of the rule, several commenters argue that the rule enhances the value of the homeowner's property.

13. The Commission also notes the positive economic impact the new rule will have on many small businesses. The new rule will allow small businesses that use video programming services to select from a broader range of providers, which could result in significant economic savings; because providers will be competing for customers, more services will be available at lower prices. In addition, small business video programming providers will be faced with fewer entry hurdles, and will thus be able to develop their markets and compete more effectively, achieving one of the purposes of Section 207.

14. *Description and Estimate of the Number of Small Entities Impacted*. The Regulatory Flexibility Act, 5 U.S.C. 601(3) (1980), defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction,'' and ''the same meaning as the term 'small business concern' under section 3 of the Small Business Act.'' A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA), 15 U.S.C. 632 (1996). The rule we adopt today applies to small organizations and small governmental jurisdictions, rather than businesses.

15. The term ''small governmental jurisdiction'' is defined as ''governments of * * * districts, with a population of less than fifty thousand.'' 5 U.S.C. 601(5). There are 85,006 governmental entities in the United States. United States Dept. of Commerce, Bureau of the Census, *1992 Census of Governments*.

This number includes such entities as states, counties, cities, utility districts and school districts. We note that restrictions concerning antenna installation are usually promulgated by cities, towns and counties, not school or utility districts. Of the 85,006 governmental entities, 38,978 are counties, cities and towns; and of those, 37,566, or 96%, have populations of fewer than 50,000. The NLC estimates that there are 37,000 ''small governmental jurisdictions'' that may be affected by the proposed rule.

16. Section 601(4) of the Regulatory Flexibility Act defines ''small organization'' as ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). This definition includes homeowner and condominium associations that operate as not-for-profit organizations. The Community Associations Institute estimates that there were 150,000 associations in 1993. Given the nature of a neighborhood association, we assume for the purposes of this FRFA that all 150,000 associations are small organizations.

17. *Reporting, Recordkeeping, and Other Compliance Requirements.* The rule does not establish any filing requirements. However, state and local governments and neighborhood associations promulgating regulations that are prohibited by this rule may seek declaratory rulings concerning the validity of a restriction, or may request waivers of the rule. Petitions for declaratory ruling and requests for waiver will be considered through a paper hearing process, and the initiating petition will require only standard secretarial skills to prepare.

18. If a governmental or nongovernmental authority wishes to enforce a safety restriction, the rule requires that the safety reasons for the restrictions be clearly defined in the legislative history, preamble or text of the restriction. Alternatively, the local entity may include a restriction on a list of safety restrictions related to antennas, that is made available to interested parties (including those who wish to install antennas). Thus, governmental entities will not be required to amend their rules. Local officials may need time to review regulations to determine if the safety reasons are clearly defined in the legislative history, preamble or text, or to create a list of applicable restrictions.

19. *Steps Taken to Minimize the Economic Impact on Small Entities and Significant Alternatives Rejected.* The Commission considered various alternatives that would have impacted small entities to varying extents. These included a rebuttable presumption approach, the use of the term ''affect'' in the rule, and a rule that allowed for adjudicatory proceedings in courts of competent jurisdiction, all of which were adopted in the *DBS Order and Further Notice of Proposed Rulemaking* and proposed in the *TVBS–MMDS Notice of Proposed Rulemaking.* The rule we adopt today replaces the rebuttable presumption with a simpler preemption approach, adheres to the statutory language by using the term ''impair'' rather than ''affect'' in the rule, and allows for adjudication at the Commission or in a court of competent jurisdiction. We believe that we have effectively minimized the rule's economic impact on small entities.

20. In the *DBS Order and Further Notice of Proposed Rulemaking* and the *TVBS–MMDS Notice of Proposed Rulemaking,* we adopted and proposed, respectively, a rebuttable presumption approach to governmental regulations, and proposed strict preemption of nongovernmental restrictions. We acknowledged in the *DBS Order and Further Notice of Proposed Rulemaking* that a rule relying on a presumptive approach would be more difficult to administer than a rule based upon a *per se* prohibition, and we sought comment in the *TVBS–MMDS Notice of Proposed Rulemaking* on less burdensome approaches. Under the rebuttable presumption approach, local governments would have been required to request a declaratory ruling from the Commission every time they sought to enforce or enact a restriction; and neighborhood associations would not have been able to enforce or enact any restrictions that impaired a viewer's ability to receive the signals in question. The rebuttable presumption approach was adopted to ensure the protection of local interests, including local governments. Based on the record, the Commission recognizes that the burden of rebutting a presumption could strain the resources of local authorities. The Commission has rejected the rebuttable presumption approach for a less burdensome preemption approach. In addition we have provided recourse for both neighborhood associations and municipalities. The rule we adopt today provides for a *per se* prohibition of restrictions that impair a viewer's ability to install, maintain or use devices designed for over-the-air reception of video programming services. Our Report and Order provides examples of reasonable regulations that can be enforced without a waiver application. The Commission believes that the Report and Order provides such clarity as will make the enforcement of the rule the most efficient and least burdensome for local governments, neighborhood associations, and this Commission.

21. In adopting the new rule, the Commission rejected the alternative of preempting all restrictions that ''affect'' the reception of video programming services through devices designed for over-the-air reception of TVBS, MMDS and DBS services. The new rule prohibits only those local restrictions that ''impair'' a viewer's ability to receive these signals and exempts restrictions necessary to ensure safety or to preserve historic districts. In defining the term ''impair'' we reject the interpretation that impair means prevent because that definition would not properly implement Congress' objective of promoting competition. We find that a restriction impairs a viewer's ability to receive over-the-air video programming signals, if it (a) unreasonably delays or prevents installation, maintenance or use of a device used for the reception of over-the-air video programming signals by DBS, TVBS, or MMDS; (b) unreasonably increases the cost of installation, maintenance or use of such devices; (c) precludes reception of an acceptable quality signal. The use of the term impair will decrease the burden on small entities while implementing Congress' objective.

22. In the *DBS Order and Further Notice of Proposed Rulemaking* and the *TVBS–MMDS Notice of Proposed Rulemaking,* we discussed the possibility of parties seeking judgment from either the Commission or a court of competent jurisdiction. The Commission is concerned about uniformity in the application of our rule, and about the financial burden that litigation might place on small entities. While we cannot prohibit parties' applications to courts of competent jurisdiction, we address this concern by exercising our Congressional grant of jurisdiction and implementing a waiver process, and encouraging parties to use this approach rather than relying on costly litigation.

23. Waiver proceedings will be paper hearings, allowing the Commission to alleviate the negative potential economic impact from costly litigation. Further, any regulations necessary to the safeguarding of safety will remain enforceable pending the Commission's resolution of waiver requests. The Commission believes that the rule we adopt today effectively implements Congress' intent while minimizing any significant economic impact on small entities.

24. *Report to Congress.* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

III. Paperwork Reduction Act of 1995 Analysis

25. *Final Paperwork Reduction Act of 1995 Analysis.* This Report and Order has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain an information collection requirement on the public. Implementation of an information collection requirement is subject to approval by the Office of Management and Budget as prescribed by the Act.

26. In the *DBS Order and Further Notice of Proposed Rulemaking* and the *TVBS–MMDS Notice of Proposed Rulemaking* we proposed an information collection process, utilizing waivers and declaratory rulings, that has now been approved by the Office of Management and Budget (OMB). This Report and Order contains a modified information collection that we believe is less burdensome. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to comment on the modified information collections contained in this Report and Order, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due on September 27, 1996; OMB comments are due November 4, 1996. Comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

27. Written comments by the public on the modified information collections are due on September 27, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified collections on or before November 4, 1996. A copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington DC 20503 or via the Internet to fain__t@al.eop.gov.

IV. Ordering Clauses

28. Accordingly, *it is ordered*, pursuant to sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303, and section 207 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56, that the rule discussed in this Report and Order *is adopted* as § 1.4000 of the Commission's rules, 47 CFR 1.4000.

29. *It is further ordered* that § 25.104 of the Commission's rules, 47 CFR 25.104, is amended as set forth below.

30. *It is further ordered* that the Petitions for Reconsideration filed in IB Docket No. 95–59 by Alphastar Television Network, Inc.; County of Boulder, State of Colorado; DIRECTV, Inc.; Florida League of Cities; Hughes Network Systems, Inc.; City of Dallas *et al.*; National League of Cities *et al.*; Primestar, Inc.; Satellite Broadcasting and Communications Association of America; and United States Satellite Broadcasting Co., to the extent that they address issues related to section 207, *are granted* in part as discussed herein, and are otherwise *denied*.

31. *It is further ordered* that the requirements and regulations established in this decision shall become effective upon approval by the Office of Management and Budget (OMB) of the new information collection requirements adopted herein, but no sooner than October 4, 1996.

32. This Report and Order and Memorandum Opinion and Order contains a modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the OMB to comment on the information collections contained in this Report and Order, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due September 27, 1996; OMB comments are due November 4, 1996. Comments should address: (a) Whether the modified and proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

33. *It is further ordered* that the Secretary shall send a copy of this Report and Order and Memorandum Opinion and Order including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects

*47 CFR Part 1*

Telecommunications, Television.

*47 CFR Part 25*

Satellites.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

Rule Changes

Parts 1 and 25 of Title 47 of the Code of Federal Regulations are amended to read as follows:

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

Authority: 47 U.S.C. 151, 154, 207, 303 and 309(j) unless otherwise noted.

2. A new subpart S is added to part 1 to read as follows:

Subpart S—Preemption of Restrictions That ''Impair'' a Viewer's Ability To Receive Television Broadcast Signals, Direct Broadcast Satellite Services or Multichannel Multipoint Distribution Services

Sec. 1.4000. Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

## Subpart S—Preemption of Restrictions That ''Impair'' a Viewer's Ability To Receive Television Broadcast Signals, Direct Broadcast Satellite Services or Multichannel Multipoint Distribution Services

### § 1.4000. Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a)(1) Any restriction, including but not limited to any state or local law or regulation, including zoning, land-use, or building regulation, or any private covenant, homeowners' association rule or similar restriction on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership interest in the property, that impairs the installation, maintenance, or use of: An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter or is located in Alaska; or an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or an antenna that is designed to receive television broadcast signals; is prohibited, to the extent it so impairs, subject to paragraph (b) of this section.

(2) For purposes of this section, a law, regulation or restriction impairs installation, maintenance or use of an antenna if it:

(i) Unreasonably delays or prevents installation, maintenance or use,

(ii) Unreasonably increases the cost of installation, maintenance or use, or

(iii) Precludes reception of an acceptable quality signal.

(3) No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any restriction or regulation prohibited by this section except pursuant to paragraph (c) or (d) of this section. No fine or other penalties shall accrue against an antenna user while a proceeding is pending to determine the validity of any restriction.

(b) Any restriction otherwise prohibited by paragraph (a) of this section is permitted if:

(1) It is necessary to accomplish a clearly defined safety objective that is either stated in the text, preamble or legislative history of the restriction or described as applying to that restriction in a document that is readily available to antenna users, and would be applied to the extent practicable in a non-discriminatory manner to other appurtenances, devices, or fixtures that are comparable in size, weight and appearance to these antennas and to which local regulation would normally apply; or

(2) It is necessary to preserve an historic district listed or eligible for listing in the National Register of Historic Places, as set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470a, and imposes no greater restrictions on antennas covered by this rule than are imposed on the installation, maintenance or use of other modern appurtenances, devices or fixtures that are comparable in size, weight, and appearance to these antennas; and

(3) It is no more burdensome to affected antenna users than is necessary to achieve the objectives described above.

(c) Local governments or associations may apply to the Commission for a waiver of this rule under § 1.3. Waiver requests will be put on public notice. The Commission may grant a waiver upon a showing by the applicant of local concerns of a highly specialized or unusual nature. No petition for waiver shall be considered unless it specifies the restriction at issue. Waivers granted in accordance with this section shall not apply to restrictions amended or enacted after the waiver is granted.

Any responsive pleadings must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies must be filed within 15 days thereafter.

(d) Parties may petition the Commission for a declaratory ruling under § 1.2, or a court of competent jurisdiction, to determine whether a particular restriction is permissible or prohibited under this section. Petitions to the Commission will be put on public notice. Any responsive pleadings must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies must be filed within 15 days thereafter.

(e) In any Commission proceeding regarding the scope or interpretation of any provision of this section, the burden of demonstrating that a particular governmental or nongovernmental restriction complies with this section and does not impair the installation, maintenance or use of devices designed for over-the-air reception of video programming services shall be on the party that seeks to impose or maintain the restriction.

(f) All allegations of fact contained in petitions and related pleadings before the Commission must be supported by affidavit of a person or persons with actual knowledge thereof. An original and two copies of all petitions and pleadings should be addressed to the Secretary, Federal Communications Commission, 1919 M St. NW.,Washington, DC 20554. Copies of the petitions and related pleadings will be available for public inspection in the Cable Reference Room in Washington, DC. Copies will be available for purchase from the Commission's contract copy center, and Commission decisions will be available on the Internet.

## PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Sections 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 416–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Section 25.104 is amended by revising paragraph (b)(1) and adding new paragraph (f) to read as follows:

### § 25.104 Preemption of local zoning of earth stations.

* * * * *

(b)(1) Any state or local zoning, land-use, building, or similar regulation that affects the installation, maintenance, or use of a satellite earth station antenna that is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by non-federal land-use regulation shall be presumed unreasonable and is therefore preempted subject to paragraph (b)(2) of this section. No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any regulation covered by this presumption unless the promulgating authority has obtained a waiver from the Commission pursuant to paragraph (e) of this section, or a final declaration from the Commission or a court of competent jurisdiction that the presumption has been rebutted pursuant to paragraph (b)(2) of this section.

* * * * *

(f) a satellite earth station antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter or is located in Alaska is covered by the regulations in § 1.4000 of this chapter.

[FR Doc. 96–22494 Filed 9–3–96; 8:45 am]

BILLING CODE 6712–01–P

## 47 CFR Part 73

**[MM Docket No. 87–267]**

## Radio Broadcast Services; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final rules that were published Thursday, December 12, 1991 (56 FR 64842). The rules related to improvement of the AM broadcast service.

**EFFECTIVE DATE:** April 19, 1992.

**FOR FURTHER INFORMATION CONTACT:** William A. Dever, (202) 418–2689.

**SUPPLEMENTARY INFORMATION:**

Background

The final rules that are the subject of these corrections were adopted in the Federal Communications Commission's Report and Order in MM Docket No. 87–267, which was published on December 12, 1991 (56 FR 64842). The rules, which related generally to improvement of the AM broadcast service, were intended to include all of the rules adopted in the Commission's Report and Order in MM Docket No. 89–46, which were published on August 13, 1990 (55 FR 32922), and which provided for interference reduction between AM broadcast stations.

Need for Correction

The amendatory text accompanying the Report and Order in MM Docket No. 87–267 omitted two provisions that were adopted in MM Docket No. 89–46, and that were intended to be included in the final rules in MM Docket No. 87–267.

Correction of Publication

Accordingly, 47 CFR Part 73 is corrected by making the following correcting amendments:

## PART 73—AMENDED

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

Authority: 47 U.S.C. 154 and 303.

**§ 73.1750 [Corrected]**

2. Section 73.1750 is amended to add the following language at the end to read as follows:

**§ 73.1750 Discontinuance of operation.**

* * * If a licensee surrenders its license pursuant to an interference reduction arrangement, and its surrender is contingent upon the grant of another application, the licensee surrendering the license must identify in its notification the contingencies involved.

3. Section 73.3571(c)(1) is amended by redesignating paragraphs (c)(1) and (c)(2) as (c)(2) and (c)(3), and by adding new paragraph (c)(1) to read as follows:

**§ 73.3571 Processing of AM broadcast station applications. [Corrected]**

* * * * *

(c) * * *

(1) In order to grant a major or minor change application made contingent upon the grant of another licensee's request for a facility modification, the Commission will not consider mutually exclusive applications by other parties that would not protect the currently authorized facilities of the contingent applicants. Such major change applications remain, however, subject to the provisions of §§ 73.3580 and 1.1111. The Commission shall grant contingent requests for construction permits for station modifications only upon a finding that such action will promote the public interest, convenience and necessity.

* * * * *

William F. Caton,

*Acting Secretary.*

[FR Doc. 96–22429 Filed 9–3–96; 8:45 am]

**BILLING CODE 6712–01–U**

## 47 CFR Parts 80 and 95

**[WT Docket No. 95–56; FCC 96–315]**

## Amendment of the Commission's Rules Concerning Low Power Radio and Automated Maritime Telecommunications System Operations in the 216–217 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends the maritime service and personal radio service rules to permit the shared use of the 216–217 MHz band on a secondary, non-interference basis, for a new Low Power Radio Service (LPRS) to include auditory assistance devices, health care assistance devices, law enforcement tracking systems, and automated maritime telecommunications system (AMTS) point-to-point network control communications. The effect of this rule is to: increase educational opportunities and access to telecommunications devices for persons with disabilities; facilitate health care services, strengthen law enforcement, and maximize efficiency in the use of AMTS coast stations frequencies. This action promotes effective utilization of presently unused radio spectrum.

**EFFECTIVE DATE:** October 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roger Noel or Ira Keltz of the Commission's Wireless Telecommunications Bureau at (202) 418–0680 or via email at mayday@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, FCC 96–315, adopted July 25, 1996, and released August 2, 1996. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800.

Summary of Order

1. The 216–220 MHz band was originally allocated to the AMTS to provide automated, integrated, interconnected ship-to-shore communications for vessel operators. The 216–217 MHz portion of the band, however, was found to be unusable by high power AMTS coast stations within 105 miles of TV channel 13 stations, which operate on the immediately adjacent 210–216 MHz band, due to the potential for harmful interference. On May 16, 1995, the Commission released a *Notice of Proposed Rule Making,* 60 FR 28079 (May 30, 1995), in this proceeding proposing to permit the shared use of the 216–217 MHz band for a new LPRS and low power AMTS communications.

2. This action authorizes use of the 216–217 MHz band for a new service, the LPRS, for auditory assistance, radio-based health care, law enforcement tracking, and AMTS point-to-point network control communications. LPRS transmitters will be authorized on a secondary, non-interference, basis and must not cause harmful interference to TV receivers within the Grade B contour of any TV channel 13 station or cause harmful interference to the United States Navy's Space Surveillance System (SPASUR) operating in the 216.88–217.08 MHz band.

3. Rather than licensing each station individually, this action authorizes LPRS transmitters by rule under the Citizens Band Radio Service in Part 95 of the Commission's rules. This approach greatly reduces administrative and economic burdens for individuals and organizations that will use LPRS systems by not requiring them to file license applications and remit fees to the Commission prior to using these low

power devices. Although these devices may be used anywhere in the United States, its territories, and possessions, LPRS devices may only be operated as follows: for auditory assistance communications (including but not limited to applications such as assistive listening devices, audio description for the blind, and simultaneous language translation); for health care related communications; for law enforcement tracking purposes; and for AMTS point-to-point network control communications.

4. In order to promote flexible use of the 216–217 MHz band, the LPRS channel plan accommodates a variety of channel bandwidths and technologies. We believe that this flexible channel plan will allow consumers to choose equipment that best suits their needs. The channel plan permits LPRS transmitters (excluding AMTS) to utilize 40 twenty-five kilohertz (standard band) channels, 20 fifty kilohertz (extra band) channels, or 200 five kilohertz (narrow band) channels. These channels are overlapping and extend throughout the entire one megahertz band. AMTS transmissions, however, will be limited to the 216.750–217.000 MHz band and may use this entire segment as a single wideband channel or may use any of the three channelizations described above. In order to minimize the potential for harmful interference to TV reception and federal government radar, all LPRS transmissions are limited to 100 milliwatts effective radiated power and must comply with the out of band emission and frequency stability requirements as described in the final rules.

5. This rule is necessary in order to provide for the utilization of presently unused radio spectrum. This action also furthers the goals of the Americans with Disabilities Act of 1990 and the Technology-Related Assistance for Individuals with Disabilities Act Amendments of 1994 by promoting the development and use of affordable telecommunications devices by persons with disabilities in places such as educational settings, public gathering places, and health care facilities. Additionally, this action promotes the development of state-of-the-art law enforcement tools that will facilitate the reduction of crime and law enforcement costs by expediting the retrieval of stolen goods and apprehension of suspects. Finally, this action benefits vessel operators on our nation's waterways by increasing the efficiency of channel usage for AMTS coast stations.

5. This *Report and Order* is issued under the authority of sections 4(i), 302, 303(r), and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302, 303(r), and 307(e).

Final Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making.* The Commission sought written public comments on the proposals in the *Notice of Proposed Rule Making,* including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law No. 104–121, 110 Stat. 847 (1996).

*I. Need For and Purpose of this Action*

Our objective is to permit the shared use of the 216–217 MHz band on a secondary basis by a new Low Power Radio Service (LPRS)—consisting of auditory assistance devices, health care aids, law enforcement tracking systems and AMTS point-to-point network control communications. This action will: (1) promote the utilization of presently unused spectrum; (2) speed development and delivery of advanced telecommunications devices for persons with disabilities and illnesses; (3) promote the development of tools for use by federal, state, and local law enforcement agencies in retrieving stolen goods and deterring crime; and (4) increase system efficiency in the AMTS.

In creating a new LPRS, we find that the potential benefits to persons with disabilities and illnesses, the law enforcement community, and vessel operators exceed any negative effects that may result from the promulgation of rules for this purpose. Thus, we conclude that the public interest is served by creating a new LPRS in the 216–217 MHz band.

*II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA)*

No comments were filed in direct response to the IRFA. In general comments on the *Notice of Proposed Rule Making,* however, some small business commenters raised issues that might affect small entities. In particular, some small business commenters argued that requiring very low power LPRS devices to be licensed by the Commission would be overly burdensome on small entities and individuals and could deter them from using LPRS systems. Small business commenters also noted that the Commission should channelize the 216–217 MHz band in order to promote the conversion of existing equipment (operating in 72–76 MHz band) to the higher band and the rapid deployment of auditory assistance systems. Further, small business commenters asked the Commission to eliminate the requirement for LPRS transmitters to employ crystal oscillators to control frequency stability. These small business commenters noted that there may be other technologies that may be economically and technically viable, while providing adequate frequency control. The Commission carefully considered each of these comments in reaching the decisions set forth in this Notice.

*III. Changes Made to the Proposed Rules*

In the *Notice of Proposed Rule Making,* the Commission proposed to generally license LPRS stations regionally based on Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs), with the AMTS stations licensed under the Maritime Service Rules in Part 80 and two of the law enforcement tracking channels under the Police Radio Service in Part 90. The Commission also proposed to require the public to apply for these licenses using FCC Form 600 or FCC Form 503 (AMTS only). However, the Commission here determines that the public interest is served by licensing all LPRS stations by rule, rather than individually. The Commission proposed to divide the 216–217 MHz band into 40, twenty-five kilohertz channels. In order to promote technical flexibility and allow consumers to choose among a broader range of low power equipment, the Commission decided to instead divide the band into 40, twenty-five kilohertz channels (standard band), 20, fifty kilohertz channels (extra band), 200, five kilohertz channels (narrowband), and permit AMTS operations in the highest two hundred fifty kilohertz block of the band. The Commission proposed to permit 100 milliwatt and 1 watt transmissions in the lower and upper portions of the 216–217 MHz band, respectively. Based on the comments, however, the Commission decides to instead limit LPRS transmitter power to 100 milliwatts. The Commission also deviates from the proposed rules to expand the scope of the LPRS to include auditory assistance services for all persons in educational settings and persons that require language translation in any setting. The

Commission decides not to specify the means by which manufacturers may provide for frequency stability in LPRS transmitters. Finally, the Commission determines that it is unnecessary for AMTS licensees to notify channel 13 TV stations of proposed LPRS point-to-point operations other than those stations that were not originally notified at licensing.

*IV. Description and Estimate of the Small Entities Subject to the Rules*

The rules adopted in this *Report and Order* will apply to small businesses that choose to use, manufacturer, design, import, or sell auditory assistance devices, radio-based health care aids, law enforcement tracking systems, or AMTS point-to-point transmitters. There is no requirement, however, for any entity to use or produce these types of products.

A. Estimates for LPRS Manufacturers/Importers

The Commission has not developed a definition of small entities specifically applicable to LPRS manufacturers and importers. Therefore, the applicable definition of small entity is the definition under the Small Business Administration rules applicable to radio and television broadcasting and communications equipment manufacturers. This definition provides that a small entity is any entity employing less than 750 persons. *See* 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 3663. Additionally, the Small Business Administration rules state that wholesale electronic parts and equipment firms must have 100 or fewer employees in order to qualify as a small business entity. *See* 13 CFR § 121.201. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small entities that may choose to manufacture LPRS equipment and is unable at this time to make a meaningful estimate of the number of potential manufacturers which are small businesses.

The 1992 Census of Manufacturers, conducted by the Bureau of Census, which is the most comprehensive and recent information available, shows that approximately 925 out of the 948 entities manufacturing radio and television transmitting equipment in 1992 employed less than 750 persons. We are unable to discern from the Census data precisely how many of these manufacturers produce devices similar to those that will be used under the new LPRS. Further, any entity may choose to manufacture LPRS equipment. Further, 12,161 of the 12,654 wholesale electronic parts and equipment firms have fewer than 100 employees, and would be classified as small entities. Therefore, for purposes of our evaluations and conclusions in this Final Regulatory Flexibility Analysis, we estimate that there are at least 13,086 potential manufacturers or importers of LPRS equipment which are small businesses, as that term is defined by the Small Business Administration.

B. Estimates for AMTS Licensees

The Commission has not developed a definition of small entities specifically applicable to AMTS licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration rules applicable to radiotelephone service providers. This definition provides that a small entity is any entity employing less than 1,500 persons. *See* 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4812. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small AMTS businesses and is unable at this time to determine the precise number of AMTS firms which are small businesses.

The size data provided by the Small Business Administration does not enable us to make a meaningful estimate of the number of AMTS firms which are small businesses. Therefore, we used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. There are three AMTS licensees which are authorized on an exclusive basis along the Mississippi River, portions of the West Coast, and nearly the entire East Coast. Because most of the nation's coastline has or will be covered by the present licensees, it is unlikely that a large number of additional licenses will be authorized in the future. Therefore, for purposes of our evaluations and conclusions in this Final Regulatory Flexibility Analysis, we estimate that there are three AMTS licensees which are small businesses, as that term is defined by the Small Business Administration.

*V. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements*

In order to facilitate operation of LPRS devices without individual licenses, we are imposing four separate regulatory burdens that may affect small businesses.

(1) Prior to marketing an LPRS device in the U.S., a manufacturer must have the unit type accepted by the Commission under the technical criteria set forth in the final rules. The criteria include channel specifications and emission limitations that will facilitate the shared use of the 216–217 MHz band by a diverse group of users. All classes of small businesses could potentially be affected by this requirement. In order to have a unit type accepted, a small entity would have to test the radio equipment and provide clerical support to file the requisite FCC application forms. Both of these functions could be handled by a third party.

(2) Each LPRS transmitter sold must have included with it the following statement: ''This transmitter is authorized by rule under the Low Power Radio Service (47 C.F.R. Part 95) and must not cause harmful interference to TV reception or United States Navy SPASUR installations. You do not need an FCC license to operate this transmitter. This transmitter may only be used to provide: auditory assistance to persons with disabilities, persons who require language translation, or persons in educational settings; health care services to the ill; law enforcement tracking services under agreement with a law enforcement agency; or automated maritime telecommunications system (AMTS) network control communications Two-way voice communications and all other types of uses are expressly prohibited.'' All classes of small businesses could potentially be affected. Because the Commission is providing specific language to be included with each device, a small business would need clerical support to add this language to the instruction manual for the device.

(3) Unless the transmitter is so small as to make this requirement impractical, each LPRS transmitter sold must bear the following statement in a conspicuous location on the device: ''This device may not interfere with TV reception or federal government radar, and must accept any interference received, including interference that may cause undesired operation.'' The Commission does not specifiy whether this statement must be inscribed into

the unit or attached via a label or sticker.

(4) AMTS licensees must notify, in writing, each television station that may be affected by these new low power operations. There is no need, however, for AMTS licensees to renotify television stations that were previously alerted concerning AMTS operations in their areas.

*VI. Steps Taken to Minimize the Significant Economic Impact on Small Entities*

The Commission in this proceeding has considered comments on ways to implement a new LPRS. In doing so, the Commission has adopted alternatives which minimize burdens placed on small entities. First, it has decided not to require LPRS transmitters to be individually licensed, as proposed in the *Notice of Proposed Rule Making* in this proceeding. This approach eliminates the need for small entities and individuals to apply for a license and remit processing fees. Second, as the small business commenters point out, dividing the 216–217 MHz band into forty, twenty-five kilohertz channels will allow existing equipment designs (*e.g.,* 72–76 MHz band equipment) to be converted to permit operation in the higher band. This approach promotes the rapid delivery of LPRS devices to the public with a minimum negative impact on manufacturers who are small businesses. Third, it has decided not to require LPRS transmitter stability to be controlled by crystal oscillators. This approach permits manufacturers to use other technologies that may be cheaper to implement and can provide equivalent, if not better, control of a unit's operating frequency. Fourth, it has decided not to require AMTS licensees to renotify broadcast licensees prior to commencing point-to-point operations under the LPRS. Renotification is unnecessary because AMTS applicants already notify affected broadcast licensees prior to licensing. Further, it is unlikely that AMTS point-to-point operations will affect broadcast licensees that have not already been notified. This action eliminates unnecessary economic and administrative burdens for AMTS providers that are also small businesses. Fifth, the Commission has taken steps to minimize the economic burdens associated with the labeling requirement found in § 95.1017. The Commission minimized the number of words to be included in the label (half the number of words required for similar devices under Part 15 of our rules) and did not require the words to be engraved or molded into the transmitter unit. This action reduces burdens and increases flexibility for manufacturers that are also small entities.

*VII. Significant Alternatives Considered and Rejected*

The Commission considered and rejected several significant alternatives. The Commission rejected the alternative of requiring LPRS transmitters to be licensed individually because it determined that such a procedure would not further spectrum management or enforcement goals and would place administrative and economic burdens on the public. The Commission also rejected the alternative of permitting one-watt transmissions in the 216–217 MHz band because of the potential for harmful interference to TV reception. Finally, the Commission rejected the alternative of requiring the use of crystal oscillators because there are other technologies that can control frequency stability that may be cheaper and just as efficient to implement. By rejecting these alternatives, the Commission seeks to provide flexibility in the licensing and design of these low power transmitters while eliminating unnecessary regulatory burdens for small entities.

*VIII. Report to Congress*

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

List of Subjects

*47 CFR Part 80*

Communications equipment, Radio, Vessels.

*47 CFR Part 95*

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

Rule Changes

Parts 80 and 95 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

## PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.385 is amended by revising footnote 2 to the table in paragraph (a)(2) to read as follows:

### § 80.385 Frequencies for automated systems.

* * * * *

(a) * * *

(2) * * *

[2] Coast station operation on frequencies in Groups C and D are not currently assignable and are shared on a secondary basis with the Low Power Radio Service in part 95 of this chapter. Frequencies in the band 216.750–217.000 MHz band are available for low power point-to-point network control communications by AMTS coast stations under the Low Power Radio Service (LPRS). LPRS operations are subject to the conditions that no harmful interference is caused to the United States Navy's SPASUR radar system (216.88–217.08 MHz) or to TV reception within the Grade B contour of any TV channel 13 station or within the 68 dBu predicted contour of any low power TV or TV translator station operating on channel 13.

* * * * *

## PART 95—PERSONAL RADIO SERVICES

1. The authority citation for Part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 95.401 is amended by adding paragraph (c) to read as follows:

### § 95.401 (CB Rule 1) What are the Citizens Band Radio Services?

* * * * *

(c) The Low Power Radio Service (LPRS)—a private, short-distance communication service providing auditory assistance to persons with disabilities, persons who require language translation, and persons in educational settings, health care assistance to the ill, law enforcement tracking services in cooperation with law enforcement, and point-to-point network control communications for Automated Marine Telecommunications System (AMTS) coast stations licensed under part 80 of this chapter. The rules for this service are listed under subpart G of this part. Two-way voice communications are prohibited.

3. Section 95.601 is revised to read as follows:

### § 95.601 Basis and purpose.

This section provides the technical standards to which each *transmitter* (apparatus that converts electrical energy received from a source into RF (radio frequency) energy capable of

being radiated) used or intended to be used in a station authorized in any of the Personal Radio Services must comply. This section also provides requirements for obtaining type acceptance or type certification for such transmitters. The Personal Radio Services are the GMRS (General Mobile Radio Service)—subpart A, the Family Radio Service (FRS)—subpart B, the R/C (Radio Control Radio Service)—subpart C, the CB (Citizens Band Radio Service)—subpart D, and the Low Power Radio Service (LPRS)—subpart G.

4. Section 95.603 is amended by adding paragraph (e) to read as follows:

**§ 95.603 Type acceptance or certification required.**

* * * * *

(e) Each Low Power Radio Service transmitter (a transmitter that operates or is intended to operate in the LPRS) must be type accepted.

5. Section 95.605 is revised to read as follows:

**§ 95.605 Type acceptance and certification procedures.**

Any entity may request type acceptance for its transmitter when the transmitter is used in the GMRS, R/C, CB, IVDS, or LPRS following the procedures in part 2 of this chapter.

Any entity may request certification for its transmitter when the transmitter is used in the FRS following the procedures in part 2 of this chapter.

6. Sections 95.629 through 95.671 are redesignated as 95.631 through 95.673 respectively, and a new Section 95.629 is added to read as follows:

**§ 95.629 LPRS transmitter frequencies.**

(a) LPRS transmitters may operate on any frequency listed in paragraphs (b), (c), and (d) of this section. Channels 19, 20, 50, and 151–160 are available exclusively for law enforcement tracking purposes. AMTS transmissions are limited to the 216.750–217.000 MHz band for low power point-to-point network control communications by AMTS coast stations. Other AMTS transmissions in the 216–217 MHz band are prohibited.

(b) Standard band channels.

(1) The following table indicates standard band frequencies. The channel bandwidth is 25 kHz.

| Channel No. | Center frequency (MHz) |
|---|---|
| 1 | 216.0125 |
| 2 | 216.0375 |
| 3 | 216.0625 |
| 4 | 216.0875 |
| 5 | 216.1125 |
| 6 | 216.1375 |
| 7 | 216.1625 |
| 8 | 216.1875 |
| 9 | 216.2125 |
| 10 | 216.2375 |
| 11 | 216.2625 |
| 12 | 216.2875 |
| 13 | 216.3125 |
| 14 | 216.3375 |
| 15 | 216.3625 |
| 16 | 216.3875 |
| 17 | 216.4125 |
| 18 | 216.4375 |
| 19 | 216.4625 |
| 20 | 216.4875 |
| 21 | 216.5125 |
| 22 | 216.5375 |
| 23 | 216.5625 |
| 24 | 216.5875 |
| 25 | 216.6125 |
| 26 | 216.6375 |
| 27 | 216.6625 |
| 28 | 216.6875 |
| 29 | 216.7125 |
| 30 | 216.7375 |
| 31 | 216.7625 |
| 32 | 216.7875 |
| 33 | 216.8125 |
| 34 | 216.8375 |
| 35 | 216.8625 |
| 36 | 216.8875 |
| 37 | 216.9125 |
| 38 | 216.9375 |
| 39 | 216.9625 |
| 40 | 216.9875 |

(2) LPRS transmitters operating on standard band channels must be maintained within a frequency stability of 50 parts per million.

(c) Extra band channels.

(1) The following table indicates extra band frequencies. The channel bandwidth is 50 kHz.

| Channel No. | Center frequency (MHz) |
|---|---|
| 41 | 216.025 |
| 42 | 216.075 |
| 43 | 216.125 |
| 44 | 216.175 |
| 45 | 216.225 |
| 46 | 216.275 |
| 47 | 216.325 |
| 48 | 216.375 |
| 49 | 216.425 |
| 50 | 216.475 |
| 51 | 216.525 |
| 52 | 216.575 |
| 53 | 216.625 |
| 54 | 216.675 |
| 55 | 216.725 |
| 56 | 216.775 |
| 57 | 216.825 |
| 58 | 216.875 |
| 59 | 216.925 |
| 60 | 216.975 |

(2) LPRS transmitters operating on extra band channels must be maintained within a frequency stability of 50 parts per million.

(d) Narrowband channels.

(1) The following table indicates narrowband frequencies. The channel bandwidth is 5 kHz and the authorized bandwidth is 4 kHz.

| Channel No. | Center frequency (MHz) |
|---|---|
| 61 | 216.0025 |
| 62 | 216.0075 |
| 63 | 216.0125 |
| 64 | 216.0175 |
| 65 | 216.0225 |
| 66 | 216.0275 |
| 67 | 216.0325 |
| 68 | 216.0375 |
| 69 | 216.0425 |
| 70 | 216.0475 |
| 71 | 216.0525 |
| 72 | 216.0575 |
| 73 | 216.0625 |
| 74 | 216.0675 |
| 75 | 216.0725 |
| 76 | 216.0775 |
| 77 | 216.0825 |
| 78 | 216.0875 |
| 79 | 216.0925 |
| 80 | 216.0975 |
| 81 | 216.1025 |
| 82 | 216.1075 |
| 83 | 216.1125 |
| 84 | 216.1175 |
| 85 | 216.1225 |
| 86 | 216.1275 |
| 87 | 216.1325 |
| 88 | 216.1375 |
| 89 | 216.1425 |
| 90 | 216.1475 |
| 91 | 216.1525 |
| 92 | 216.1575 |
| 93 | 216.1625 |
| 94 | 216.1675 |
| 95 | 216.1725 |
| 96 | 216.1775 |
| 97 | 216.1825 |
| 98 | 216.1875 |
| 99 | 216.1925 |
| 100 | 216.1975 |
| 101 | 216.2025 |
| 102 | 216.2075 |
| 103 | 216.2125 |
| 104 | 216.2175 |
| 105 | 216.2225 |
| 106 | 216.2275 |
| 107 | 216.2325 |
| 108 | 216.2375 |
| 109 | 216.2425 |
| 110 | 216.2475 |
| 111 | 216.2525 |
| 112 | 216.2575 |
| 113 | 216.2625 |
| 114 | 216.2675 |
| 115 | 216.2725 |
| 116 | 216.2775 |
| 117 | 216.2825 |
| 118 | 216.2875 |
| 119 | 216.2925 |
| 120 | 216.2975 |
| 121 | 216.3025 |
| 122 | 216.3075 |
| 123 | 216.3125 |
| 124 | 216.3175 |

| Channel No. | Center frequency (MHz) |
|---|---|
| 125 | 216.3225 |
| 126 | 216.3275 |
| 127 | 216.3325 |
| 128 | 216.3375 |
| 129 | 216.3425 |
| 130 | 216.3475 |
| 131 | 216.3525 |
| 132 | 216.3575 |
| 133 | 216.3625 |
| 134 | 216.3675 |
| 135 | 216.3725 |
| 136 | 216.3775 |
| 137 | 216.3825 |
| 138 | 216.3875 |
| 139 | 216.3925 |
| 140 | 216.3975 |
| 141 | 216.4025 |
| 142 | 216.4075 |
| 143 | 216.4125 |
| 144 | 216.4175 |
| 145 | 216.4225 |
| 146 | 216.4275 |
| 147 | 216.4325 |
| 148 | 216.4375 |
| 149 | 216.4425 |
| 150 | 216.4475 |
| 151 | 216.4525 |
| 152 | 216.4575 |
| 153 | 216.4625 |
| 154 | 216.4675 |
| 155 | 216.4725 |
| 156 | 216.4775 |
| 157 | 216.4825 |
| 158 | 216.4875 |
| 159 | 216.4925 |
| 160 | 216.4975 |
| 161 | 216.5025 |
| 162 | 216.5075 |
| 163 | 216.5125 |
| 164 | 216.5175 |
| 165 | 216.5225 |
| 166 | 216.5275 |
| 167 | 216.5325 |
| 168 | 216.5375 |
| 169 | 216.5425 |
| 170 | 216.5475 |
| 171 | 216.5525 |
| 172 | 216.5575 |
| 173 | 216.5625 |
| 174 | 216.5675 |
| 175 | 216.5725 |
| 176 | 216.5775 |
| 177 | 216.5825 |
| 178 | 216.5875 |
| 179 | 216.5925 |
| 180 | 216.5975 |
| 181 | 216.6025 |
| 182 | 216.6075 |
| 183 | 216.6125 |
| 184 | 216.6175 |
| 185 | 216.6225 |
| 186 | 216.6275 |
| 187 | 216.6325 |
| 188 | 216.6375 |
| 189 | 216.6425 |
| 190 | 216.6475 |
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| 192 | 216.6575 |
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| 200 | 216.6975 |
| 201 | 216.7025 |
| 202 | 216.7075 |
| 203 | 216.7125 |
| 204 | 216.7175 |
| 205 | 216.7225 |
| 206 | 216.7275 |
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| 222 | 216.8075 |
| 223 | 216.8125 |
| 224 | 216.8175 |
| 225 | 216.8225 |
| 226 | 216.8275 |
| 227 | 216.8325 |
| 228 | 216.8375 |
| 229 | 216.8425 |
| 230 | 216.8475 |
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| 244 | 216.9175 |
| 245 | 216.9225 |
| 246 | 216.9275 |
| 247 | 216.9325 |
| 248 | 216.9375 |
| 249 | 216.9425 |
| 250 | 216.9475 |
| 251 | 216.9525 |
| 252 | 216.9575 |
| 253 | 216.9625 |
| 254 | 216.9675 |
| 255 | 216.9725 |
| 256 | 216.9775 |
| 257 | 216.9825 |
| 258 | 216.9875 |
| 259 | 216.9925 |
| 260 | 216.9975 |

(2) LPRS transmitters operating on narrowband channels must be maintained within a frequency stability of 1.5 parts per million.

7. Section 95.631 is amended by adding paragraph (g) to read as follows:

**§ 95.631 Emission types.**

* * * * *

(g) An LPRS station may transmit any emission type appropriate for communications in this service. Two-way voice communications, however, are prohibited.

8. Section 95.633 is amended by adding paragraph (d) to read as follows:

**§ 95.633 Emission bandwidth.**

* * * * *

(d) For transmitters in the LPRS:

(1) The authorized bandwidth for narrowband frequencies is 4 kHz and the channel bandwidth is 5 kHz

(2) The channel bandwidth for standard band frequencies is 25 kHz.

(3) The channel bandwidth for extra band frequencies is 50 kHz.

(4) AMTS stations may use the 216.750–217.000 MHz band as a single 250 kHz channel so long as the signal is attenuated as specified in § 95.635(c).

9. Section 95.635 is amended by adding paragraph (c) to read as follows:

**§ 95.635 Unwanted radiation.**

* * * * *

(c) For transmitters designed to operate in the LPRS, emissions shall be attenuated in accordance with the following:

(1) Emissions for LPRS transmitters operating on standard band channels (25 kHz) shall be attenuated below the unmodulated carrier in accordance with the following:

(i) Emissions 12.5 kHz to 22.5 kHz away from the channel center frequency: at least 30 dB; and

(ii) Emissions more than 22.5 kHz away from the channel center frequency: at least 43 + 10log(carrier power in watts) dB.

(2) Emissions for LPRS transmitters operating on extra band channels (50 kHz) shall be attenuated below the unmodulated carrier in accordance with the following:

(i) Emissions 25 kHz to 35 kHz from the channel center frequency: at least 30 dB; and

(ii) Emissions more than 35 kHz away from the channel center frequency: at least 43 + 10log(carrier power in watts) dB.

(3) Emissions for LPRS transmitters operating on narrowband channels (5 kHz) shall be attenuated below the power (P) of the highest emission, measured in peak values, contained within the authorized bandwidth (4 kHz) in accordance with the following:

(i) On any frequency within the authorized bandwidth: Zero dB;

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ($f_d$ in kHz)

of more than 2 kHz up to and including 3.75 kHz: The lesser of 30 + 20($f_d$-2) dB, or 55 + 10 log(P), or 65 dB; and

(iii) On any frequency beyond 3.75 kHz removed from the center of the authorized bandwidth: At least 55 + 10 log(P) dB.

(4) Emissions from AMTS transmitters using a single 250 kHz channel shall be attenuated below the unmodulated carrier in accordance with the following:

(i) Emissions from 125 kHz to 135 kHz away from the channel center frequency; at least 30 dB; and

(ii) Emissions more than 135 kHz away from the channel center frequency; at least 43 + 10log(carrier power in watts) dB.

10. Section 95.639 is amended by adding paragraph (e) to read as follows:

**§ 95.639 Maximum transmitter power.**

* * * * *

(e) The maximum transmitter output power authorized for LPRS stations is 100 mW.

11. Section 95.649 is revised to read as follows:

**§ 95.649 Power capability.**

No CB, R/C, LPRS transmitter, or FRS unit shall incorporate provisions for increasing its transmitter power to any level in excess of the limits specified in § 95.639.

12. Section 95.651 is revised to read as follows:

**§ 95.651 Crystal control required.**

All transmitters used in the Personal Radio Services must be crystal controlled, except an R/C station that transmits in the 26–27 MHz frequency band, a FRS unit, and a LPRS unit.

13. A new Subpart G is added to Part 95 to read as follows:

**Subpart G—Low Power Radio Service (LPRS).**

General Provisions

Sec.

95.1001 Eligibility.
95.1003 Authorized locations.
95.1005 Station identification.
95.1007 Station inspection.
95.1009 Permissible communications.
95.1011 Channel use policy.
95.1013 Antennas.
95.1015 Disclosure policies.
95.1017 Labeling requirements.
95.1019 Marketing limitations.

## Subpart G—Low Power Radio Service (LPRS).

General Provisions

**§ 95.1001 Eligibility.**

An entity is authorized by rule to operate a LPRS transmitter and is not required to be individually licensed by the FCC if it is not a representative of a foreign government and if it uses the transmitter only in accordance with § 95.1009. Each entity operating a LPRS transmitter for AMTS purposes must hold an AMTS license under part 80 of this chapter.

**§ 95.1003 Authorized locations.**

LPRS operation is authorized:

(a) Anywhere CB station operation is permitted under § 95.405(a); and

(b) Aboard any vessel or aircraft of the United States, with the permission of the captain, while the vessel or aircraft is either travelling domestically or in international waters or airspace.

**§ 95.1005 Station identification.**

An LPRS station is not required to transmit a station identification announcement.

**§ 95.1007 Station inspection.**

All LPRS system apparatus must be made available for inspection upon request by an authorized FCC representative.

**§ 95.1009 Permissible communications.**

LPRS stations may transmit voice, data, or tracking signals as permitted in this section. Two-way voice communications are prohibited.

(a) Auditory assistance communications (including but not limited to applications such as assistive listening devices, audio description for the blind, and simultaneous language translation) for:

(1) Persons with disabilities. In the context of the LPRS, the term ''disability'' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)), *i.e*, persons with a physical or mental impairment that substantially limits one or more of the major life activities of such individuals;

(2) Persons who require language translation; or

(3) Persons who may otherwise benefit from auditory assistance communications in educational settings.

(b) Health care related communications for the ill.

(c) Law enforcement tracking signals (for homing or interrogation) including the tracking of persons or stolen goods under authority or agreement with a law enforcement agency (federal, state, or local) having jurisdiction in the area where the transmitters are placed.

(d) AMTS point-to-point network control communications.

**§ 95.1011 Channel use policy.**

(a) The channels authorized to LPRS systems by this part are available on a shared basis only and will not be assigned for the exclusive use of any entity.

(b) Those using LPRS transmitters must cooperate in the selection and use of channels in order to reduce interference and make the most effective use of the authorized facilities. Channels must be selected in an effort to avoid interference to other LPRS transmissions.

(c) Operation is subject to the conditions that no harmful interference is caused to the United States Navy's SPASUR radar system (216.88–217.08 MHz) or to TV reception within the Grade B contour of any TV channel 13 station or within the 68 dBu predicted contour of any low power TV or TV translator station operating on channel 13.

**§ 95.1013 Antennas.**

(a) The maximum allowable ERP for a station in the LPRS is 100 mW.

(b) AMTS stations must employ directional antennas.

(c) Antennas used with LPRS units must comply with the following:

(1) For LPRS units operating entirely within an enclosed structure, e.g., a building, there is no limit on antenna height;

(2) For LPRS units not operating entirely within an enclosed structure, the tip of the antenna shall not exceed 30.5 meters (100 feet) above ground. In cases where harmful interference occurs the FCC may require that the antenna height be reduced; and

(3) The height limitation in paragraph (c)(2) of this section does not apply to LPRS units in which the antenna is an integral part of the unit.

**§ 95.1015 Disclosure policies.**

(a) Manufacturers of LPRS transmitters used for auditory assistance, health care assistance, and law enforcement tracking purposes must include with each transmitting device the following statement: ''This transmitter is authorized by rule under the Low Power Radio Service (47 C.F.R. Part 95) and must not cause harmful interference to TV reception or United States Navy SPASUR installations. You do not need an FCC license to operate this transmitter. This transmitter may only be used to provide: auditory assistance to persons with disabilities, persons who require language translation, or persons in educational settings; health care services to the ill; law enforcement tracking services under agreement with a law enforcement agency; or automated maritime telecommunications system (AMTS) network control communications. Two-

way voice communications and all other types of uses not mentioned above are expressly prohibited.''

(b) Prior to operating a LPRS transmitter for AMTS purposes, an AMTS licensee must notify, in writing, each television station that may be affected by such operations, as defined in § 80.215(h) of this chapter. The notification provided with the station's license application is sufficient to satisfy this requirement if no new television stations would be affected.

**§ 95.1017 Labeling requirements.**

(a) Each LPRS transmitting device shall bear the following statement in a conspicuous location on the device: ''This device may not interfere with TV reception or federal government radar, and must accept any interference received, including interference that may cause undesired operation.''

(b) Where an LPRS device is constructed in two or more sections connected by wires and marketed together, the statement specified in this section is required to be affixed only to the main control unit.

(c) When the LPRS device is so small or for such use that it is not practicable to place the statement specified in the section on it, the statement must be placed in a prominent location in the instruction manual or pamphlet supplied to the user or, alternatively, shall be placed on the container in which the device is marketed.

**§ 95.1019 Marketing limitations.**

Transmitters intended for operation in the LPRS may be marketed and sold only for those uses described in § 95.1109.

[FR Doc. 96–21583 Filed 9–3–96; 8:45 am]

BILLING CODE 6712–01–U

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 960129018–6018–01; I.D. 082796B]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1996 pollock total allowable catch (TAC) in this area.

**EFFECTIVE DATE:** 1200 hrs, Alaska local time (A.l.t.), September 3, 1996, until 2400 hrs, December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1996 pollock TAC in Statistical Area 630 was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 13,680 metric tons (mt). (See § 679.20(c)(3).)

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 679.20(d)(1), that the 1996 pollock TAC in Statistical Area 630 has been reached. The Regional Director established a directed fishing allowance of 12,080 mt, and has set aside the remaining 1,600 mt as bycatch to support other anticipated groundfish fisheries. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: August 29, 1996.

Gary C. Matlock,

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

[FR Doc. 96–22512 Filed 8–29–96; 4:30 pm]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 61, No. 172
Wednesday, September 4, 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

### Agricultural Marketing Service

### 7 CFR Part 1079

**[DA–96–11]**

### Milk in the Iowa Marketing Area; Notice of Proposed Revision of Pool Supply Plant Shipping Percentage

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This notice invites written comments on a proposal to increase the percentage of a supply plant's receipts that must be delivered to fluid milk plants to qualify a supply plant for pooling under the Iowa Federal milk order. The applicable percentage would be increased by 10 percentage points, from 35 percent to 45 percent for the months of September through November 1996, and from 20 percent to 30 percent for the months of December 1996 through March 1997. The action is requested by Anderson-Erickson Dairy Company of Des Moines, Iowa, a proprietary distributing plant that is regulated under the order. Proponent contends that the action is needed to obtain an adequate supply of milk for fluid use.

**DATES:** Comments are due no later than September 11, 1996.

**ADDRESSES:** Comments (two copies) should be sent to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

**FOR FURTHER INFORMATION CONTACT:** Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would tend to ensure that an adequate supply of fluid milk is available to consumers in the marketing area.

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

This proposed revision of rules has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), 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 provisions of the order, or any obligation imposed in connection with the order is not in accordance with the law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 and the provisions of § 1079.7(b)(1) of the order, the revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September 1, 1996 through March 31, 1997.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456 by the 7th day after publication of this notice in the Federal Register. The filing period is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Small Business Consideration

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purpose of determining which dairy farms are ''small businesses'', the $500,000 per year criterion was divided by 12, then by the uniform price, to arrive at a 300,000 pounds-per-month limit for ''small'' dairy farmers.

The supply plant shipping percentage provisions proposed to be revised are incorporated in the order to assure an adequate supply of milk for the fluid market. It is expected that producers and their handlers who share in the benefits of the higher-valued fluid uses of the market through their participation in a marketwide pool should be required to help supply milk to fluid milk distributing plants when additional supplies are needed. As a result of this expectation, order provisions based on testimony and data presented at a public hearing in which all interested parties were encouraged to participate were promulgated and approved by at least two-thirds of the dairy farmers whose milk was pooled under the Iowa order.

The Iowa order provides that the pool supply plant shipping percentages in the order may be increased or reduced by the Director of the Dairy Division, Agricultural Marketing Service, to assure that an adequate supply of milk will be made available to distributing plants, or to avoid excessive costs of

hauling and handling milk that may be moved to distributing plants only to pool plentiful supplies of producer milk.

For the month of June 1996, 2,896 dairy farmers were producers under the Iowa milk order. Of these, all but 24 would be considered small businesses, having under 300,000 pounds of production for the month. Of the dairy farmers in the small business category, 2,312 produced under 100,000 pounds of milk, 515 produced between 100,000 and 200,000 pounds, and 45 produced between 200,000 and 300,000 pounds of milk during June.

The reports filed on behalf of the slightly more than 20 milk handlers pooled, or regulated, under the Iowa order in June 1996 were filed for individual establishments that, for the most part, would meet the SBA definition of a small business, having less than 500 employees. However, most of these establishments are part of larger businesses that operate multiple plants, and meet the definition of large entities on that basis.

The proposed revision would increase the percentage of milk receipts that handlers are required to move to fluid milk distributing plants. If the shipping percentages are revised, some handlers may choose to move increased volumes of their milk supplies from manufacturing uses to fluid use in order to assure that all of their producer milk supplies will be able to share in the benefits of the marketwide pool. Some handlers may elect to not pool some of their producer milk supplies rather than ship more milk to distributing plants. Others may already be moving as much as they would be required to move under increased percentages, and would be unaffected by the proposed revision.

If the shipping percentages are not increased the distributing plant operator requesting the revision, who would be described as a large entity on the basis of its multiple plant operations, may not be able to obtain an adequate supply of milk at a competitive price to meet its needs. The handlers from whom the distributing plant handler would be most likely to receive increased shipments are also, for the most part, large entities.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small businesses. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Statement of Consideration

The provision proposed for revision is the percentage of a supply plant's receipts required to be shipped to pool distributing plants pursuant to § 1079.7(b) of the Iowa Federal milk order (Order 79). As proposed, the percentage of a supply plant's receipts that must be shipped to pool distributing plants (fluid milk plants) if the supply plant is to be considered a pool plant would be increased by the maximum allowable 10 percentage points, from 35 percent to 45 percent for the period September 1, 1996, through November 30, 1996, and from 20 percent to 30 percent for the period December 1, 1996, through March 31, 1997.

Section 1079.7(b)(1) allows the Director of the Dairy Division to reduce or increase a pool supply plant's minimum shipping requirement by up to 10 percentage points to prevent uneconomic milk shipments or to assure an adequate supply of milk for fluid use.

Anderson-Erickson Dairy Company (A–E), a fluid milk processing plant that is a pool distributing plant under Order 79, requested that the shipping percentage be increased. The handler's request states that it is unable to obtain a supply of milk at the present market price, leaving A–E short of its needs for fluid milk. A–E cites difficulty in attracting milk for high-valued bottling use, which requires drawing milk away from lower-valued uses of milk such as nonfat dry milk and cheese that may be more remunerative to processors.

In view of the foregoing, it may be appropriate to increase the shipping percentage requirements for pool supply plants as proposed to provide for the efficient and economic marketing of milk during the months of September 1, 1996, through March 31, 1997.

List of Subjects in 7 CFR Part 1079

Milk marketing orders.

The authority citation for 7 CFR Part 1079 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: August 26, 1996.

Richard M. McKee,

*Director, Dairy Division.*

[FR Doc. 96–22452 Filed 9–3–96; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 96–NM–69–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes. This proposal would require replacement of the hubcap drive coupling of the main wheel with an improved coupling. This proposal is prompted by reports of unexpected decreases in the pressure of the main wheel brake due to incorrect engagement between the main wheel coupling and the wheel speed transducer, which can result in false signals being sent to the anti-skid control box. The actions specified by the proposed AD are intended to prevent loss of brake effectiveness due to a decrease in the pressure of the main wheel brake.

**DATES:** Comments must be received by October 15, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount

Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–69–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A, SAAB 340B and SAAB 2000 series airplanes. The LFV advises that it has received reports indicating that sudden and unexpected decreases in the pressure of the main wheel brake occurred due to incorrect engagement between the drive coupling of the main wheel and the wheel speed transducer. Investigation revealed that constant removal and reinstallation of the main wheel hubcap during maintenance eventually can cause large gaps or cracks in the drive coupling. Such damage can prevent the drive coupling and wheel speed transducer from engaging properly, and ultimately, can result in a false signal being sent to the anti-skid control box; this can cause main wheel brake pressure to decrease. This condition, if not corrected, could result in a loss of brake effectiveness.

Explanation of Relevant Service Information

Saab has issued Service Bulletins SAAB 340–32–107 (for Model SAAB SF340A and SAAB 340B series airplanes), and SAAB 2000–32–019 (for Model SAAB 2000 series airplanes), both dated January 18, 1996. These service bulletins describe procedures for replacing the hubcap drive coupling of the main wheel with an improved coupling that is more resistant to damage from the removal and reinstallation of the main wheel hubcap. The Saab service bulletins reference Crane Hydro-Aire Division Service Bulletins 140–041–32–1 (for wheel hubcaps having part number 140–04120) and 140–159–32–1 (for wheel hubcaps having part number 140–15920), both dated December 21, 1995, as additional sources of service information for replacement of the hubcap drive coupling.

The LFV classified these Saab service bulletins as mandatory and issued Swedish Airworthiness Directive (SAD) 1–085R1, dated January 22, 1996, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of the hubcap drive coupling of the main wheel with an improved coupling. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

The FAA estimates that 235 Model SAAB SF340A and SAAB 340B series airplanes and 3 Model SAAB 2000 series airplanes of U.S. registry would be affected by this proposed AD.

For Model SAAB SF340A and SAAB 340B series airplanes, it would take approximately 2 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Required parts would cost approximately $200 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model SAAB 340A and SAAB 340B series airplanes is estimated to be $75,200, or $320 per airplane.

For Model SAAB 2000 series airplanes, it would take approximately 2 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Required parts would cost approximately $120 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model SAAB 2000 series airplanes is estimated to be $720, or $240 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by

contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

Saab Aircraft AB: Docket 96–NM–69–AD.

*Applicability:* Model SAAB SF340A series airplanes having serial numbers 004 through 159 inclusive; Model SAAB 340B series airplanes having serial numbers 160 through 378 inclusive; and Model SAAB 2000 series airplanes having serial numbers 002 through 029 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 loss of brake effectiveness due to a decrease in pressure of the main wheel brake, accomplish the following:

(a) Within 90 days after the effective date of this AD, replace each main wheel hubcap drive coupling having part number (P/N) 40–91115 with a main wheel hubcap drive coupling having P/N 40–91115, Rev. D, in accordance with Saab Service Bulletin SAAB 340–32–107, dated January 18, 1996 (for Model SAAB SF340A and SAAB 340B series airplanes), or Saab Service Bulletin SAAB 2000–32–019, dated January 18, 1996 (for Model SAAB 2000 series airplanes), as applicable.

Note 2: The Saab service bulletins reference Crane Hydro-Aire Division Service Bulletins 140–041–32–1 (for wheel hubcaps having part number 140–04120) and 140–159–32–1 (for wheel hubcaps having part number 140–15920), both dated December 21, 1995, as additional sources of service information for replacement of the hubcap drive coupling.

(b) As of the effective date of this AD, no person shall install on any airplane a main wheel hubcap drive coupling having P/N 40–91115 in a wheel hubcap having P/N 140–04120 (for Model SAAB SF340A and SAAB 340B series airplanes), or P/N 140–15920 (for Model SAAB 2000 series airplanes), as applicable.

(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, Los Angeles 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, Los Angeles ACO.

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

Issued in Renton, Washington, on August 28, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22475 Filed 9–3–96; 8:45 am]

BILLING CODE 4910–13–U

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## 14 CFR Part 39

**[Docket No. 96–NM–136–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Beech (Raytheon) Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech (Raytheon) Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP series airplanes. This proposal would require the filling of two tooling holes on the firewalls of the left and right engine pylons with sealant. This proposal is prompted by notification from the manufacturer that these holes were not sealed during production. The actions specified by the proposed AD are intended to prevent an engine fire from moving to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall.

**DATES:** Comments must be received by October 15, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–136–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

**FOR FURTHER INFORMATION CONTACT:** Karl Schletzbaum, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4146; fax (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–136–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–136–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The manufacturer has notified the FAA that two, unused (open) tooling holes in the firewalls of the left and right engine pylons on certain Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP series airplanes were not sealed during production. This condition, if not corrected, compromises the integrity of the pylon firewall, and could allow an engine fire to move to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB.54–1–3815B, dated March 26, 1996, which describes procedures for filling the two, unused tooling holes in the firewalls of the left and right engine pylons of Model BAe 125–800A and 800B, Model Hawker 800 (including Special Variants C29A, U125 and U125A), and Model Hawker 800XP series airplanes. These procedures involve the removal of access panels to the firewall, the application of sealant, and the reinstallation of the access panels.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require the filling of the two, unused (open) holes in the firewall of each engine pylon. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 286 Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP series airplanes of the affected design in the worldwide fleet. The FAA estimates that 170 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $20,400, or $120 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

Beech Aircraft Corporation (Formerly de Havilland; Hawker Siddeley; British Aerospace, plc; Raytheon Corporate Jets, Inc.): Docket 96–NM–136–AD.

*Applicability:* Model BAe 125–800A series airplanes, Model Hawker 800 series airplanes including Special Variants (C29A, U125, and U125A), and Model Hawker 800XP series airplanes; on which the modification described in Raytheon Service Bulletin SB.54–1–3815B, or a production equivalent, has not been installed; 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 (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.

Note 2: Beech (Raytheon) Model BAe 125–800B series airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, may also be subject to the unsafe condition addressed by this AD. As of the effective date of this AD, however, this model is not type certificated for operation in the United States. Airworthiness authorities of countries in which the Model BAe 125–800B series airplanes are approved for operation should consider adopting corrective action, applicable to this model, that is similar to the corrective action required by this AD.

*Compliance:* Required as indicated, unless accomplished previously. To prevent an engine fire from moving to the fuselage and flammable fluid carrying lines located inboard of the firewalls on the left and right engine pylons, accomplish the following:

(a) Within six months after the effective date of this AD, fill the two, unused (open) tooling holes in the firewalls of the left and right engine pylons, in accordance with Raytheon Service Bulletin SB.54–1–3815B, dated March 26, 1996.

(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, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

Issued in Renton, Washington, on August 28, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22474 Filed 9–03–96; 8:45 am]

**BILLING CODE 4910–13–U**

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**14 CFR Part 39**

**[Docket No. 96–NM–173–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1123, 1124, and 1124A Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all IAI, Ltd., Model 1123, 1124, and 1124A series airplanes. This proposal would require repetitive inspections of the aileron push-pull tubes for excessive wear and the guide rollers for smooth rotation; and repair or replacement of worn parts with serviceable parts, if necessary. This proposal is prompted by reports of excessive wear on the aileron push-pull tube in the area of the guide rollers. The actions specified by the proposed AD are intended to prevent such wear, which could result in uneven movement of the control wheel, perforation of the aileron push-pull tube, and consequent reduced roll control of the airplane.

**DATES:** Comments must be received by October 15, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Technical Publications, Astra Jet Corporation, 77 McCullough Drive, Suite 11, New Castle, Delaware 19720. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–173–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–173–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, recently notified the FAA that an unsafe condition may exist on all IAI, Ltd., Model 1123, 1124, and 1124A series airplanes. The CAAI advises that it has received reports indicating that excessive wear was found on the aileron push-pull tube in areas where the tube comes in contact with guide rollers. The cause of this excessive wear has been determined to be abrasion between the guide rollers and push-pull tube, possibly due to sticking of the guide rollers. This condition, if not corrected, could result in uneven movement of the control wheel, perforation of the aileron push-pull tube, and consequent reduced roll control of the airplane.

### Explanation of Relevant Service Information

Astra Jet has issued Service Bulletins SB 1123–27–043 (for Model 1123 series airplanes), and SB 1124–27–129 (for Model 1124 and 1124A series airplanes), both dated June 12, 1995. The service bulletins describe procedures for repetitive inspections of the left and right aileron push-pull tubes for excessive wear and the guide rollers for smooth rotation; replacement of the push-pull tubes with serviceable parts, if necessary; and repair or replacement of the guide rollers with serviceable parts, if necessary. The CAAI classified these service bulletins as mandatory and issued Israeli airworthiness directive 95–28, dated May 10, 1995, in order to assure the continued airworthiness of these airplanes in Israel.

### FAA's Conclusions

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

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive inspections of the left and right aileron push-pull tubes for excessive wear and the guide rollers for smooth rotation; replacement of the push-pull tubes with serviceable parts, if necessary; and repair or replacement of the guide rollers with serviceable parts, if necessary. The actions would be required to be accomplished in accordance with the service bulletins described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 213 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,780, or $60 per airplane, per inspection.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

Israel Aircraft Industries (IAI), Ltd.: Docket 96–NM–173–AD.

*Applicability:* All IAI, Ltd., Model 1123, 1124, and 1124A 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 (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 excessive wear of the aileron push-pull tube, which could result in uneven movement of the control wheel, perforation of the aileron push-pull tube, and consequent reduced roll control of the airplane; accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, inspect the left and right aileron push-pull tubes for wear and the guide rollers for smoothness of rotation, in accordance with Astra Jet Service Bulletin SB 1123–27–043, dated June 12, 1995 (for Model 1123 series airplanes); or Service Bulletin SB 1124–27–129, dated June 12, 1995 (for Model 1124 and 1124A Series airplanes); as applicable.

(1) If no wear is detected or if wear is within the limits specified in the applicable service bulletin, repeat the inspections thereafter at intervals not to exceed 600 hours time-in-service.

(2) If any wear is detected and that wear is outside the limits specified in the applicable service bulletin, prior to further flight, replace the tube with serviceable parts in accordance with the applicable service bulletin. Thereafter, repeat the inspections at intervals not to exceed 600 hours time-in-service.

(3) If the guide rollers do not rotate smoothly, accomplish either paragraph (a)(3)(i) or (a)(3)(ii) of this AD. Thereafter, repeat the inspections at intervals not to exceed 600 hours time-in-service.

(i) Prior to further flight, repair the guide roller in accordance with the applicable service bulletin. Or

(ii) Prior to further flight, replace the guide roller with serviceable parts in accordance with the applicable service bulletin.

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

(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.

Issued in Renton, Washington, on August 28, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–22473 Filed 9–3–96; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 917

**[KY–210]**

## Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (hereinafter the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky statues pertaining to bonds, permitting, coal waste disposal, administrative hearings, and civil penalties. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., [E.D.T.], October 4, 1996. If requested, a public hearing on the proposed amendment will be held on September 30, 1996. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on September 18, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Director, at the address listed below.

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896.

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2896.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, Federal Register (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

## II. Description of the Proposed Amendment

By letter dated August 15, 1996, (Administrative Record No. KY–1371) Kentucky submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Senate Bill 231 and House Bill 764 enacted on March 28, 1996, revised the following provisions of the Kentucky Revised Statutes (KRS): KRS 350.131(3); KRS 350.150(1); KRS Chapter 350 Section (3); KRS 350.0301(1); and KRS 350.990(1).

Specifically, Kentucky proposes to make the following changes. Senate Bill 231 creates a new subsection at KRS 350.131(3) that allows Kentucky to use money from a forfeited bond, other than a surety bond or letter credit, to enter a contract with an overlapping permittee to perform reclamation on the forfeited permit area. KRS 350.150(1) is amended to exempt contracts negotiated under new subsection KRS 350.131(3) from the requirement that reclamation contracts be awarded to the lowest responsible bidder upon competitive bids. KRS Chapter 350 Section (3) is added to allow Kentucky to negotiate improved coordination among Federal and State agencies in reviewing proposals for reinjection or backstowing of coal processing waste and underground development waste. House Bill 764 amends KRS 350.0301(1) to allow a person contesting a failure-to-abate cessation order to also contest the underlying noncompliance at the hearing on the cessation order. KRS 350.990(1) is amended to require that Kentucky assess up to $5,000 on each violation in a noncompliance underlying an imminent danger cessation order but prohibits the assessment of a separate penalty on the cessation order itself.

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

### *Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under ''DATES'' or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

### *Public Hearing*

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on September 19, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If on one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

### *Public Meeting*

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTRACT**.

All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

## IV. Procedural Determinations

### *Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

### *Executive Order 12778*

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 27, 1996.

Vann Weaver,

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 96–22446 Filed 9–3–96; 8:45 am]

**BILLING CODE 4310–05–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Health Care Financing Administration

## 42 CFR Part 418

**[BPD–820–P]**

**RIN 0938–AG93**

## Medicare Program; Hospice Wage Index

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish a methodology to update the wage index used to adjust Medicare payment rates for hospice care. The wage index is used to reflect local differences in wage levels. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983. The methodology is based on the recommendations of a negotiated rulemaking advisory committee comprised of persons who represent interests affected by the hospice rules.

**DATES:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 4, 1996.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–820–P, P.O. Box 7517, Baltimore, MD 21207–0519.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–820–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

**FOR FURTHER INFORMATION CONTACT:** Jennifer Carter, (410) 786–4615.

**SUPPLEMENTARY INFORMATION:**

I. Background

*A. Statute and Regulations*

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through the use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 122 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Public Law 97–248) added section 1861(dd) to the Social Security Act (the Act) to provide coverage for hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

On December 16, 1983, we published a final rule in the Federal Register (48 FR 56008) that, effective for hospice services furnished on or after November 1, 1983, established eligibility requirements and payment standards and procedures, defined covered services, and delineated the conditions a hospice must meet to be approved for participation in the Medicare program.

Regulations at 42 CFR part 418, subpart G, Payment for Hospice Care, provide for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

The final rule of December 16, 1983 (48 FR 56034) included the following provisions with regard to payment:

- Provision for adjustment to the payment rates to reflect differences in area wage levels. Since hospice care is labor-intensive, adjustment was necessary to permit payment of higher

rates in areas with relatively high wage levels, and proportionately lower rates in areas with wage levels below the national average.

• Provision that the labor market areas be based on the definitions of Metropolitan Statistical Areas (MSAs) issued by the Office of Management and Budget (OMB).

• Provision that the wage index used to adjust the hospice payment rates was to be the wage index published in the Federal Register on September 1, 1983 (48 FR 39871) for purposes of determining Medicare inpatient hospital prospective payment rates. This hospital wage index, which is still in use for hospices, was based on calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, Wages and Contributions file for hospital workers.

• Provision that, in applying the hospital wage index to the hospice rates, we use an index value of 0.8 if the hospital wage index value were lower than 0.8. The use of a wage index ''floor'' reflected our belief that an index value below 0.8 would make payment levels very low. We believed this would unduly jeopardize the availability of the benefit in rural areas by discouraging participation in the Medicare hospice program by hospices that are located in these areas, and by inhibiting the ability of these rural hospices to attract and retain sufficient skilled staff.

The hospice wage index has not been updated since 1983. Over the ensuing years, we instituted many changes in the hospital wage index in order to ensure its continuing accuracy for hospitals. Since these changes have not been applied to hospices, there are widening differences between the existing hospice wage index and actual wage levels. The existing hospice wage index is based on 1981 BLS hospital data; however, BLS data are no longer used in determining the hospital wage index. Based on our concern that the BLS data did not accurately reflect hospital wages, we conducted a survey of hospital wage and wage related costs and, in fiscal year 1986, implemented a hospital wage index based solely on HCFA survey data. We repeated the survey in 1988 and implemented a revised hospital wage index during fiscal year 1991.

Additionally, in fiscal year 1991, we began adjusting the hospital wage index to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act. Beginning in fiscal year 1994, in accordance with section 1886(d)(3)(E) of the Act, we have updated the hospital wage index annually, based on a survey of wages and wage-related costs of short-term, acute care hospitals.

The most recent hospital wage index was published in the Federal Register on September 1, 1995 (60 FR 45778). It is based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in fiscal year 1992.

*B. The Negotiated Rulemaking Advisory Committee*

The Negotiated Rulemaking Act of 1990 (Public Law 101–648), which encourages agencies to use negotiated rulemaking to enhance the informal rulemaking process, established a framework for the conduct of negotiated rulemaking. Negotiated rulemaking is a process by which a proposed rule is developed by a committee of representatives of interests that may be significantly affected by the rule, including a government representative. The goal of the process is to reach consensus on the text or content of the proposed rule, which then is published for public comment. The committee is assisted by a neutral facilitator (mediator). Consensus means unanimous concurrence of all committee members.

We chose to use the negotiated rulemaking process to update the hospice wage index for the following reasons:

• There was a general recognition by the hospice industry that the existing wage index is not satisfactory and that further inaction will likely widen the gap between the existing index and a revised index.

• Industry and consumer representatives exhibited a high degree of willingness to participate.

• There were opportunities for compromises among the various interests, as well as an opportunity for creative problemsolving that could lead to an acceptable result.

• Even if consensus were not achieved, acceptability of the resulting wage index would be enhanced by the type of information-sharing that would occur in the context of negotiation.

On October 14, 1994, we published in the Federal Register a notice of intent to establish an advisory committee under the Federal Advisory Committee Act to negotiate the hospice wage index (59 FR 52129). The purpose of this committee was to provide advice and make recommendations to the Secretary with respect to the text or content of a proposed rule on the wage index used to adjust payment rates for hospices under the Medicare program to reflect local differences in area wage levels. The notice solicited public comment on the appropriateness of the negotiated rulemaking process for updating the hospice wage index and on whether we identified all of the interests that would be affected. As a result, we received eight public comments. The commenters supported our decision to establish a negotiating committee and utilize the negotiated rulemaking process for this purpose.

We published a notice in the Federal Register on December 29, 1994 to announce establishment of the Negotiated Rulemaking Advisory Committee on the Medicare Hospice Wage Index (59 FR 67264). The Committee represented interests that would be significantly affected by the adoption of a new wage index and included an appropriate mix of interests and backgrounds. Committee members included representatives of national hospice associations; rural, urban, large, and small hospices; multi-site hospices; and consumer groups. In addition, during the process, when the Committee identified large groups of hospices likely to suffer a significant negative impact as a result of the revised wage index, attempts were made to contact representatives of those groups for their input, as well as to provide them an opportunity to participate in the meetings and discussions.

*C. Consensus Agreement*

The Committee met five times from November 1994 to April 1995. Its deliberations focused on the following issues: the data source for the wage index; the budget neutrality adjustment; continued application of a wage index floor; the transition period; future updates; and the effective date of a revised index. The Committee reached consensus on a hospice wage index that results from the methodology described below. The Committee Statement is included as an addendum at the end of this proposed rule.

In the Agreement with which all Committee members concurred, HCFA agreed that it would, to the maximum extent possible and consistent with applicable legal obligations, draft a proposed rule consistent with the Committee Statement, and publish it as a Notice of Proposed Rulemaking. Accordingly, under the proposed rule, the revised hospice wage index will be calculated in a manner fully consistent with the negotiated rulemaking process and the Committee Statement. The one exception will be the wage index value for the Virgin Islands, as noted in section III.D of this preamble.

1. Data to be Used

A primary concern of the Committee was the data to be used to construct a revised hospice wage index. Options considered by the Committee included continued use of BLS data, updated hospital wage data, hospice-specific data, and data used for the physician payment system. The Committee considered the following criteria in evaluating the available data sources:

- Fundamental equity of the wage index.
- Data that reflected actual work performed by hospice personnel.
- Reliability of data.
- Variability of data (that is, fewer shifts in wage index values from year to year).
- Uniform treatment across MSAs.
- Compatibility with wage indices used by HCFA for other Medicare providers.
- Accuracy of data (that is, ability to eliminate data errors).
- Preserving access to hospice care.
- Minimizing losses in payment to a high percentage of hospices, or minimizing the total amount hospices would lose on an individual basis.
- Limitation of data to Medicare-certified agencies.
- Cost of data collection.
- Lack of bias against rural areas or urban areas.
- Availability of the data for timely implementation.

The Committee heard presentations about the different types of data available and determined that, since hospice-specific data are unavailable, the hospital wage index data best represents hospices.

The Committee agreed that the revised wage index would be based for each fiscal year on the most currently available data used by HCFA to construct a wage index for hospitals under the prospective payment system, before adjustments are made to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and (d)(10) of the Act. Among the reasons the Committee chose to recommend use of unadjusted hospital wage data was to avoid further reductions in certain rural statewide wage index values that result from reclassification. (Reductions occur because, when rural hospitals are reclassified to urban areas, the wage data from the affected hospitals are not included in determining the statewide rural rate.)

Each hospice's labor market area would be established by the MSA definitions issued by the OMB on December 28, 1992, based on the 1990 census, and updated periodically by OMB. Any changes to the MSA definitions would be effective annually and announced in the final rule updating the hospice wage index.

2. Budget Neutrality

Options considered by the Committee regarding budget neutrality included the following: (1) whether to apply a budget neutrality adjustment; (2) whether the adjustment would be applied equally to all wage index values; and (3) whether the budget neutrality adjustment would be applied after the transition period (see section I.C.4, of this preamble).

The Committee determined that, each year in updating the wage index, aggregate Medicare payments to hospices would remain the same, using the revised wage index as if the 1983 wage index had not been updated. Thus, although payments to individual hospice programs may change each year, overall Medicare payments to hospices would not be affected by updating the wage index, that is, budget neutrality will be maintained during and after the transition period.

In order to ensure budget neutrality, an adjustment would be made to the payments that would otherwise be made to individual hospices for the period beginning on the effective date of the final rule and ending September 30, 1997. We would determine the amount of the budget neutrality adjustment by first computing the amount of hospice payments that would have resulted from the hospice payment methodology using the 1983 hospice wage index. To perform this computation for this proposed rule, we obtained the 1995 December update of the national claims history file of all bills submitted during fiscal year 1995. We deleted all bills from hospices that have since closed. Then, we computed program expenditures using updated hospital wage data (that is, 1993 hospital wage data for fiscal year 1997). To achieve budget neutrality, we have determined that it would be necessary to apply a budget neutrality adjustment factor of 1.020702 to the wage portion of the payment rate. That is, an increase of 2 percent to the wage portion of the payment rate results in the same program expenditures as would have been realized had we continued to apply the 1983 hospice wage index. For fiscal year 1998 and subsequent years, a budget neutrality adjustment would be made using the most currently available HCFA hospital data. A budget neutrality adjustment factor would be calculated each year in order to maintain aggregate payments that would have been made under the 1983 wage index.

3. Wage Index Floor

The Committee discussed retention of the wage index floor in terms of its original intended purpose—allowing hospices in rural areas to recruit and retain staff. In addition, the Committee discussed transportation issues experienced by hospice programs in both rural and urban areas. Information was provided to the Committee illustrating those wage index areas that are protected by the current wage index floor. The Committee determined that in order to maintain the viability of the hospice programs in rural and other low wage index areas, it was appropriate to continue to assist those areas with wage index values below 0.8 by providing an adjustment to the wage component of the rate. In reaching consensus on the adjustment factor, the Committee considered alternatives such as retention of the 0.8 wage index floor, the impact of other floor values on the budget neutrality adjustment, and use of a two-tiered floor. The Committee reached consensus on a 15-percent increase adjustment for those wage areas below 0.8, up to a maximum of 0.8, to assist hospices in areas with low wage index values to continue to provide access to hospice care.

However, the Committee also agreed that hospices should not receive the benefit of both the budget neutrality adjustment and a wage index floor adjustment. Thus, for those wage areas below 0.8, the revised wage index for the area will be the greater of the following—

- The pre-reclassification hospital wage index value times a budget neutrality adjustment factor; or
- The pre-reclassification hospital wage index value multiplied by 1.15, but subject to a maximum wage index value of 0.8.

4. Transition Period

The revised wage index would not be fully implemented until October 1, 1998. For the transition period beginning on the effective date of the final rule and ending September 30, 1997, a blended index value would be calculated by adding two-thirds of the wage index value currently in effect for hospices in an area (the 1983 index) to one-third of the pre-reclassification hospital wage index value or the adjusted index value, as applicable. During the second year of the transition period, beginning October 1, 1997, the calculation would be similar, except that the blend would be one-third of the 1983 index value and two-thirds of the pre-reclassification or adjusted wage index value. A fully updated hospice

wage index, based on the most current hospital wage index, would be implemented beginning October 1, 1998.

The hospital wage index establishes a wage index value for each MSA and rural statewide values. However, because MSA definitions have changed since 1983, we also need to develop a methodology for setting wage index values for hospices in counties that are no longer in the same MSA as they were in 1983. The Committee agreed that the wage index value for hospices located in these counties for the first year of the transition would be calculated by adding two-thirds of the wage index value for the MSA to which the county was assigned in 1983 to one-third of the updated wage index value for the area to which the county is now assigned. Throughout the transition period, new hospices would be treated the same as existing hospices based in the same county.

5. Annual Updates

The revised hospice wage index would be updated annually, beginning on October 1, 1997, so that it is based on the most currently available HCFA hospital data, including any changes to the definitions of MSAs.

While Committee members supported the use of the most currently available data, the Committee determined that this must be balanced against the interest of allowing hospices sufficient time to adjust to shifts in wage index values. Accordingly, it was agreed by the Committee that HCFA would use the most current hospital cost report data available that would allow us to publish a proposed rule containing wage index values for hospices at least 4 months in advance of the effective date.

## II. Current Payment Procedures for Hospice Care

### *A. Annual Increase in Payment Rates*

Section 1814(i)(1)(C)(ii) of the Act provides for an annual increase in the hospice payment rates based on the rate of increase in the hospital market basket index used to adjust payments for inpatient hospital services under the prospective payment system for hospitals. However, section 13504 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66) amended section 1814(i) of the Act to decrease the amount of the market basket percentage increase that is applied to hospice rates for fiscal years 1994 through 1997. For hospice payments in fiscal years 1996 and 1997, the market basket increase is reduced by 1.5 percent and 0.5 percent, respectively. For fiscal years after 1997, hospices receive the full hospital market basket increase. Following is a brief description of each level of care and the current daily payment rates for the period October 1, 1995 through September 30, 1996.

- *Routine Home Care*—As specified in § 418.302(d)(3) of the regulations, the payment rate for routine home care is paid to the hospice for each day during which a Medicare beneficiary is under the care of the hospice, and not receiving the care described under continuous home care, inpatient respite care, or general inpatient care, regardless of the volume and intensity of the services provided on any given day. The current routine home care rate is $92.32.
- *Continuous Home Care*—The hospice is paid the continuous home care rate when, in order to maintain the terminally ill patient at home in a period of crisis, nursing care is required on a continuous basis. Either home health aide or homemaker services or both may also be provided. Medicare regulations at § 418.302(e)(4) specify that the hospice payment on a continuous home care day varies depending on the number of hours of continuous care. The continuous home care rate is divided by 24 to yield an hourly rate. The number of hours of continuous home care furnished during a continuous home care day is multiplied by the hourly rate to calculate the hospice payment amount for that day. The hospice must furnish a minimum of 8 hours of continuous home care on a particular day to qualify for the continuous home care daily rate. The continuous home care rate is intended only for periods of crisis when predominantly skilled continuous care is necessary to achieve palliation or management of the patient's acute medical symptoms and only as necessary to maintain the patient at home. The current continuous home care hourly rate is $22.45 and the daily payment rate is $538.87.
- *Inpatient Respite Care*—The hospice is paid the inpatient respite care rate for each day the patient is in a Medicare or Medicaid approved inpatient facility receiving respite care. The inpatient respite rate applies specifically to situations where the patient's family members or other persons caring for the patient need a short period of relief. Payment is limited to no more than 5 consecutive days. Subsequent days of respite care are paid at the routine home care rate. The current daily payment rate for inpatient respite care is $95.50.
- General Inpatient Care—The hospice is paid the general inpatient care rate for each day the patient is in a Medicare or Medicaid approved inpatient setting to receive services that are reasonable and necessary for the palliation or management of acute and severe clinical problems related to the terminal condition that cannot be managed in other settings. The current daily payment rate for general inpatient care is $410.72.

### *B. Adjustment for Wage Variations*

In adjusting the payment rates, we separate the national payment rates into components that reflect the estimated proportion of the rate that is attributable to wage and nonwage costs. We then multiply the wage component of each rate by the wage index value applicable to the area in which the hospice is located (adjusted wage component). The rate paid to a hospice is the sum of the non-wage component and the adjusted wage component.

The following table indicates the current hospice payment rates and the amount (in dollars) of each rate subject to adjustment by the wage index:

| Payment category | National rate | Component subject to index | Nonwage component |
|---|---|---|---|
| Routine home | $92.32 | $63.43 | $28.89 |
| Continuous home | 538.87 | 370.26 | 168.61 |
| Inpatient respite | 95.50 | 51.69 | 43.81 |
| General inpatient | 410.72 | 262.90 | 147.82 |

III. Proposed Hospice Wage Index

Existing hospice regulations at § 418.306(c) provide that the payment rates established by HCFA are adjusted by the intermediary to reflect local differences in wages. We are proposing to amend § 418.306(c) to add that:

- The hospice wage index is updated annually based on the most current available hospital wage data, and
- This data will include any changes to the definitions of Metropolitan Statistical Areas.

As noted above, the revised hospice wage index is based on the recommendations of a Negotiated Rulemaking Advisory Committee. In the Agreement concurred in by all Committee members, HCFA agreed that it would, to the maximum extent possible consistent with the applicable legal obligations, draft a proposed rule consistent with the Committee Statement and publish it as a Notice of Proposed Rulemaking. We intend to interpret and apply the proposed rule, if adopted in final form, in a manner fully consistent with the Committee Statement.

If the final rule were adopted without change from the proposed rule, the only difference between the final rule and the Committee Statement would be the calculation of the wage index value for the Virgin Islands, as noted in section III.D below. The wage index value for the Virgin Islands was not addressed by the Committee, since at the time of its meetings there were no certified hospices located in the Virgin Islands.

*A. Computation of the Hospice Wage Index*

The hospice wage index would be derived from the following 1993 hospital cost report data:

- Total short-term, acute care hospital salaries and hours.
- Home office costs and hours.
- Fringe benefits associated with hospital and home office salaries.
- Direct patient care related contract labor cost and hours.
- The exclusion of salaries and hours for nonhospital type services such as skilled nursing facility services, home health services, or other subprovider components that are not subject to the prospective payment system.

The raw hospital wage data would undergo a series of reviews and edits to verify the wage data from the Medicare cost report. A detailed description of this process is contained in the September 1, 1995 (60 FR 45778) hospital prospective payment final rule. A brief description of the process follows:

The wage data are reported electronically to HCFA through the Hospital Cost Report Information System (HCRIS). The HCRIS system includes several screens to identify unusual data. Then, we initiate an intensive review of the wage data by the fiscal intermediaries to ensure quality and accuracy. Finally, we subject the revised cost report data to several edit checks. Edit failures involve data that appear unusual and need to be verified by the intermediary.

The wage file that will be used to construct the fiscal year 1997 proposed hospital wage index will include data that we obtained in late January 1996 from the HCRIS database and subsequent changes that we received from intermediaries through March 1996. The intermediaries will be instructed to complete verification of questionable data elements and to transmit any changes to the wage data, through HCRIS, no later than mid-June 1996. We expect that all outstanding data elements will be resolved by then, so that we will be able to reflect the corrected data in the final hospital wage index.

In addition, in March 1996, we afforded hospitals an opportunity to evaluate the raw hospital wage data that would be used to construct the proposed fiscal year 1997 hospital wage index. Also, we will publish information in the fiscal year 1997 hospital prospective payment system proposed rule to enable hospitals to identify inconsistencies. To be reflected in the final hospital wage index, any wage data corrections must be reviewed by the intermediary and transmitted to HCFA through HCRIS by mid-June 1996.

We have created the process described above to resolve all substantive wage data correction disputes before we finalize the raw wage data for the fiscal year 1997 hospital wage index.

As noted above, we are proposing to base the fiscal year 1997 hospice wage index on hospital wage data reported on the fiscal year 1993 cost report prior to reclassification; that is, the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act. The method used to compute the hospital wage index is as follows:

Step 1—We gather data from each of the non-Federal short-term, acute care hospitals for which data were reported on the Worksheet S–3, Part II of the Medicare cost report for the hospital's cost reporting periods beginning on or after October 1, 1992, and before October 1, 1993.

Step 2—For each hospital, we subtract the excluded salaries (that is, direct salaries attributable to skilled nursing facility services, home health services, and other subprovider components not subject to the prospective payment system) from gross hospital salaries to determine net hospital salaries. To the net hospital salaries, we add hospital contract labor costs, hospital fringe benefits, and any home office salaries and fringe benefits reported by the hospital to determine total salaries plus fringe benefits.

Step 3—For each hospital, we inflate or deflate, as appropriate, the total salaries plus fringe benefits resulting from Step 2 to a common period to determine total adjusted salaries. A complete description of this step appeared in the September 1995 final Prospective Payment System regulation for fiscal year 1996 (60 FR 45792).

Step 4—For each hospital, we subtract the reported excluded hours from the gross hospital hours to determine net hospital hours. We increase the net hours by the addition of any reported contract labor hours and home office hours to determine total hours.

Step 5—As part of our editing process, we delete data for hospitals for which we lacked sufficient documentation to verify data that failed edits because the hospitals are no longer participating in the Medicare program or are in bankruptcy status. We retained the data for other hospitals that are no longer participating in the Medicare program because these hospitals contributed to the relative wage levels in their labor market areas during their fiscal year 1993 cost reporting period.

Step 6—Within each urban or rural labor market area, we add the total adjusted salaries plus fringe benefits obtained in Step 3 for all hospitals in that area to determine the total adjusted salaries plus fringe benefits for the labor market area.

Step 7—We divide the total adjusted salaries plus fringe benefits obtained in Step 6 by the sum of the total hours (from Step 4) for all hospitals in each labor market area to determine an average hourly wage for the area.

Step 8—We add the total adjusted salaries plus fringe benefits obtained in Step 3 for all hospitals in the nation and then divide the sum by the national sum of total hours from Step 4 to arrive at a national average hourly wage.

Step 9—For each urban or rural labor market area, we calculate the hospital wage index value by dividing the area average hourly wage obtained in Step 7

by the national average hourly wage computed in Step 8.

*B. Budget Neutrality Adjustment and Application of Wage Index Floor for the Proposed Hospice Index*

All hospice wage index values below 0.8 would receive the greater of the following:

- A 15 percent increase, subject to a maximum wage index value of 0.8; or
- An adjustment, by multiplying the hospice wage index value for a given area by the budget neutrality adjustment factor. In this way, wage areas with values below 0.8 would not receive both the wage index floor adjustment and the budget neutrality adjustment. All hospice wage index values of 0.8 or greater would receive a budget neutrality adjustment, which would be calculated by multiplying the hospice wage index value for a given area by the budget neutrality factor.

To determine a budget neutrality adjustment factor, we would establish the payments that would be made under the 1983 wage index. We would do this by calculating the labor-related payments for each of the four types of hospice services using patient bills for the most recent completed fiscal year (that is, fiscal year 1995 bills would be used to calculate the fiscal year 1997 index). That dollar amount would be the target for the budget neutrality calculation. Then payments would be calculated separately for the labor-related portion of the rates using the wage index proposed in this rule. The budget neutrality factor would be calculated as the multiplier by which labor-related payments using the proposed wage index must be adjusted to equal labor-related payments using the 1983 wage index. The calculation would be made taking into account the respective adjustments applicable to wage index values below, at, or above the 0.8 threshold described above. The payments would be for the total of labor-related payments for each of the four types of hospice services. The budget neutrality factor would then be applied to the wage index. To confirm the accuracy of the calculation, total payments would then be calculated by using the new budget neutrality adjusted wage index and would be compared to payments using the 1983 wage index.

The budget neutrality factor would be calculated and applied annually, both during and after the transition period.

*C. Transition and Annual Updates*

We are proposing a 3-year transition period with annual updates as noted in sections I.C.4 and I.C.5 and in the Committee Statement.

*D. Wage Index Value for the Virgin Islands*

At the time of negotiations, there were no certified hospices located in the Virgin Islands. However, since that time, a hospice program has been certified to provide services under Medicare. Since the Virgin Islands is not an area designated under the prospective payment system for hospitals, there is no hospital wage index value for the Virgin Islands. Therefore, though this was not an issue discussed by the Committee, we are proposing that the methodology to calculate a wage index value for the Virgin Islands would be to gather information from the hospital cost report and compare hourly wages of the hospital located in the Virgin Islands to the national average. This would generate a wage index value of 0.6594.

IV. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all hospices are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This impact analysis compares hospice payments under the current wage index (column 3 of the table) to the first transition year blend (column 4). The wage index blend for the first transition year of the 3 year transition is two-thirds of the current wage index added to one-third of the new wage index. The data used in developing the quantitative analysis for this proposed rule were obtained from the December 1995 update of the national claims history file of all bills submitted during fiscal year 1995. We deleted bills from hospices that have since closed.

The table demonstrates the results of our analysis. The table categorizes hospices by various geographic and provider characteristics. The top row of the table demonstrates the neutral overall payment impact on 1,755 hospices included in the analysis. The next two rows of the table categorize hospices according to their geographic location (urban and rural). There are 1,143 hospices located in urban areas included in our analysis and 612 hospices located in rural areas. The next two groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The next grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate: therefore, we based the size of each individual hospice's program on the number of routine home care days provided in 1995. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

In column 2 of the table we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Columns 3 and 4 show the payments that would have been made to hospices under the 1983 wage index and payments that would be made under the 1997 wage index. As the first row in column 4 indicates, the wage index is budget neutral. The final column shows the percent change in hospice payments based on the category of the hospice.

The results of our analysis show that the greatest increases are for urban hospices in the New England and Pacific regions, 4.4 percent and 1.7 percent respectively. The greatest decreases, besides Puerto Rico, are the urban East South Central and West South Central regions with 1.6 percent and 1.4 percent respectively. The most dramatic shift occurs in Puerto Rico, where urban payments decrease by 7.3 percent and rural payments decrease by 8.5 percent. Since the wage index values for the Puerto Rico region are more than 15 percent below 0.8, this region is most affected by the revision to the wage index floor.

Small hospice programs show small decreases while larger programs show slight increases. Proprietary hospices show slight decreases in payment due to the wage index change while voluntary programs gain slightly. Finally, freestanding hospices show small decreases while provider-based hospice programs show small increases.

IMPACT OF PROPOSED HOSPICE WAGE INDEX CHANGE

| | Number of hospices (1) | Number of routine home care days (thousands) (2) | Payments using old wage index (thousands) (3) | Payments using new wage index first transition year blend (thousands) (4) | Percent change in hospice payments (5) |
|---|---|---|---|---|---|
| All Hospices | 1,755 | 15,085 | $1,600,527 | $1,600,527 | −0.0 |
| Urban Hospices | 1,143 | 12,995 | 1,415,499 | 1,416,030 | 0.0 |
| Rural Hospices | 612 | 2,090 | 185,028 | 184,497 | −0.3 |
| Region (Urban): | | | | | |
| New England | 88 | 476 | 53,435 | 55,769 | 4.4 |
| Middle Atlantic | 155 | 1,453 | 164,613 | 165,971 | 0.8 |
| South Atlantic | 152 | 2,960 | 326,084 | 326,984 | 0.3 |
| East North Cent | 189 | 2,317 | 251,746 | 249,521 | −0.9 |
| East South Cent | 76 | 549 | 59,309 | 58,359 | −1.6 |
| West North Cent | 76 | 865 | 85,963 | 85,615 | −0.4 |
| West South Cent | 148 | 1,693 | 168,385 | 165,986 | −1.4 |
| Mountain | 68 | 702 | 84,373 | 83,439 | −1.1 |
| Pacific | 162 | 1,842 | 210,740 | 214,321 | 1.7 |
| Puerto Rico | 29 | 138 | 10,852 | 10,065 | −7.3 |
| Region (Rural): | | | | | |
| New England | 17 | 48 | 4,620 | 4,690 | 1.5 |
| Middle Atlantic | 33 | 138 | 13,438 | 13,310 | −1.0 |
| South Atlantic | 102 | 450 | 39,330 | 39,165 | −0.4 |
| East North Cent | 104 | 392 | 35,140 | 35,073 | −0.2 |
| East South Cent | 65 | 282 | 23,743 | 23,656 | −0.4 |
| West North Cent | 124 | 290 | 25,412 | 25,310 | −0.4 |
| West South Cent | 66 | 212 | 17,756 | 17,688 | −0.4 |
| Mountain | 57 | 137 | 12,343 | 12,273 | −0.6 |
| Pacific | 41 | 129 | 12,289 | 12,456 | 1.4 |
| Puerto Rico | 3 | 12 | 957 | 876 | −8.5 |
| Size (Routine home care days): | | | | | |
| 0–1,555 Days | 438 | 315 | 32,087 | 32,077 | −0.0 |
| 1,555–4,068 Days | 439 | 1,164 | 113,549 | 113,134 | −0.4 |
| 4,068–9,202 Days | 439 | 2,770 | 273,259 | 273,948 | 0.3 |
| 9,202 + Days | 439 | 10,836 | 1,181,632 | 1,181,367 | −0.0 |
| Unknown | 0 | 0 | 0 | 0 | 0.0 |
| Type of Ownership | | | | | |
| Voluntary | 821 | 7,889 | 832,891 | 834,314 | 0.2 |
| Proprietary | 756 | 6,706 | 720,070 | 718,637 | −0.2 |
| Government | 177 | 487 | 47,330 | 47,340 | 0.0 |
| Unknown | 1 | 3 | 236 | 236 | 0.2 |
| Hospice Base: | | | | | |
| Freestanding | 651 | 8,242 | 877,025 | 874,053 | −0.3 |
| Home Health Agency | 651 | 4,073 | 428,636 | 430,987 | 0.5 |
| Hospital | 437 | 2,596 | 272,480 | 273,149 | 0.2 |
| Unknown | 16 | 174 | 22,386 | 22,337 | −0.2 |

We have concluded that this regulation will have an impact on small hospices. However, the provisions of this regulation were determined by consensus through a negotiated rulemaking committee. Based on all of the options considered, the committee determined that the provisions proposed in this regulation were favorable for the hospice community as a whole, as well as for the beneficiaries that they serve.

We have also determined, and the Secretary certifies, that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals. For these reasons, we are not preparing analyses for the RFA or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

## V. Other Information

### *A. Response to Comments*

Because of the large number of items of correspondence we normally receive on Federal Register documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

### *B. Collection of Information Requirements*

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

## List of Subjects in 42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR part 418 would be amended as set forth below.

## PART 418—HOSPICE CARE

1. The authority citation for part 418 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 418.306, paragraph (c) is revised to read as follows:

**§ 418.306 Determination of payment amounts.**

* * * * *

(c) *Adjustment for wage differences.* HCFA will publish annually, in the Federal Register, a hospice wage index based on the most current available HCFA hospital data, including any changes to the definitions of Metropolitan Statistical Areas. The payment rates established by HCFA are adjusted by the intermediary to reflect local differences in wages according to the revised wage index.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 16, 1996.

Bruce C. Vladeck,

*Administrator, Health Care Financing Administration.*

Dated: June 27, 1996.

Donna E. Shalala,

*Secretary.*

Appendix—United States Department of Health and Human Services Negotiating Committee on the Medicare Hospice Wage Index

*Committee Statement*

April 13, 1995

The Negotiating Committee on Medicare Hospice Wage Index has concurred in the following recommendations, considered as a whole, concerning the wage index used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages:

A. Data to be Used

The wage index for hospices will be based on the wage index used by the Health Care Financing Administration (HCFA) for hospitals under the Medicare Prospective Payment System, prior to reclassification. This means that the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Social Security Act.

The hospital wage index prior to reclassification will be referred to in this statement as the Raw Index and will be adjusted as provided below to calculate what will be referred to as the Revised Wage Index.

Special provisions governing a transition period are described in paragraph D below.

B. Budget Neutrality

HCFA will determine a Budget Neutrality Factor that will be applied to achieve budget neutrality during and after the transition period. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the Revised Wage Index will equal estimated payments that would have been made for the same services if the wage index adopted for hospices in 1983 (1983 Index) had remained in effect. HCFA will estimate aggregate payments for Medicare hospice services using the best available utilization data.

C. Adjustments

Each Raw Index value will be adjusted in one of two ways to determine the Revised Wage Index value applicable to each area.

(1) If the Raw Index value for any area is 0.8 or greater, the Revised Wage Index will be calculated by multiplying the Raw Index value for that area by the Budget Neutrality Factor.

(2) If the Raw Index value for any area is less than 0.8, the Revised Wage Index will be the greater of either:

(a) The Raw Index value for that area multiplied by the Budget Neutrality Factor; or

(b) The Raw Index value for that area multiplied by 1.15 (in effect, a 15-percent increase), but subject to a maximum index value of 0.8.

D. Transition Period

The Revised Wage Index will be implemented over a 3-year transition period beginning on or about October 1, 1996. For the first year of the transition period, a blended index will be calculated by adding two-thirds of each 1983 Index value for an area to one-third of the Revised Wage Index value for that area. During the second year of the transition period, the calculation will be similar, except that the blend will be one-third of the 1983 Index values and two-thirds of the Revised Wage Index values. During the third year the Revised Wage Index will be fully implemented.

Throughout the transition period, new hospices will be treated the same as existing hospices based in the same county.

E. Annual Updates

The Revised Wage Index will be updated annually, so that it is based on the most current available data used by HCFA to construct the hospital wage index, as well as on changes by the Office of Management and Budget to Metropolitan Statistical Areas as adopted by HCFA in calculating the hospital wage index.

HCFA will use the most current hospital cost report data available that allows HCFA to publish a proposed rule containing wage index values at least 4 months in advance of the effective date of each annual update to the Revised Wage Index.

F. Effective Date

The effective date of a final rule revising the wage index as stated above should be October 1, 1996.

G. Statement to Accompany Proposed and Final Hospice Wage Index Notice

The proposed rule is based upon a Committee Statement developed by a Negotiating Committee on the Medicare hospice wage index which was convened under the Negotiated Rulemaking Act. A new hospice wage index is needed because the existing hospice wage index is based on a 1983 wage index using 1981 Bureau of Labor Statistics (BLS) data which is inaccurate and outdated.

The Committee reached consensus; however, this means only that all Committee members could ''live with'' the agreement, considered as a whole, even if elements of that agreement were not the preferred choice of individual Committee members. The Committee Statement reflects those issues upon which the Committee ultimately concurred, but does not address many issues that were considered by the Committee.

The Committee considered the appropriate data to be used to construct a wage index, the appropriateness of retaining a 0.8 floor, budget neutrality, and how to structure a transition to timely update the index yet ensure access to hospice care. In particular, the Committee considered the problems faced by hospices that would receive significant decreases under the new wage indices, rural hospices, hospices with low wage indices, and hospices that may have disproportionately high non-wage costs.

The Committee received extensive information from experts who appeared before the Committee and from the hospice community, and sought public input. While considerable data were reviewed, the Committee acknowledges

that hospice data collection is maturing and encourages its continued development. In addition, while other issues were identified, the scope of the Committee's negotiations was limited by the Notice of Intent to Negotiate.

Given these constraints, and taking into account the differing and conflicting interests that would be significantly affected, the Committee sought to develop a wage index that would be as accurate, reliable, and equitable as possible, but would not threaten access to hospice care.

The Committee recognizes that hospice care is still not universally available. The Committee further recognizes that there may be geographic or other circumstances that inhibit the provision of hospice care. The Committee strongly requests that HCFA consider options to address these access problems.

Reaching consensus was a long and deliberative process. The Committee concurred that the wage index it recommends will be better both for the hospice community as a whole, and for the Medicare beneficiaries it serves, than a wage index developed by the traditional rulemaking process.

TABLE A.—WAGE INDEX FOR URBAN AREAS

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Abilene, TX: Taylor, TX | 0.9105 |
| Aguadilla, PR: | |
| Aguada, PR | 0.7032 |
| Aguadilla, PR | 0.7032 |
| Moca, PR | 0.7032 |
| Akron, OH: | |
| Portage, OH | 1.0664 |
| Summit, OH | 1.0664 |
| Albany, GA: | |
| Dougherty, GA | 0.8903 |
| Lee, GA | 0.8903 |
| Albany-Schenectady-Troy, NY: | |
| Albany, NY | 0.8969 |
| Montgomery, NY | 0.8969 |
| Rensselaer, NY | 0.8969 |
| Saratoga, NY | 0.8969 |
| Schenectady, NY | 0.8969 |
| Schoharie, NY | 0.8826 |
| Albequerque, NM: | |
| Bernalillo, NM | 1.0392 |
| Sandoval, NM | 0.9517 |
| Valencia, NM | 0.9517 |
| Alexandria, LA: Rapides, LA | 0.9393 |
| Allentown-Bethlehem-Easton, PA: | |
| Carbon, PA | 1.0564 |
| Lehigh, PA | 1.0564 |
| Northampton, PA | 1.0564 |
| Altoona, PA: Blair, PA | 1.0217 |
| Amarillo, TX: | |
| Potter, TX | 0.9509 |
| Randall, TX | 0.9509 |
| Anchorage, AK: Anchorage, AK | 1.4483 |
| Ann Arbor, MI: | |
| Lenawee, MI | 1.0424 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Livingston, MI | 1.2137 |
| Washtenaw, MI | 1.2204 |
| Anniston, AL: Calhoun, AL | 0.8539 |
| Appleton-Oshkosh-Neenah, WI: | |
| Calumet, WI | 0.9635 |
| Outagamie, WI | 0.9635 |
| Winnebago, WI | 0.9635 |
| Arecibo, PR: | |
| Arecibo, PR | 0.7109 |
| Camuy, PR | 0.7109 |
| Hatillo, PR | 0.7109 |
| Asheville, NC: | |
| Buncombe, NC | 0.9653 |
| Madison, NC | 0.8969 |
| Athens, GA: | |
| Clarke, GA | 0.9150 |
| Madison, GA | 0.9150 |
| Oconee, GA | 0.9150 |
| Atlanta, GA: | |
| Barrow, GA | 0.9841 |
| Bartow, GA | 0.9218 |
| Carroll, GA | 0.9218 |
| Cherokee, GA | 0.9841 |
| Clayton, GA | 0.9841 |
| Cobb, GA | 0.9841 |
| Coweta, GA | 0.9841 |
| De Kalb, GA | 0.9841 |
| Douglas, GA | 0.9841 |
| Fayette, GA | 0.9841 |
| Forsyth, GA | 0.9841 |
| Fulton, GA | 0.9841 |
| Gwinnett, GA | 0.9841 |
| Henry, GA | 0.9841 |
| Newton, GA | 0.9841 |
| Paulding, GA | 0.9841 |
| Pickens, GA | 0.9218 |
| Rockdale, GA | 0.9841 |
| Spalding, GA | 0.9841 |
| Walton, GA | 0.9841 |
| Atlantic City-Cape May, NJ: | |
| Atlantic City, NJ | 1.1024 |
| Cape May, NJ | 1.1024 |
| Augusta-Aiken, GA–SC: | |
| Columbia, GA | 0.9553 |
| McDuffie, GA | 0.9553 |
| Richmond, GA | 0.9553 |
| Aiken, SC | 0.9553 |
| Edgefield, SC | 0.8514 |
| Austin-San Marcos, TX: | |
| Bastrop, TX | 0.8675 |
| Caldwell, TX | 0.8675 |
| Hays, TX | 1.0354 |
| Travis, TX | 1.0354 |
| Williamson, TX | 1.0354 |
| Bakersfield, CA: Kern, CA | 1.1821 |
| Baltimore, MD: | |
| Anne Arundel, MD | 1.0731 |
| Baltimore, MD | 1.0731 |
| Baltimore City, MD | 1.0731 |
| Carroll, MD | 1.0731 |
| Harford, MD | 1.0731 |
| Howard, MD | 1.0731 |
| Queen Annes, MD | 1.0731 |
| Bangor, ME: Penobscot, ME | 0.9511 |
| Barnstable-Yarmouth, MA: – | |
| Barnstable, MA | 1.1262 |
| Baton Rouge, LA: | |
| Ascension, LA | 0.9795 |
| East Baton Rouge, LA | 0.9795 |
| Livingston, LA | 0.9795 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| West Baton Rouge, LA | 0.9795 |
| Beaumont-Port Arthur, TX: | |
| Hardin, TX | 0.9637 |
| Jefferson, TX | 0.9637 |
| Orange, TX | 0.9637 |
| Bellingham, WA: Whatcom, WA | 1.1034 |
| Benton Harbor, MI: Berrien, MI | 0.8838 |
| Bergen-Passaic, NJ: | |
| Bergen, NJ | 1.0989 |
| Passaic, NJ | 1.0989 |
| Billings, MT: Yellowstone, MT | 0.9594 |
| Biloxi-Gulfport-Pascagoula, MS: | |
| Hancock, MS | 0.8844 |
| Harrison, MS | 0.8844 |
| Jackson, MS | 0.9816 |
| Binghamton, NY: | |
| Broome, NY | 0.9490 |
| Tioga, NY | 0.9490 |
| Birmingham, AL: | |
| Blount, AL | 0.9915 |
| Jefferson, AL | 0.9915 |
| St. Clair, AL | 0.9915 |
| Shelby, AL | 0.9915 |
| Bismarck, ND: | |
| Burleigh, ND | 0.9400 |
| Morton, ND | 0.9400 |
| Bloomington, IN: Monroe, IN | 0.9154 |
| Bloomington-Normal, IL: McLean, IL | 0.9934 |
| Boise City, ID: | |
| Ada, ID | 1.0470 |
| Canyon, ID | 0.9277 |
| Boston-Brockton-Nashua, MA–NH: | |
| Bristol, MA | 1.0535 |
| Essex, MA | 1.1410 |
| Middlesex, MA | 1.1410 |
| Norfolk, MA | 1.1410 |
| Plymouth, MA | 1.1410 |
| Suffolk, MA | 1.1410 |
| Worcester, MA | 1.0607 |
| Hillsborough, NH | 1.0320 |
| Merrimack, NH | 1.0320 |
| Rockingham, NH | 0.9713 |
| Strafford, NH | 0.9713 |
| Boulder-Longmont, CO: Boulder, CO | 0.9985 |
| Brazoria, TX: Brazoria, TX | 0.8860 |
| Bremerton, WA: Kitsap, WA | 0.9834 |
| Brownsville-Harlingen-San Benito, TX: Cameron, TX | 0.9185 |
| Bryan-College Station, TX: Brazos, TX | 0.9157 |
| Buffalo-Niagara Falls, NY: | |
| Erie, NY | 0.9764 |
| Niagara, NY | 0.9052 |
| Burlington, VT: | |
| Chittenden, VT | 0.9674 |
| Franklin, VT | 0.9075 |
| Grand Isle, VT | 0.9674 |
| Caguas, PR: | |
| Caguas, PR | 0.7111 |
| Cayey, PR | 0.7111 |
| Cidra, PR | 0.7111 |
| Gurabo, PR | 0.7111 |
| San Lorenzo, PR | 0.7111 |
| Canton-Massillon, OH: | |
| Carroll, OH | 0.9615 |
| Stark, OH | 0.9615 |
| Casper, WY: Natrona, WY | 0.9986 |
| Cedar Rapids, IA: Linn, IA | 0.9266 |
| Champaign-Urbana, IL: Champaign, IL | 1.0174 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Charleston-North Charleston, SC: | |
| Berkeley, SC | 1.0040 |
| Charleston, SC | 1.0040 |
| Dorchester, SC | 1.0040 |
| Charleston, WV: | |
| Kanawha, WV | 1.0756 |
| Putnam, WV | 1.0756 |
| Charlotte-Gastonia-Rock Hill, NC–SC: | |
| Cabarrus, NC | 0.9929 |
| Gaston, NC | 0.9929 |
| Lincoln, NC | 0.9929 |
| Mecklenburg, NC | 0.9929 |
| Rowan, NC | 0.9929 |
| Union, NC | 0.9929 |
| York, SC | 0.9929 |
| Charlottesville, VA: | |
| Albemarle, VA | 1.1917 |
| Charlottesville City, VA | 1.1917 |
| Fluvanna, VA | 1.1917 |
| Greene, VA | 1.1917 |
| Chattanooga, TN–GA: | |
| Catoosa, GA | 0.9598 |
| Dade, GA | 0.9598 |
| Walker, GA | 0.9598 |
| Hamilton, TN | 0.9598 |
| Marion, TN | 0.9598 |
| Cheyenne, WY: Laramie, WY | 0.9043 |
| Chicago, IL: | |
| Cook, IL | 1.1959 |
| De Kalb, IL | 0.9568 |
| Du Page, IL | 1.1959 |
| Grundy, IL | 1.1072 |
| Kane, IL | 1.0436 |
| Kendall, IL | 1.0436 |
| Lake, IL | 1.1203 |
| McHenry, IL | 1.1959 |
| Will, IL | 1.1072 |
| Chico-Paradise, CA: Butte, CA | 1.0737 |
| Cincinnati, OH–KY–IN: | |
| Dearborn, IN | 1.0409 |
| Ohio, IN | 0.9088 |
| Boone, KY | 1.0409 |
| Campbell, KY | 1.0409 |
| Gallatin, KY | 0.8773 |
| Grant, KY | 0.8773 |
| Kenton, KY | 1.0409 |
| Pendleton, KY | 0.8773 |
| Brown, OH | 0.9447 |
| Clermont, OH | 1.0409 |
| Hamilton, OH | 1.0409 |
| Warren, OH | 1.0409 |
| Clarksville-Hopkinsville, TN–KY: | |
| Christian, KY | 0.8228 |
| Montgomery, TN | 0.8228 |
| Cleveland-Lorain-Elyria, OH: | |
| Ashtabula, OH | 0.9594 |
| Cuyahoga, OH | 1.1556 |
| Geauga, OH | 1.1556 |
| Lake, OH | 1.1556 |
| Lorain, OH | 1.0549 |
| Medina, OH | 1.1556 |
| Colorado Springs, CO: El Paso, CO | 1.0749 |
| Columbia, MO: Boone, MO | 1.0763 |
| Columbia, SC: | |
| Lexington, SC | 0.9657 |
| Richland, SC | 0.9657 |
| Columbus, GA–AL: | |
| Russell, AL | 0.8799 |
| Chattanoochee, GA | 0.8799 |
| Harris, GA | 0.8335 |
| Muscogee, GA | 0.8799 |
| Columbus, OH: | |
| Delaware, OH | 1.0392 |
| Fairfield, OH | 1.0392 |
| Franklin, OH | 1.0392 |
| Licking, OH | 1.0392 |
| Madison, OH | 1.0392 |
| Pickaway, OH | 1.0392 |
| Corpus Christi, TX: | |
| Nueces, TX | 0.9505 |
| San Patricio, TX | 0.9505 |
| Cumberland, MD–WV: | |
| Allegany, MD | 0.9368 |
| Mineral, WV | 0.9368 |
| Dallas, TX: | |
| Collin, TX | 1.0574 |
| Dallas, TX | 1.0574 |
| Denton, TX | 1.0574 |
| Ellis, TX | 1.0574 |
| Henderson, TX | 0.8770 |
| Hunt, TX | 0.8770 |
| Kaufman, TX | 1.0574 |
| Rockwall, TX | 1.0574 |
| Danville, VA: | |
| Danville City, VA | 0.8818 |
| Pittsylvania, VA | 0.8818 |
| Davenport-Rock Island-Moline, IA–IL: | |
| Scott, IA | 0.9543 |
| Henry, IL | 0.9543 |
| Rock Island, IL | 0.9543 |
| Dayton-Springfield, OH: | |
| Clark, OH | 1.0825 |
| Greene, OH | 1.0825 |
| Miami, OH | 1.0825 |
| Montgomery, OH | 1.0825 |
| Daytona Beach, FL: | |
| Flagler, FL | 0.8959 |
| Volusia, FL | 0.9621 |
| Decatur, AL: | |
| Lawrence, AL | 0.8303 |
| Morgan, AL | 0.8303 |
| Decatur, IL: Macon, IL | 0.9366 |
| Denver, CO: | |
| Adams, CO | 1.1763 |
| Arapahoe, CO | 1.1763 |
| Denver, CO | 1.1763 |
| Douglas, CO | 1.1763 |
| Jefferson, CO | 1.1763 |
| Des Moines, IA: | |
| Dallas, IA | 1.0272 |
| Polk, IA | 1.0272 |
| Warren, IA | 1.0272 |
| Detroit, MI: | |
| Lapeer, MI | 1.1817 |
| Macomb, MI | 1.1817 |
| Monroe, MI | 1.1817 |
| Oakland, MI | 1.1817 |
| St. Clair, MI | 1.1817 |
| Wayne, MI | 1.1817 |
| Dothan, AL: | |
| Dale, AL | 0.8565 |
| Houston, AL | 0.8565 |
| Dover, DE: Kent, DE | 0.9202 |
| Dubuque, IA: Dubuque, IA | 0.9768 |
| Duluth-Superior, MN–WI: | |
| St. Louis, MN | 0.9440 |
| Douglas, WI | 0.9440 |
| Dutchess County, NY: Dutchess, NY | 1.1038 |
| Eau Claire, WI: | |
| Chippewa, WI | 0.9562 |
| Eau Claire, WI | 0.9562 |
| El Paso, TX: El Paso, TX | 0.9346 |
| Elkhart-Goshen, IN: Elkhart, IN | 0.9062 |
| Elmira, NY: Chemung, NY | 0.9850 |
| Enid, OK: Garfield, OK | 0.8817 |
| Erie, PA: Erie, PA | 0.9864 |
| Eugene-Springfield, OR: Lane, OR | 1.0568 |
| Evansville-Henderson, IN–KY: | |
| Posey, IN | 0.9927 |
| Vanderburgh, IN | 0.9927 |
| Warrick, IN | 0.9927 |
| Henderson, KY | 0.9927 |
| Fargo-Moorhead, ND–MN: | |
| Clay, MN | 0.9905 |
| Cass, ND | 0.9905 |
| Fayetteville, NC: Cumberland, NC | 0.9416 |
| Fayetteville-Springdale-Rogers, AR: | |
| Benton, AR | 0.8000 |
| Washington, AR | 0.8205 |
| Flagstaff, AZ–UT: | |
| Coconino, AZ | 0.9165 |
| Kane, UT | 0.8697 |
| Flint, MI: Genesee, MI | 1.1676 |
| Florence, AL: | |
| Colbert, AL | 0.8222 |
| Lauderdale, AL | 0.8222 |
| Florence, SC: Florence, SC | 0.8424 |
| Fort Collins-Loveland, CO: Larimer, CO | 0.9929 |
| Ft. Lauderdale, FL: Broward, FL | 1.1146 |
| Fort Myers-Cape Coral, FL: Lee, FL | 0.9383 |
| Fort Pierce-Port St. Lucie, FL: | |
| Martin, FL | 1.0234 |
| St. Lucie, FL | 1.0234 |
| Fort Smith, AR–OK: | |
| Crawford, AR | 0.9286 |
| Sebastian, AR | 0.9286 |
| Sequoyah, OK | 0.9286 |
| Fort Walton Beach, FL: Okaloosa, FL | 0.8569 |
| Fort Wayne, IN: | |
| Adams, IN | 0.8864 |
| Allen, IN | 0.9428 |
| De Kalb, IN | 0.9428 |
| Huntington, IN | 0.8864 |
| Wells, IN | 0.8864 |
| Whitley, IN | 0.9428 |
| Fort Worth-Arlington, TX: | |
| Hood, TX | 0.8962 |
| Johnson, TX | 0.9750 |
| Parker, TX | 0.9750 |
| Tarrant, TX | 0.9750 |
| Frenso, CA: | |
| Fresno, CA | 1.1944 |
| Madera, CA | 1.0689 |
| Gadsden, AL: Etowah, AL | 0.9312 |
| Gainesville, FL: Alachua, FL | 0.9824 |
| Galveston-Texas City, TX: Galveston, TX | 1.1795 |
| Gary, IN: | |
| Lake, IN | 1.0917 |
| Porter, IN | 1.0917 |
| Glens Falls, NY: | |
| Warren, NY | 0.8909 |
| Washington, NY | 0.8909 |
| Goldsboro, NC: Wayne, NC | 0.8648 |
| Grand Forks, ND–MN: | |
| Polk, MN | 0.8918 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Grand Forks, ND | 0.9716 |
| Grand Junction, CO: Mesa, CO | 0.8504 |
| Grand Rapids-Muskegon-Holland, MI: | |
| Allegan, MI | 0.9880 |
| Kent, MI | 1.0236 |
| Muskegon, MI | 0.9778 |
| Ottawa, MI | 1.0236 |
| Great Falls, MT: Cascade, MT | 0.9974 |
| Greeley, CO: Weld, CO | 1.0673 |
| Green Bay, WI: Brown, WI | 0.9869 |
| Greensboro-Winston-Salem-High Point, NC: | |
| Alamance, NC | 0.8944 |
| Davidson, NC | 0.9691 |
| Davie, NC | 0.9691 |
| Forsyth, NC | 0.9691 |
| Guilford, NC | 0.9691 |
| Randolph, NC | 0.9691 |
| Stokes, NC | 0.9691 |
| Yadkin, NC | 0.9691 |
| Greenville, NC: Pitt, NC | 0.8881 |
| Greenville-Spartanburg-Anderson, SC: | |
| Anderson, SC | 0.8995 |
| Cherokee, SC | 0.8547 |
| Greenville, SC | 0.9491 |
| Pickens, SC | 0.9491 |
| Spartanburg, SC | 0.9491 |
| Hagerstown, MD: Washington, MD | 0.9995 |
| Hamilton-Middletown, OH: Butler, OH | 1.0338 |
| Harrisburg-Lebanon-Carlisle, PA: | |
| Cumberland, PA | 1.0511 |
| Dauphin, PA | 1.0511 |
| Lebanon, PA | 1.0511 |
| Perry, PA | 1.0511 |
| Hartford, CT: | |
| Hartford, CT | 1.1493 |
| Litchfield, CT | 1.1493 |
| Middlesex, CT | 1.1493 |
| Tolland, CT | 1.1493 |
| Hattiesburg, MS: | |
| Forrest, MS | 0.8013 |
| Lamar, MS | 0.8013 |
| Hickory-Morganton-Lenoir, NC: | |
| Alexander, NC | 0.9408 |
| Burke, NC | 0.9408 |
| Caldwell, NC | 0.8728 |
| Catawba, NC | 0.9408 |
| Honolulu, HI: Honolulu, HI | 1.1714 |
| Houma, LA: | |
| Lafourche, LA | 0.9328 |
| Terrebonne, LA | 0.9328 |
| Houston, TX: | |
| Chambers, TX | 0.8858 |
| Fort Bend, TX | 1.0897 |
| Harris, TX | 1.0897 |
| Liberty, TX | 1.0897 |
| Montgomery, TX | 1.0897 |
| Waller, TX | 1.0897 |
| Huntington-Ashland, WV–KY–OH: | |
| Boyd, KY | 0.9803 |
| Carter, KY | 0.9803 |
| Greenup, KY | 0.9803 |
| Lawrence, OH | 0.9803 |
| Cabell, WV | 0.9803 |
| Wayne, WV | 0.9803 |
| Huntsville, AL: | |
| Limestone, AL | 0.8215 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Madison, AL | 0.8889 |
| Indianapolis, IN: | |
| Boone, IN | 1.0568 |
| Hamilton, IN | 1.0568 |
| Hancock, IN | 1.0568 |
| Hendricks, IN | 1.0568 |
| Johnson, IN | 1.0568 |
| Madison, IN | 0.9979 |
| Marion, IN | 1.0568 |
| Morgan, IN | 1.0568 |
| Shelby, IN | 1.0568 |
| Iowa City, IA: Johnson, IA | 1.0965 |
| Jackson, MI: Jackson, MI | 1.0080 |
| Jackson, MS: | |
| Hinds, MS | 0.8872 |
| Madison, MS | 0.8872 |
| Rankin, MS | 0.8872 |
| Jackson, TN: Madison, TN | 0.8281 |
| Jacksonville, FL: | |
| Clay, FL | 0.9814 |
| Duval, FL | 0.9814 |
| Nassau, FL | 0.9814 |
| St. Johns, FL | 0.9814 |
| Jacksonville, NC: Onslow, NC | 0.8565 |
| Jamestown, NY: Chautaqua, NY | 0.8477 |
| Janesville-Beloit, WI: Rock, WI | 0.9009 |
| Jersey City, NJ: Hudson, NJ | 1.1307 |
| Johnson City-Kingsport-Bristol, TN–VA: | |
| Carter, TN | 0.9317 |
| Hawkins, TN | 0.9317 |
| Sullivan, TN | 0.9317 |
| Unicoi, TN | 0.9317 |
| Washington, TN | 0.9317 |
| Bristol City, VA | 0.9317 |
| Scott, VA | 0.9317 |
| Washington, VA | 0.9317 |
| Johnstown, PA: | |
| Cambria, PA | 0.9862 |
| Somerset, PA | 0.9862 |
| Joplin, MO: | |
| Jasper, MO | 0.9053 |
| Newton, MO | 0.9053 |
| Kalamazoo-Battlecreek, MI: | |
| Calhoun, MI | 1.0808 |
| Kalamazoo, MI | 1.1943 |
| Van Buren, MI | 1.0042 |
| Kankakee, IL: Kankakee, IL | 0.9283 |
| Kansas City, KS–MO: | |
| Johnson, KS | 0.9897 |
| Leavenworth, KS | 0.9897 |
| Miami, KS | 0.9897 |
| Wyandotte, KS | 0.9897 |
| Cass, MO | 0.9983 |
| Clay, MO | 0.9983 |
| Clinton, MO | 0.8886 |
| Jackson, MO | 0.9983 |
| Lafayette, MO | 0.9983 |
| Platte, MO | 0.9983 |
| Ray, MO | 0.9983 |
| Kenosha, WI: Kenosha, WI | 1.0545 |
| Killeen-Temple, TX: | |
| Bell, TX | 0.9941 |
| Coryell, TX | 0.9941 |
| Knoxville, TN: | |
| Anderson, TN | 0.9150 |
| Blount, TN | 0.9150 |
| Knox, TN | 0.9150 |
| Loudon, TN | 0.8343 |
| Sevier, TN | 0.9150 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Union, TN | 0.9150 |
| Kokomo, IN: | |
| Howard, IN | 0.9468 |
| Tipton, IN | 0.9468 |
| La Crosse, WI–MN: | |
| Houston, MN | 0.8783 |
| La Crosse, WI | 0.9337 |
| Lafayette, LA: | |
| Acadia, LA | 0.8469 |
| Lafayette, LA | 0.9698 |
| St. Landry, LA | 0.8469 |
| St. Martin, LA | 0.9698 |
| Lafayette, IN: | |
| Clinton, IN | 0.8857 |
| Tippecanoe, IN | 0.9194 |
| Lake Charles, LA: Calcasieu, LA | 0.9505 |
| Lakeland-Winter Haven, FL: Polk, FL | 0.9304 |
| Lancaster, PA: Lancaster, PA | 1.0326 |
| Lansing-East Lansing, MI: | |
| Clinton, MI | 1.0562 |
| Eaton, MI | 1.0562 |
| Ingham, MI | 1.0562 |
| Laredo, TX: Webb, TX | 0.8374 |
| Las Cruces, NM: Dona Ana, NM | 0.8651 |
| Las Vegas, NV–AZ: | |
| Mohave, AZ | 0.9796 |
| Clark, NV | 1.2001 |
| Nye, NV | 1.0632 |
| Lawrence, KS: Douglas, KS | 0.9598 |
| Lawton, OK: Comanche, OK | 0.9149 |
| Lewiston-Auburn, ME: – Androscoggin, ME | 0.9453 |
| Lexington, KY: | |
| Bourbon, KY | 0.9366 |
| Clark, KY | 0.9366 |
| Fayette, KY | 0.9366 |
| Jessamine, KY | 0.9366 |
| Madison, KY | 0.8400 |
| Scott, KY | 0.9366 |
| Woodford, KY | 0.9366 |
| Lima, OH: | |
| Allen, OH | 0.9774 |
| Auglaize, OH | 0.9774 |
| Lincoln, NE: Lancaster, NE | 0.9027 |
| Little Rock-North Little Rock, AR: | |
| Faulkner, AR | 0.9861 |
| Lonoke, AR | 0.9861 |
| Pulaski, AR | 0.9861 |
| Saline, AR | 0.9861 |
| Longview-Marshall, TX: | |
| Gregg, TX | 0.8763 |
| Harrison, TX | 0.8763 |
| Upshur, TX | 0.8465 |
| Los Angeles-Long Beach, CA: Los Angeles, CA | 1.3075 |
| Louisville, KY–IN: | |
| Clark, IN | 1.0599 |
| Floyd, IN | 1.0599 |
| Harrison, IN | 1.0599 |
| Scott, IN | 0.9077 |
| Bullitt, KY | 1.0599 |
| Jefferson, KY | 1.0599 |
| Oldham, KY | 1.0599 |
| Lubbock, TX: Lubbock, TX | 0.9764 |
| Lynchburg, VA: | |
| Amherst, VA | 0.9022 |
| Bedford City, VA | 0.8531 |
| Bedford, VA | 0.8531 |
| Campbell, VA | 0.9022 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Lynchburg City, VA | 0.9022 |
| Macon, GA: | |
| Bibb, GA | 0.9709 |
| Houston, GA | 0.9709 |
| Jones, GA | 0.9709 |
| Peach, GA | 0.9709 |
| Twiggs, GA | 0.8792 |
| Madison, WI : Dane, WI | 1.0400 |
| Mansfield, OH: | |
| Crawford, OH | 0.9129 |
| Richland, OH | 0.9151 |
| Mayaguez, PR: | |
| Anasco, PR | 0.6938 |
| Cabo Rojo, PR | 0.6938 |
| Hormigueros, PR | 0.6938 |
| Mayaguez, PR | 0.6938 |
| Sabana Grande, PR | 0.6938 |
| San German, PR | 0.6938 |
| McAllen-Edinburg-Mission, TX: Hidalgo, TX | 0.8594 |
| Medford-Ashland, OR: Jackson, OR | 1.0138 |
| Melbourne-Titusville-Palm Bay, FL: Brevard, Fl | 0.9443 |
| Memphis, TN–AR–MS: | |
| Crittenden, AR | 1.0110 |
| De Soto, MS | 1.0110 |
| Fayette, TN | 0.8229 |
| Shelby, TN | 1.0110 |
| Tipton, TN | 1.0110 |
| Merced, CA: Merced, CA | 1.0513 |
| Miami, FL: Dade, FL | 1.1198 |
| Middlesex-Somerset-Hunterdon, NJ: | |
| Hunterdon, NJ | 1.0911 |
| Middlesex, NJ | 1.0911 |
| Somerset, NJ | 1.0911 |
| Milwaukee-Waukesha, WI: | |
| Milwaukee, WI | 1.0449 |
| Ozaukee, WI | 1.0449 |
| Washington, WI | 1.0449 |
| Waukesha, WI | 1.0449 |
| Minneapolis-St Paul, MN–WI: | |
| Anoka, MN | 1.0659 |
| Carver, MN | 1.0659 |
| Chisago, MN | 1.0659 |
| Dakota, MN | 1.0659 |
| Hennepin, MN | 1.0659 |
| Isanti, MN | 1.0659 |
| Ramsey, MN | 1.0659 |
| Scott, MN | 1.0659 |
| Sherburne, MN | 0.9662 |
| Washington, MN | 1.0659 |
| Wright, MN | 1.0659 |
| Pierce, WI | 0.9319 |
| St. Croix, WI | 1.0659 |
| Mobile, AL: | |
| Baldwin, AL | 0.9070 |
| Mobile, AL | 0.9070 |
| Modesto, CA: Stanislaus, CA | 1.0960 |
| Monmouth-Ocean, NJ: | |
| Monmouth, NJ | 1.0400 |
| Ocean, NJ | 1.0400 |
| Monroe, LA: Ouachita, LA | 0.9300 |
| Montgomery, AL: | |
| Autauga, AL | 0.9323 |
| Elmore, AL | 0.9323 |
| Montgomery, AL | 0.9323 |
| Muncie, IN: Delaware, IN | 0.9970 |
| Myrtle Beach, SC: Horry, SC | 0.8058 |
| Naples, FL: Collier, FL | 0.9412 |
| Nashville, TN: | |
| Cheatham, TN | 1.1445 |
| Davidson, TN | 1.1445 |
| Dickson, TN | 1.1445 |
| Robertson, TN | 1.1445 |
| Rutherford TN | 1.1445 |
| Sumner, TN | 1.1445 |
| Williamson, TN | 1.1445 |
| Wilson, TN | 1.1445 |
| Nassau-Suffolk, NY: | |
| Nassau, NY | 1.2838 |
| Suffolk, NY | 1.2838 |
| New Haven-Bridgeport-Stamford-Danbury-Waterbury, CT: | |
| Fairfield, CT | 1.2207 |
| New Haven, CT | 1.1591 |
| New London-Norwich, CT: New London, CT | 1.1440 |
| New Orleans, LA: | |
| Jefferson, LA | 1.0126 |
| Orleans, LA | 1.0126 |
| Plaquemines, LA | 0.8896 |
| St. Bernard, LA | 1.0126 |
| St. Charles, LA | 1.0126 |
| St. James, LA | 0.8896 |
| St. John The Baptist, LA | 1.0126 |
| St. Tammany, LA | 1.0126 |
| New York, NY: | |
| Bronx, NY | 1.4070 |
| Kings, NY | 1.4070 |
| New York, NY | 1.4070 |
| Putnam, NY | 1.4070 |
| Queens, NY | 1.4070 |
| Richmond, NY | 1.4070 |
| Rockland, NY | 1.4070 |
| Westchester, NY | 1.4070 |
| Newark, NJ: | |
| Essex, NJ | 1.1686 |
| Morris, NJ | 1.1686 |
| Sussex, NJ | 1.1686 |
| Union, NJ | 1.1686 |
| Warren, NJ | 1.1162 |
| Newburgh, NY–PA: | |
| Orange, NY | 1.0531 |
| Pike, PA | 1.0713 |
| Norfolk-Virginia Beach-Newport News, VA–NC: | |
| Currituck, NC | 0.8619 |
| Chesapeake City, VA | 0.9490 |
| Gloucester, VA | 0.9490 |
| Hampton City, VA | 0.9490 |
| Isle of Wight, VA | 0.8630 |
| James City, VA | 0.9490 |
| Mathews, VA | 0.8630 |
| Newport News City, VA | 0.9490 |
| Norfolk City, VA | 0.9490 |
| Poquoson City, VA | 0.9490 |
| Portsmouth City, VA | 0.9490 |
| Suffolk City, VA | 0.9490 |
| Virginia Beach City VA | 0.9490 |
| Williamsburg City, VA | 0.9490 |
| York, VA | 0.9490 |
| Oakland, CA: | |
| Alameda, CA | 1.3699 |
| Contra Costa, CA | 1.3699 |
| Ocala, FL: Marion, FL | 0.9934 |
| Odessa-Midland, TX: | |
| Ector, TX | 0.9545 |
| Midland, TX | 1.0230 |
| Oklahoma City, OK: | |
| Canadian, OK | 1.0074 |
| Cleveland, OK | 1.0074 |
| Logan, OK | 1.0074 |
| McClain, OK | 1.0074 |
| Oklahoma, OK | 1.0074 |
| Pottawatomie, OK | 1.0074 |
| Olympia, WA: Thurston, WA | 1.0840 |
| Omaha, NE–IA: | |
| Pottawattamie, IA | 0.9293 |
| Cass, NE | 0.8650 |
| Douglas, NE | 0.9293 |
| Sarpy, NE | 0.9293 |
| Washington, NE | 0.9293 |
| Orange County, CA: Orange, CA | 1.2549 |
| Orlando, FL: | |
| Lake, FL | 0.9164 |
| Orange, FL | 1.0133 |
| Osceola, FL | 1.0133 |
| Seminole, FL | 1.0133 |
| Owensboro, KY: Daviess, KY | 0.8565 |
| Panama City, FL: Bay, FL | 0.8926 |
| Parkersburg-Marietta, WV–OH: | |
| Washington, OH | 0.9459 |
| Wood, WV | 0.9459 |
| Pensacola, FL: | |
| Escambia, FL | 0.8993 |
| Santa Rosa, FL | 0.8993 |
| Peoria-Pekin, IL: | |
| Peoria, IL | 1.0629 |
| Tazewell, IL | 1.0629 |
| Woodford, IL | 1.0629 |
| Philadelphia, PA–NJ: | |
| Burlington, NJ | 1.1812 |
| Camden, NJ | 1.1812 |
| Gloucester, NJ | 1.1812 |
| Salem, NJ | 1.1222 |
| Bucks, PA | 1.1812 |
| Chester, PA | 1.1812 |
| Delaware, PA | 1.1812 |
| Montgomery, PA | 1.1812 |
| Philadelphia, PA | 1.1812 |
| Phoenix-Mesa, AZ: | |
| Maricopa, AZ | 1.0913 |
| Pinal, AZ | 0.9435 |
| Pine Bluff, AR: Jefferson, AR | 0.8660 |
| Pittsburgh, PA: | |
| Allegheny, PA | 1.1058 |
| Beaver, PA | 1.0701 |
| Butler, PA | 1.0338 |
| Fayette, PA | 1.1058 |
| Washington, PA | 1.1058 |
| Westmoreland, PA | 1.1058 |
| Pittsfield, MA: Berkshire, MA | 1.0275 |
| Ponce, PR: | |
| Guayanilla, PR | 0.7058 |
| Juana Diaz, PR | 0.7058 |
| Penuelas, PR | 0.7058 |
| Ponce, PR | 0.7058 |
| Villalba, PR | 0.7058 |
| Yauco, PR | 0.7058 |
| Portland, ME: | |
| Cumberland, ME | 0.9841 |
| Sagadahoc, ME | 0.9841 |
| York, ME | 0.9841 |
| Portland-Vancouver, OR–WA: | |
| Clackamas, OR | 1.1451 |
| Columbia, OR | 1.0340 |
| Multnomah, OR | 1.1451 |
| Washington, OR | 1.1451 |
| Yamhill, OR | 1.1451 |
| Clark, WA | 1.1202 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Providence-Warwick, RI: | |
| Bristol, RI | 1.0432 |
| Kent, RI | 1.0432 |
| Newport, RI | 1.0432 |
| Providence, RI | 1.0432 |
| Washington, RI | 1.0432 |
| Provo-Orem, UT: Utah, UT | 0.9894 |
| Pueblo, CO: Pueblo, CO | 1.0718 |
| Punta Gorda, FL: Charlotte, FL | 0.8753 |
| Racine, WI: Racine, WI | 0.9827 |
| Raleigh-Durham-Chapel Hill, NC: | |
| Chatham, NC | 0.9100 |
| Durham, NC | 1.0213 |
| Franklin, NC | 1.0213 |
| Johnston, NC | 0.9100 |
| Orange, NC | 1.0213 |
| Wake, NC | 1.0213 |
| Rapid City, SD: Pennington, SD | 0.8327 |
| Reading, PA: Berks, PA | 1.0220 |
| Redding, CA: Shasta, CA | 1.1132 |
| Reno, NV: Washoe, NV | 1.2595 |
| Richland-Kennewick-Pasco, WA: | |
| Benton, WA | 0.9896 |
| Franklin, WA | 0.9896 |
| Richmond-Petersburg, VA: | |
| Charles City County, VA | 0.9159 |
| Chesterfield, VA | 0.9159 |
| Colonial Heights City, VA | 0.9159 |
| Dinwiddie, VA | 0.9159 |
| Goochland, VA | 0.9159 |
| Hanover, VA | 0.9159 |
| Henrico, VA | 0.9159 |
| Hopewell City, VA | 0.9159 |
| New Kent, VA | 0.9159 |
| Petersburg City, VA | 0.9159 |
| Powhatan, VA | 0.9159 |
| Prince George, VA | 0.9159 |
| Richmond City, VA | 0.9159 |
| Riverside-San Bernardino, CA: | |
| Riverside, CA | 1.1875 |
| San Bernardino, CA | 1.1875 |
| Roanoke, VA: | |
| Botetourt, VA | 0.9785 |
| Roanoke, VA | 0.9785 |
| Roanoke City, VA | 0.9785 |
| Salem City, VA | 0.9785 |
| Rochester, MN: Olmsted, MN | 1.0534 |
| Rochester, NY: | |
| Genesee, NY | 0.9201 |
| Livingston, NY | 1.0333 |
| Monroe, NY | 1.0333 |
| Ontario, NY | 1.0333 |
| Orleans, NY | 1.0333 |
| Wayne, NY | 1.0333 |
| Rockford, IL: | |
| Boone, IL | 1.0166 |
| Ogle, IL | 0.8976 |
| Winnebago, IL | 1.0166 |
| Rocky Mount, NC: | |
| Edgecombe, NC | 0.8831 |
| Nash, NC | 0.8831 |
| Sacramento, CA: | |
| El Dorado, CA | 1.1985 |
| Placer, CA | 1.1985 |
| Sacramento, CA | 1.1985 |
| Saginaw-Bay City-Midland, MI: | |
| Bay, MI | 1.0692 |
| Midland, MI | 1.0692 |
| Saginaw, MI | 1.0692 |
| St. Cloud, MN: | |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Benton, MN | 0.9217 |
| Stearns, MN | 0.9217 |
| St. Joseph, MO: | |
| Andrews, MO | 0.8562 |
| Buchanan, MO | 0.9636 |
| St. Louis, MO–IL: | |
| Clinton, IL | 0.9649 |
| Jersey, IL | 0.9561 |
| Madison, IL | 0.9561 |
| Monroe, IL | 1.0329 |
| St. Clair, IL | 0.9649 |
| Franklin, MO | 1.0329 |
| Jefferson, MO | 1.0329 |
| Lincoln, MO | 0.8683 |
| St. Charles, MO | 1.0329 |
| St. Louis, MO | 1.0329 |
| St. Louis City, MO | 1.0329 |
| Warren, MO | 0.8683 |
| Salem, OR: | |
| Marion, OR | 1.0516 |
| Polk, OR | 1.0516 |
| Salinas, CA: Monterey, CA | 1.3392 |
| Salt Lake City-Ogden, UT: | |
| Davis, UT | 0.9872 |
| Salt Lake, UT | 0.9872 |
| Weber, UT | 0.9872 |
| San Angelo, TX: Tom Green, TX | 0.8859 |
| San Antonio, TX: | |
| Bexar, TX | 1.0003 |
| Comal, TX | 1.0003 |
| Guadalupe, TX | 1.0003 |
| Wilson, TX | 0.8373 |
| San Diego, CA: San Diego, CA | 1.2234 |
| San Francisco, CA: | |
| Marin, CA | 1.4361 |
| San Francisco, CA | 1.4361 |
| San Mateo, CA | 1.4361 |
| San Jose, CA: Santa Clara, CA | 1.3749 |
| San Juan-Bayamon, PR: | |
| Aguas Buenas, PR | 0.7103 |
| Barceloneta, PR | 0.7103 |
| Bayamon, PR | 0.7103 |
| Canovanas, PR | 0.7103 |
| Carolina, PR | 0.7103 |
| Catano, PR | 0.7103 |
| Ceiba, PR | 0.7103 |
| Comerio, PR | 0.7103 |
| Corozal, PR | 0.7103 |
| Dorado, PR | 0.7103 |
| Fajardo, PR | 0.7103 |
| Florida, PR | 0.7103 |
| Guaynabo, PR | 0.7103 |
| Humacao, PR | 0.7103 |
| Juncos, PR | 0.7103 |
| Los Piedras, PR | 0.7103 |
| Loiza, PR | 0.7103 |
| Luguillo, PR | 0.7103 |
| Manati, PR | 0.7103 |
| Morovis, PR | 0.7103 |
| Naguabo, PR | 0.7103 |
| Naranjito, PR | 0.7103 |
| Rio Grande, PR | 0.7103 |
| San Juan, PR | 0.7103 |
| Toa Alta, PR | 0.7103 |
| Toa Baja, PR | 0.7103 |
| Trujillo Alto, PR | 0.7103 |
| Vega Alta, PR | 0.7103 |
| Vega Baja, PR | 0.7103 |
| Yabucoa, PR | 0.7103 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| San Luis Obispo-Atascadero-Paso Robles, CA: San Luis Obispo, CA | 1.0820 |
| Santa Barbara-Santa Maria-Lompoc, CA: Santa Barbara, CA | 1.1398 |
| Santa Cruz-Watsonville, CA: Santa Cruz, CA | 1.2359 |
| Santa Fe, NM: | |
| Los Alamos, NM | 1.0014 |
| Santa Fe, NM | 1.0014 |
| Santa Rosa, CA: Sonoma, CA | 1.2324 |
| Sarasota-Bradenton, FL: | |
| Manatee, FL | 0.9584 |
| Sarasota, FL | 1.0047 |
| Savannah, GA: | |
| Bryan, GA | 0.9218 |
| Chatham, GA | 0.9911 |
| Effingham, GA | 0.9911 |
| Scranton—Wilkes-Barre—Hazleton, PA: | |
| Columbia, PA | 0.9626 |
| Lackawanna, PA | 0.9626 |
| Luzerne, PA | 0.9626 |
| Wyoming, PA | 0.9626 |
| Seattle-Bellevue-Everett, WA: | |
| Island, WA | 1.0345 |
| King, WA | 1.1286 |
| Snohomish, WA | 1.1286 |
| Sharon, PA: Mercer, PA | 0.9555 |
| Sheboygan, WI: Sheboygan, WI | 0.8571 |
| Sherman-Denison, TX: Grayson, TX | 0.9072 |
| Shreveport-Bossier City, LA: | |
| Bossier, LA | 1.0442 |
| Caddo, LA | 1.0442 |
| Webster, LA | 0.8877 |
| Sioux City, IA–NE: | |
| Woodbury, IA | 0.9858 |
| Dakota, NE | 0.9858 |
| Sioux Falls, SD: | |
| Lincoln, SD | 0.8372 |
| Minnehaha, SD | 0.9357 |
| South Bend, IN: St. Joseph, IN | 0.9504 |
| Spokane, WA: Spokane, WA | 1.1205 |
| Springfield, IL: | |
| Menard, IL | 1.0757 |
| Sangamon, IL | 1.0757 |
| Springfield, MO: | |
| Christian, MO | 0.9157 |
| Greene, MO | 0.9157 |
| Webster, MO | 0.8313 |
| Springfield, MA: | |
| Hampden, MA | 1.0329 |
| Hampshire, MA | 1.0329 |
| State College, PA: Centre, PA | 1.0214 |
| Steubenville-Weirton, OH–WV: | |
| Jefferson, OH | 0.9448 |
| Brooke, WV | 0.9448 |
| Hancock, WV | 0.9448 |
| Stockton-Lodi, CA: San Joaquin, CA | 1.1789 |
| Sumter, SC: Sumter, SC | 0.8058 |
| Syracuse, NY: | |
| Cayuga, NY | 0.9131 |
| Madison, NY | 1.3105 |
| Onondaga, NY | 1.3105 |
| Oswego, NY | 1.3105 |
| Tacoma, WA: Pierce, WA | 1.0811 |
| Tallahassee, FL: | |
| Gadsden, FL | 0.9143 |
| Leon, FL | 0.9143 |
| Tampa-St. Petersburg-Clearwater, FL: | |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Hernando, FL | 0.9947 |
| Hillsborough, FL | 0.9947 |
| Pasco, FL | 0.9947 |
| Pinellas, FL | 0.9947 |
| Terre Haute, IN: | |
| Clay, IN | 0.8968 |
| Vermillion, IN | 0.8793 |
| Vigo, IN | 0.8968 |
| Texarkana, AR-Texarkana, TX: | |
| Miller, AR | 1.0438 |
| Bowie, TX | 1.0438 |
| Toledo, OH: | |
| Fulton, OH | 1.1242 |
| Lucas, OH | 1.1242 |
| Wood, OH | 1.1242 |
| Topeka, KS: Shawnee, KS | 1.1013 |
| Trenton, NJ: Mercer, NJ | 1.0664 |
| Tucson, AZ: Pima, AZ | 0.9990 |
| Tulsa, OK: | |
| Creek, OK | 0.9832 |
| Osage, OK | 0.9832 |
| Rogers, OK | 0.9832 |
| Tulsa, OK | 0.9832 |
| Wagoner, OK | 0.9832 |
| Tuscaloosa, AL: Tuscaloosa, AL | 0.9457 |
| Tyler, TX: Smith, TX | 1.0281 |
| Utica-Rome, NY: | |
| Herkimer, NY | 0.9228 |
| Oneida, NY | 0.9228 |
| Vallejo-Fairfield-Napa, CA: | |
| Napa, CA | 1.3804 |
| Solano, CA | 1.3804 |
| Ventura, CA: Ventura, CA | 1.2087 |
| Victoria, TX: Victoria, TX | 0.8760 |
| Vineland-Millville-Bridgeton, NJ: | |
| Cumberland, NJ | 0.9871 |
| Visalia-Tulare-Porterville, CA: | |
| Tulare, CA | 1.1188 |
| Waco, TX: McLennan, TX | 0.8220 |
| Washington, DC–MD–VA–WV: | |
| District of Columbia, DC | 1.1607 |
| Calvert, MD | 1.1607 |
| Charles, MD | 1.1607 |
| Frederick, MD | 1.1607 |
| Montgomery, MD | 1.1607 |
| Prince Georges, MD | 1.1607 |
| Alexandria City, VA | 1.1607 |
| Arlington, VA | 1.1607 |
| Clarke, VA | 0.9486 |
| Culpepper, VA | 0.9486 |
| Fairfax, VA | 1.1607 |
| Fairfax City, VA | 1.1607 |
| Falls Church City, VA | 1.1607 |
| Fauquier, VA | 0.9486 |
| Fredericksburg City, VA | 0.9486 |
| King George, VA | 0.9486 |
| Loudoun, VA | 1.1607 |
| Manassas City, VA | 1.1607 |
| Manassas Park City, VA | 1.1607 |
| Prince William, VA | 1.1607 |
| Spotsylvania, VA | 0.9486 |
| Stafford, VA | 1.1607 |
| Warren, VA | 0.9486 |
| Berkeley, WV | 0.9937 |
| Jefferson, WV | 0.9937 |
| Waterloo-Cedar Falls, IA: Black Hawk, IA | 0.9160 |
| Wausau, WI: Marathon, WI | 0.9859 |
| West Palm Beach-Boca Raton, FL: | |
| Palm Beach, FL | 1.0152 |

TABLE A.—WAGE INDEX FOR URBAN AREAS—Continued

| Urban area (Constituent counties or county equivalents) | Wage index |
|---|---|
| Wheeling, OH–WV: | |
| Belmont, OH | 0.9221 |
| Marshall, WV | 0.9221 |
| Ohio, WV | 0.9221 |
| Wichita, KS: | |
| Butler, KS | 1.0844 |
| Harvey, KS | 0.8750 |
| Sedgwick, KS | 1.0844 |
| Wichita Falls, TX: | |
| Archer, TX | 0.8273 |
| Wichita, TX | 0.8678 |
| Williamsport, PA: Lycoming, PA | 0.9871 |
| Willington-Newark, DE–MD: | |
| New Castle, DE | 1.1271 |
| Cecil, MD | 1.1271 |
| Willington, NC: | |
| New Hanover, NC | 0.8873 |
| Brunswick, NC | 0.9221 |
| Yakima, WA: Yakima, WA | 1.0250 |
| Yolo, CA: Yolo, CA | 1.1675 |
| York, PA: York, PA | 1.0118 |
| Youngstown-Warren, OH: | |
| Columbiana, OH | 0.9545 |
| Mahoning, OH | 1.0834 |
| Trumbull, OH | 1.0834 |
| Yuba City, CA: | |
| Sutter, CA | 1.0920 |
| Yuba, CA | 1.0920 |
| Yuma, AZ: Yuma, AZ | 0.9328 |

TABLE B.—WAGE INDEX FOR RURAL AREAS

| Nonurban area | Wage index |
|---|---|
| Alabama: | |
| Barbour, AL | 0.8000 |
| Bibb, AL | 0.8000 |
| Bullock, AL | 0.8000 |
| Butler, AL | 0.8000 |
| Chambers, AL | 0.8000 |
| Cherokee, AL | 0.8000 |
| Chilton, AL | 0.8000 |
| Choctaw, AL | 0.8000 |
| Clarke, AL | 0.8000 |
| Clay, AL | 0.8000 |
| Cleburne, AL | 0.8000 |
| Coffee, AL | 0.8000 |
| Conecuh, AL | 0.8000 |
| Coosa, AL | 0.8000 |
| Covington, AL | 0.8000 |
| Crenshaw, AL | 0.8000 |
| Cullman, AL | 0.8000 |
| Dallas, AL | 0.8000 |
| De Kalb, AL | 0.8000 |
| Escambia, AL | 0.8000 |
| Fayette, AL | 0.8000 |
| Franklin, AL | 0.8000 |
| Geneva, AL | 0.8000 |
| Greene, AL | 0.8000 |
| Hale, AL | 0.8000 |
| Henry, AL | 0.8000 |
| Jackson, AL | 0.8000 |
| Lamar, AL | 0.8000 |
| Lee, AL | 0.8000 |
| Lowndes, AL | 0.8000 |
| Macon, AL | 0.8000 |
| Marengo, AL | 0.8000 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Marion, AL | 0.8000 |
| Marshall, AL | 0.8000 |
| Monroe, AL | 0.8000 |
| Perry, AL | 0.8000 |
| Pickens, AL | 0.8000 |
| Pike, AL | 0.8000 |
| Randolph, AL | 0.8000 |
| Sumter, AL | 0.8000 |
| Talladega, AL | 0.8000 |
| Tallapoosa, AL | 0.8000 |
| Walker, AL | 0.9365 |
| Washington, AL | 0.8000 |
| Wilcox, AL | 0.8000 |
| Winston, AL | 0.8000 |
| Alaska: | |
| Aleutians East, AK | 1.3612 |
| Aleutians West, AK | 1.3612 |
| Bethel, AK | 1.3612 |
| Bristol Bay Borough, AK | 1.3612 |
| Dillingham, AK | 1.3612 |
| Fairbanks North Star, AK | 1.3612 |
| Haines, AK | 1.3612 |
| Juneau, AK | 1.3612 |
| Kenai Peninsula | 1.3612 |
| Ketchikan Gateway, AK | 1.3612 |
| Kodiak Island, AK | 1.3612 |
| Lake and Peninsula, AK | 1.3612 |
| Matanuska-Susitna, AK | 1.3612 |
| Nome, AK | 1.3612 |
| North Slope, AK | 1.3612 |
| Northwest Arctic, AK | 1.3612 |
| Pr. of Wales-out Ketchikanak, AK | 1.3612 |
| Sitka, AK | 1.3612 |
| Skagway-Yakutat-Angoon, AK | 1.3612 |
| Southeast Fairbanks, AK | 1.3612 |
| Valdez-Cordova, AK | 1.3612 |
| Wade Hampton, AK | 1.3612 |
| Wrangell-Petersburg, AK | 1.3612 |
| Yukon-Koyukuk, AK | 1.3612 |
| Arizona: | |
| Apache, AZ | 0.8793 |
| Cochise, AZ | 0.8793 |
| Gila,AZ | 0.8793 |
| Graham, AZ | 0.8793 |
| Greenlee, AZ | 0.8793 |
| Lapaz, AZ | 0.8793 |
| Navajo, AZ | 0.8793 |
| Santa Cruz, AZ | 0.8793 |
| Yavapai, AZ | 0.8793 |
| Arkansas: | |
| Arkansas, AR | 0.8000 |
| Ashley, AR | 0.8000 |
| Baxter, AR | 0.8000 |
| Boone, AR | 0.8000 |
| Bradley, AR | 0.8000 |
| Calhoun, AR | 0.8000 |
| Carroll, AR | 0.8000 |
| Chicot, AR | 0.8000 |
| Clark, AR | 0.8000 |
| Clay, AR | 0.8000 |
| Cleburne, AR | 0.8000 |
| Cleveland, AR | 0.8000 |
| Columbia, AR | 0.8000 |
| Conway, AR | 0.8000 |
| Craighead, AR | 0.8000 |
| Cross, AR | 0.8000 |
| Dallas, AR | 0.8000 |
| Desha, AR | 0.8000 |
| Drew, AR | 0.8000 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Franklin, AR | 0.8000 |
| Fulton, AR | 0.8000 |
| Garland, AR | 0.8000 |
| Grant, AR | 0.8000 |
| Greene, AR | 0.8000 |
| Hempstead, AR | 0.8000 |
| Hot Spring, AR | 0.8000 |
| Howard, AR | 0.8000 |
| Independence, AR | 0.8000 |
| Izard, AR | 0.8000 |
| Jackson, AR | 0.8000 |
| Johnson, AR | 0.8000 |
| Lafayette, AR | 0.8000 |
| Lawrence, AR | 0.8000 |
| Lee, AR | 0.8000 |
| Lincoln, AR | 0.8000 |
| Little River, AR | 0.8000 |
| Logan, AR | 0.8000 |
| Madison, AR | 0.8000 |
| Marion, AR | 0.8000 |
| Mississippi, AR | 0.8000 |
| Monroe, AR | 0.8000 |
| Montgomery, AR | 0.8000 |
| Nevada, AR | 0.8000 |
| Newton, AR | 0.8000 |
| Ouachita, AR | 0.8000 |
| Perry, AR | 0.8000 |
| Phillips, AR | 0.8000 |
| Pike, AR | 0.8000 |
| Poinsett, AR | 0.8000 |
| Polk, AR | 0.8000 |
| Pope, AR | 0.8000 |
| Prairie, AR | 0.8000 |
| Randolph, AR | 0.8000 |
| St. Francis, AR | 0.8000 |
| Scott, AR | 0.8000 |
| Searcy, AR | 0.8000 |
| Sevier, AR | 0.8000 |
| Sharp, AR | 0.8000 |
| Stone, AR | 0.8000 |
| Union, AR | 0.8000 |
| Van Buren, AR | 0.8000 |
| White, AR | 0.8000 |
| Woodruff, AR | 0.8000 |
| Yell, AR | 0.8000 |
| California: | |
| Alpine, CA | 1.0277 |
| Amador, CA | 1.0277 |
| Calaveras, CA | 1.0277 |
| Colusa, CA | 1.0277 |
| Del Norte, CA | 1.0277 |
| Glenn, CA | 1.0277 |
| Humboldt, CA | 1.0277 |
| Imperial, CA | 1.0277 |
| Inyo, CA | 1.0277 |
| Kings, CA | 1.0277 |
| Lake, CA | 1.0277 |
| Lassen, CA | 1.0277 |
| Mariposa, CA | 1.0277 |
| Mendocino, CA | 1.0277 |
| Modoc, CA | 1.0277 |
| Mono, CA | 1.0277 |
| Nevada, CA | 1.0277 |
| Plumas, CA | 1.0277 |
| San Benito, CA | 1.0277 |
| Sierra, CA | 1.0277 |
| Siskiyou, CA | 1.0277 |
| Tehama, CA | 1.0277 |
| Trinity, CA | 1.0277 |
| Tuolumne, CA | 1.0277 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Colorado: | |
| Alamosa, CO | 0.8438 |
| Archuleta, CO | 0.8438 |
| Baca, CO | 0.8438 |
| Bent, CO | 0.8438 |
| Chaffee, CO | 0.8438 |
| Cheyenne, CO | 0.8438 |
| Clear Creek, CO | 0.8438 |
| Conejos, CO | 0.8438 |
| Costilla, CO | 0.8438 |
| Crowley, CO | 0.8438 |
| Custer, CO | 0.8438 |
| Delta, CO | 0.8438 |
| Dolores, CO | 0.8438 |
| Eagle, CO | 0.8438 |
| Elbert, CO | 0.8438 |
| Fremont, CO | 0.8438 |
| Garfield, CO | 0.8438 |
| Gilpin, CO | 0.8438 |
| Grand, CO | 0.8438 |
| Gunnison, CO | 0.8438 |
| Hinsdale, CO | 0.8438 |
| Huerfano, CO | 0.8438 |
| Jackson, CO | 0.8438 |
| Kiowa, CO | 0.8438 |
| Kit Carson, CO | 0.8438 |
| Lake, CO | 0.8438 |
| La Plata, CO | 0.8438 |
| Las Animas, CO | 0.8438 |
| Lincoln, CO | 0.8438 |
| Logan, CO | 0.8438 |
| Mineral, CO | 0.8438 |
| Moffat, CO | 0.8438 |
| Montezuma, CO | 0.8438 |
| Montrose, CO | 0.8438 |
| Morgan, CO | 0.8438 |
| Otero, CO | 0.8438 |
| Ouray, CO | 0.8438 |
| Park, CO | 0.8438 |
| Phillips, CO | 0.8438 |
| Pitkin, CO | 0.8438 |
| Prowers, CO | 0.8438 |
| Rio Blanco, CO | 0.8438 |
| Rio Grande, CO | 0.8438 |
| Routt, CO | 0.8438 |
| Saguache, CO | 0.8438 |
| San Juan, CO | 0.8438 |
| San Miguel, CO | 0.8438 |
| Sedgwick, CO | 0.8438 |
| Summit, CO | 0.8438 |
| Teller, CO | 0.8438 |
| Washington, CO | 0.8438 |
| Yuma, CO | 0.8438 |
| Connecticut: Windham, CT | 1.1137 |
| Delaware: Sussex, DE | 0.9354 |
| Florida: | |
| Baker, FL | 0.8887 |
| Bradford, FL | 0.9559 |
| Calhoun, FL | 0.8887 |
| Citrus, FL | 0.8887 |
| Columbia, FL | 0.8887 |
| De Soto, FL | 0.8887 |
| Dixie, FL | 0.8887 |
| Franklin, FL | 0.8887 |
| Gilchrist, FL | 0.8887 |
| Glades, FL | 0.8887 |
| Gulf, FL | 0.8887 |
| Hamilton, FL | 0.8887 |
| Hardee, FL | 0.8887 |
| Hendry, FL | 0.8887 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Highlands, FL | 0.8887 |
| Holmes, FL | 0.8887 |
| Indian River, FL | 0.8887 |
| Jackson, FL | 0.8887 |
| Jefferson, FL | 0.8887 |
| Lafayette, FL | 0.8887 |
| Levy, FL | 0.8887 |
| Liberty, FL | 0.8887 |
| Madison, FL | 0.8887 |
| Monroe, FL | 0.8887 |
| Okeechobee, FL | 0.8887 |
| Putnam, FL | 0.8887 |
| Sumter, FL | 0.8887 |
| Suwannee, FL | 0.8887 |
| Taylor, FL | 0.8887 |
| Union, FL | 0.8887 |
| Wakulla, FL | 0.8887 |
| Walton, FL | 0.8887 |
| Washington, FL | 0.8887 |
| Georgia: | |
| Appling, GA | 0.8335 |
| Atkinson, GA | 0.8335 |
| Bacon, GA | 0.8335 |
| Baker, GA | 0.8335 |
| Baldwin, GA | 0.8335 |
| Banks, GA | 0.8335 |
| Ben Hill, GA | 0.8335 |
| Berrien, GA | 0.8335 |
| Bleckley, GA | 0.8335 |
| Brantley, GA | 0.8335 |
| Brooks, GA | 0.8335 |
| Bulloch, GA | 0.8335 |
| Burke, GA | 0.8335 |
| Butts, GA | 0.8945 |
| Calhoun, GA | 0.8335 |
| Camden, GA | 0.8335 |
| Candler, GA | 0.8335 |
| Charlton, GA | 0.8335 |
| Chattooga, GA | 0.8335 |
| Clay, GA | 0.8335 |
| Clinch, GA | 0.8335 |
| Coffee, GA | 0.8335 |
| Colquitt, GA | 0.8335 |
| Cook, GA | 0.8335 |
| Crawford, GA | 0.8335 |
| Crisp, GA | 0.8335 |
| Dawson, GA | 0.8335 |
| Decatur, GA | 0.8335 |
| Dodge, GA | 0.8335 |
| Dooly, GA | 0.8335 |
| Early, GA | 0.8335 |
| Echols, GA | 0.8335 |
| Elbert, GA | 0.8335 |
| Emanuel, GA | 0.8335 |
| Evans, GA | 0.8335 |
| Fannin, GA | 0.8335 |
| Floyd, GA | 0.8335 |
| Franklin, GA | 0.8335 |
| Gilmer, GA | 0.8335 |
| Glascock, GA | 0.8335 |
| Glynn, GA | 0.8335 |
| Gordon, GA | 0.8335 |
| Grady, GA | 0.8335 |
| Greene, GA | 0.8335 |
| Habersham, GA | 0.8335 |
| Hall, GA | 0.8335 |
| Hancock, GA | 0.8335 |
| Haralson, GA | 0.8335 |
| Hart, GA | 0.8335 |
| Heard, GA | 0.8335 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Irwin, GA | 0.8335 |
| Jackson, GA | 0.8545 |
| Jasper, GA | 0.8335 |
| Jeff Davis, GA | 0.8335 |
| Jefferson, GA | 0.8335 |
| Jenkins, GA | 0.8335 |
| Johnson, GA | 0.8335 |
| Lamar, GA | 0.8335 |
| Lanier, GA | 0.8335 |
| Laurens, GA | 0.8335 |
| Liberty, GA | 0.8335 |
| Lincoln, GA | 0.8335 |
| Long, GA | 0.8335 |
| Lowndes, GA | 0.8335 |
| Lumpkin, GA | 0.8335 |
| McIntosh, GA | 0.8335 |
| Macon, GA | 0.8335 |
| Marion, GA | 0.8335 |
| Meriwether, GA | 0.8335 |
| Miller, GA | 0.8335 |
| Mitchell, GA | 0.8335 |
| Monroe, GA | 0.8335 |
| Montgomery, GA | 0.8335 |
| Morgan, GA | 0.8335 |
| Murray, GA | 0.8335 |
| Oglethorpe, GA | 0.8335 |
| Pierce, GA | 0.8335 |
| Pike, GA | 0.8335 |
| Polk, GA | 0.8335 |
| Pulaski, GA | 0.8335 |
| Putnam, GA | 0.8335 |
| Quitman, GA | 0.8335 |
| Rabun, GA | 0.8335 |
| Randolph, GA | 0.8335 |
| Schley, GA | 0.8335 |
| Screven, GA | 0.8335 |
| Seminole, GA | 0.8335 |
| Stephens, GA | 0.8335 |
| Stewart, GA | 0.8335 |
| Sumter, GA | 0.8335 |
| Talbot, GA | 0.8335 |
| Taliaferro, GA | 0.8335 |
| Tattnall, GA | 0.8335 |
| Taylor, GA | 0.8335 |
| Telfair, GA | 0.8335 |
| Terrell, GA | 0.8335 |
| Thomas, GA | 0.8335 |
| Tift, GA | 0.8335 |
| Toombs, GA | 0.8335 |
| Towns, GA | 0.8335 |
| Treutlen, GA | 0.8335 |
| Troup, GA | 0.8335 |
| Turner, GA | 0.8335 |
| Union, GA | 0.8335 |
| Upson, GA | 0.8335 |
| Ware, GA | 0.8335 |
| Warren, GA | 0.8335 |
| Washington, GA | 0.8335 |
| Wayne, GA | 0.8335 |
| Webster, GA | 0.8335 |
| Wheeler, GA | 0.8335 |
| White, GA | 0.8335 |
| Whitfield, GA | 0.8335 |
| Wilcox, GA | 0.8335 |
| Wilkes, GA | 0.8335 |
| Wilkinson, GA | 0.8335 |
| Worth, GA | 0.8335 |
| Hawaii: | |
| Hawaii, HI | 1.1503 |
| Kalawao, HI | 1.1503 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Kauai, HI | 1.1503 |
| Maui, HI | 1.1503 |
| Idaho: | |
| Adams, ID | 0.8969 |
| Bannock, ID | 0.8969 |
| Bear Lake, ID | 0.8969 |
| Benewah, ID | 0.8969 |
| Bingham, ID | 0.8969 |
| Blaine, ID | 0.8969 |
| Boise, ID | 0.8969 |
| Bonner, ID | 0.8969 |
| Bonneville, ID | 0.8969 |
| Boundary, ID | 0.8969 |
| Butte, ID | 0.8969 |
| Camas, ID | 0.8969 |
| Caribou, ID | 0.8969 |
| Cassia, ID | 0.8969 |
| Clark, ID | 0.8969 |
| Clearwater, ID | 0.8969 |
| Custer, ID | 0.8969 |
| Elmore, ID | 0.8969 |
| Franklin, ID | 0.8969 |
| Fremont, ID | 0.8969 |
| Gem, ID | 0.8969 |
| Gooding, ID | 0.8969 |
| Idaho, ID | 0.8969 |
| Jefferson, ID | 0.8969 |
| Jerome, ID | 0.8969 |
| Kootenai, ID | 0.8969 |
| Latah, ID | 0.8969 |
| Lemhi, ID | 0.8969 |
| Lewis, ID | 0.8969 |
| Lincoln, ID | 0.8969 |
| Madison, ID | 0.8969 |
| Minidoka, ID | 0.8969 |
| Nez Perce, ID | 0.8969 |
| Oneida, ID | 0.8969 |
| Owyhee, ID | 0.8969 |
| Payette, ID | 0.8969 |
| Power, ID | 0.8969 |
| Shoshone, ID | 0.8969 |
| Teton, ID | 0.8969 |
| Twin Falls, ID | 0.8969 |
| Valley, ID | 0.8969 |
| Washington, ID | 0.8969 |
| Illinois: | |
| Adams, IL | 0.8455 |
| Alexander, IL | 0.8455 |
| Bond, IL | 0.8455 |
| Brown, IL | 0.8455 |
| Bureau, IL | 0.8455 |
| Calhoun, IL | 0.8455 |
| Carroll, IL | 0.8455 |
| Cass, IL | 0.8455 |
| Christian, IL | 0.8455 |
| Clark, IL | 0.8455 |
| Clay, IL | 0.8455 |
| Coles, IL | 0.8455 |
| Crawford, IL | 0.8455 |
| Cumberland, IL | 0.8455 |
| De Witt, IL | 0.8455 |
| Douglas, IL | 0.8455 |
| Edgar, IL | 0.8455 |
| Edwards, IL | 0.8455 |
| Effingham, IL | 0.8455 |
| Fayette, IL | 0.8455 |
| Ford, IL | 0.8455 |
| Franklin, IL | 0.8455 |
| Fulton, IL | 0.8455 |
| Gallatin, IL | 0.8455 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Greene, IL | 0.8455 |
| Hamilton, IL | 0.8455 |
| Hancock, IL | 0.8455 |
| Hardin, IL | 0.8455 |
| Henderson, IL | 0.8455 |
| Iroquois, IL | 0.8455 |
| Jackson, IL | 0.8455 |
| Jasper, IL | 0.8455 |
| Jefferson, IL | 0.8455 |
| Jo Daviess, IL | 0.8455 |
| Johnson, IL | 0.8455 |
| Knox, IL | 0.8455 |
| La Salle, IL | 0.8455 |
| Lawrence, IL | 0.8455 |
| Lee, IL | 0.8455 |
| Livingston, IL | 0.8455 |
| Logan, IL | 0.8455 |
| McDonough, IL | 0.8455 |
| Macoupin, IL | 0.8455 |
| Marion, IL | 0.8455 |
| Marshall, IL | 0.8455 |
| Mason, IL | 0.8455 |
| Massac, IL | 0.8455 |
| Mercer, IL | 0.8455 |
| Montgomery, IL | 0.8455 |
| Morgan, IL | 0.8455 |
| Moultrie, IL | 0.8455 |
| Perry, IL | 0.8455 |
| Piatt, IL | 0.8455 |
| Pike, IL | 0.8455 |
| Pope, IL | 0.8455 |
| Pulaski, IL | 0.8455 |
| Putnam, IL | 0.8455 |
| Randolph, IL | 0.8455 |
| Richland, IL | 0.8455 |
| Saline, IL | 0.8455 |
| Schuyler, IL | 0.8455 |
| Scott, IL | 0.8455 |
| Shelby, IL | 0.8455 |
| Stark, IL | 0.8455 |
| Stephenson, IL | 0.8455 |
| Union, IL | 0.8455 |
| Vermilion, IL | 0.8455 |
| Wabash, IL | 0.8455 |
| Warren, IL | 0.8455 |
| Washington, IL | 0.8455 |
| Wayne, IL | 0.8455 |
| White, IL | 0.8455 |
| Whiteside, IL | 0.8455 |
| Williamson, IL | 0.8455 |
| Indiana: | |
| Bartholomew, IN | 0.8626 |
| Benton, IN | 0.8626 |
| Blackford, IN | 0.8626 |
| Brown, IN | 0.8626 |
| Carroll, IN | 0.8626 |
| Cass, IN | 0.8626 |
| Crawford, IN | 0.8626 |
| Daviess, IN | 0.8626 |
| Decatur, IN | 0.8626 |
| Dubois, IN | 0.8626 |
| Fayette, IN | 0.8626 |
| Fountain, IN | 0.8626 |
| Franklin, IN | 0.8626 |
| Fulton, IN | 0.8626 |
| Gibson, IN | 0.8626 |
| Grant, IN | 0.8626 |
| Greene, IN | 0.8626 |
| Henry, IN | 0.8626 |
| Jackson, IN | 0.8626 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Jasper, IN | 0.8626 |
| Jay, IN | 0.8626 |
| Jefferson, IN | 0.8626 |
| Jennings, IN | 0.8626 |
| Knox, IN | 0.8626 |
| Kosciusko, IN | 0.8626 |
| Lagrange, IN | 0.8626 |
| La porte, IN | 0.8626 |
| Lawrence, IN | 0.8626 |
| Marshall, IN | 0.8626 |
| Martin, IN | 0.8626 |
| Miami, IN | 0.8626 |
| Montgomery, IN | 0.8626 |
| Newton, IN | 0.8626 |
| Noble, IN | 0.8626 |
| Orange, IN | 0.8626 |
| Owen, IN | 0.8626 |
| Parke, IN | 0.8626 |
| Perry, IN | 0.8626 |
| Pike, IN | 0.8626 |
| Pulaski, IN | 0.8626 |
| Putnam, IN | 0.8626 |
| Randolph, IN | 0.8626 |
| Ripley, IN | 0.8626 |
| Rush, IN | 0.8626 |
| Spencer, IN | 0.8626 |
| Starke, IN | 0.8626 |
| Steuben, IN | 0.8626 |
| Sullivan, IN | 0.8626 |
| Switzerland, IN | 0.8626 |
| Union, IN | 0.8626 |
| Wabash, IN | 0.8626 |
| Warren, IN | 0.8626 |
| Washington, IN | 0.8626 |
| Wayne, IN | 0.8626 |
| White, IN | 0.8626 |
| Iowa: | |
| Adair, IA | 0.8116 |
| Adams, IA | 0.8116 |
| Allamakee, IA | 0.8116 |
| Appanoose, IA | 0.8116 |
| Audubon, IA | 0.8116 |
| Benton, IA | 0.8116 |
| Boone, IA | 0.8116 |
| Bremer, IA | 0.8733 |
| Buchanan, IA | 0.8116 |
| Buena Vista, IA | 0.8116 |
| Butler, IA | 0.8116 |
| Calhoun, IA | 0.8116 |
| Carroll, IA | 0.8116 |
| Cass, IA | 0.8116 |
| Cedar, IA | 0.8116 |
| Cerro Gordo, IA | 0.8116 |
| Cherokee, IA | 0.8116 |
| Chickasaw, IA | 0.8116 |
| Clarke, IA | 0.8116 |
| Clay, IA | 0.8116 |
| Clayton, IA | 0.8116 |
| Clinton, IA | 0.8116 |
| Crawford, IA | 0.8116 |
| Davis, IA | 0.8116 |
| Decatur, IA | 0.8116 |
| Delaware, IA | 0.8116 |
| Des Moines, IA | 0.8116 |
| Dickinson, IA | 0.8116 |
| Emmet, IA | 0.8116 |
| Fayette, IA | 0.8116 |
| Floyd, IA | 0.8116 |
| Franklin, IA | 0.8116 |
| Fremont, IA | 0.8116 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Greene, IA | 0.8116 |
| Grundy, IA | 0.8116 |
| Guthrie, IA | 0.8116 |
| Hamilton, IA | 0.8116 |
| Hancock, IA | 0.8116 |
| Hardin, IA | 0.8116 |
| Harrison, IA | 0.8116 |
| Henry, IA | 0.8116 |
| Howard, IA | 0.8116 |
| Humboldt, IA | 0.8116 |
| Ida, IA | 0.8116 |
| Iowa, IA | 0.8116 |
| Jackson, IA | 0.8116 |
| Jasper, IA | 0.8116 |
| Jefferson, IA | 0.8116 |
| Jones, IA | 0.8116 |
| Keokuk, IA | 0.8116 |
| Kossuth, IA | 0.8116 |
| Lee, IA | 0.8116 |
| Louisa, IA | 0.8116 |
| Lucas, IA | 0.8116 |
| Lyon, IA | 0.8116 |
| Madison, IA | 0.8116 |
| Mahaska, IA | 0.8116 |
| Marion, IA | 0.8116 |
| Marshall, IA | 0.8116 |
| Mills, IA | 0.8116 |
| Mitchell, IA | 0.8116 |
| Monona, IA | 0.8116 |
| Monroe, IA | 0.8116 |
| Montgomery, IA | 0.8116 |
| Muscatine, IA | 0.8116 |
| O'Brien, IA | 0.8116 |
| Osceola, IA | 0.8116 |
| Page, IA | 0.8116 |
| Palo Alto, IA | 0.8116 |
| Plymouth, IA | 0.8116 |
| Pocahontas, IA | 0.8116 |
| Poweshiek, IA | 0.8116 |
| Ringgold, IA | 0.8116 |
| Sac, IA | 0.8116 |
| Shelby, IA | 0.8116 |
| Sioux, IA | 0.8116 |
| Story, IA | 0.8116 |
| Tama, IA | 0.8116 |
| Taylor, IA | 0.8116 |
| Union, IA | 0.8116 |
| Van Buren, IA | 0.8116 |
| Wapello, IA | 0.8116 |
| Washington, IA | 0.8116 |
| Wayne, IA | 0.8116 |
| Webster, IA | 0.8116 |
| Winnebago, IA | 0.8116 |
| Winneshiek, IA | 0.8116 |
| Worth, IA | 0.8116 |
| Wright, IA | 0.8116 |
| Kansas: | |
| Allen, KS | 0.8090 |
| Anderson, KS | 0.8090 |
| Atchison, KS | 0.8090 |
| Barber, KS | 0.8090 |
| Barton, KS | 0.8090 |
| Bourbon, KS | 0.8090 |
| Brown, KS | 0.8090 |
| Chase, KS | 0.8090 |
| Chautauqua, KS | 0.8090 |
| Cherokee, KS | 0.8090 |
| Cheyenne, KS | 0.8090 |
| Clark, KS | 0.8090 |
| Clay, KS | 0.8090 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Cloud, KS | 0.8090 |
| Coffey, KS | 0.8090 |
| Comanche, KS | 0.8090 |
| Cowley, KS | 0.8090 |
| Crawford, KS | 0.8090 |
| Decatur, KS | 0.8090 |
| Dickinson, KS | 0.8090 |
| Doniphan, KS | 0.8090 |
| Edwards, KS | 0.8090 |
| Elk, KS | 0.8090 |
| Ellis, KS | 0.8090 |
| Ellsworth, KS | 0.8090 |
| Finney, KS | 0.8090 |
| Ford, KS | 0.8090 |
| Franklin, KS | 0.8090 |
| Geary, KS | 0.8090 |
| Gove, KS | 0.8090 |
| Graham, KS | 0.8090 |
| Grant, KS | 0.8090 |
| Gray, KS | 0.8090 |
| Greeley, KS | 0.8090 |
| Greenwood, KS | 0.8090 |
| Hamilton, KS | 0.8090 |
| Harper, KS | 0.8090 |
| Haskell, KS | 0.8090 |
| Hodgeman, KS | 0.8090 |
| Jackson, KS | 0.8090 |
| Jefferson, KS | 0.8090 |
| Jewell, KS | 0.8090 |
| Kearny, KS | 0.8090 |
| Kingman, KS | 0.8090 |
| Kiowa, KS | 0.8090 |
| Labette, KS | 0.8090 |
| Lane, KS | 0.8090 |
| Lincoln, KS | 0.8090 |
| Linn, KS | 0.8090 |
| Logan, KS | 0.8090 |
| Lyon, KS | 0.8090 |
| Mcpherson, KS | 0.8090 |
| Marion, KS | 0.8090 |
| Marshall, KS | 0.8090 |
| Meade, KS | 0.8090 |
| Mitchell, KS | 0.8090 |
| Montgomery, KS | 0.8090 |
| Morris, KS | 0.8090 |
| Morton, KS | 0.8090 |
| Nemaha, KS | 0.8090 |
| Neosho, KS | 0.8090 |
| Ness, KS | 0.8090 |
| Norton, KS | 0.8090 |
| Osage, KS | 0.8090 |
| Osborne, KS | 0.8090 |
| Ottawa, KS | 0.8090 |
| Pawnee, KS | 0.8090 |
| Phillips, KS | 0.8090 |
| Pottawatomie, KS | 0.8090 |
| Pratt, KS | 0.8090 |
| Rawlins, KS | 0.8090 |
| Reno, KS | 0.8090 |
| Republic, KS | 0.8090 |
| Rice, KS | 0.8090 |
| Riley, KS | 0.8090 |
| Rooks, KS | 0.8090 |
| Rush, KS | 0.8090 |
| Russell, KS | 0.8090 |
| Saline, KS | 0.8090 |
| Scott, KS | 0.8090 |
| Seward, KS | 0.8090 |
| Sheridan, KS | 0.8090 |
| Sherman, KS | 0.8090 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Smith, KS | 0.8090 |
| Stafford, KS | 0.8090 |
| Stanton, KS | 0.8090 |
| Stevens, KS | 0.8090 |
| Sumner, KS | 0.8090 |
| Thomas, KS | 0.8090 |
| Trego, KS | 0.8090 |
| Wabaunsee, KS | 0.8090 |
| Wallace, KS | 0.8090 |
| Washington, KS | 0.8090 |
| Wichita, KS | 0.8090 |
| Wilson, KS | 0.8090 |
| Woodson, KS | 0.8090 |
| Kentucky: | |
| Adair, KY | 0.8103 |
| Allen, KY | 0.8103 |
| Anderson, KY | 0.8103 |
| Ballard, KY | 0.8103 |
| Barren, KY | 0.8103 |
| Bath, KY | 0.8103 |
| Bell, KY | 0.8103 |
| Boyle, KY | 0.8103 |
| Bracken, KY | 0.8103 |
| Breathitt, KY | 0.8103 |
| Breckinridge, KY | 0.8103 |
| Butler, KY | 0.8103 |
| Caldwell, KY | 0.8103 |
| Calloway, KY | 0.8103 |
| Carlisle, KY | 0.8103 |
| Carroll, KY | 0.8103 |
| Casey, KY | 0.8103 |
| Clay, KY | 0.8103 |
| Clinton, KY | 0.8103 |
| Crittenden, KY | 0.8103 |
| Cumberland, KY | 0.8103 |
| Edmonson, KY | 0.8103 |
| Elliott, KY | 0.8103 |
| Estill, KY | 0.8103 |
| Fleming, KY | 0.8103 |
| Floyd, KY | 0.8103 |
| Franklin, KY | 0.8103 |
| Fulton, KY | 0.8103 |
| Garrard, KY | 0.8103 |
| Graves, KY | 0.8103 |
| Grayson, KY | 0.8103 |
| Green, KY | 0.8103 |
| Hancock, KY | 0.8103 |
| Hardin, KY | 0.8103 |
| Harlan, KY | 0.8103 |
| Harrison, KY | 0.8103 |
| Hart, KY | 0.8103 |
| Henry, KY | 0.8103 |
| Hickman, KY | 0.8103 |
| Hopkins, KY | 0.8103 |
| Jackson, KY | 0.8103 |
| Johnson, KY | 0.8103 |
| Knott, KY | 0.8103 |
| Knox, KY | 0.8103 |
| Larue, KY | 0.8103 |
| Laurel, KY | 0.8103 |
| Lawrence, KY | 0.8103 |
| Lee, KY | 0.8103 |
| Leslie, KY | 0.8103 |
| Letcher, KY | 0.8103 |
| Lewis, KY | 0.8103 |
| Lincoln, KY | 0.8103 |
| Livingston, KY | 0.8103 |
| Logan, KY | 0.8103 |
| Lyon, KY | 0.8103 |
| McCracken, KY | 0.8103 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| McCreary, KY | 0.8103 |
| McLean, KY | 0.8103 |
| Magoffin, KY | 0.8103 |
| Marion, KY | 0.8103 |
| Marshall, KY | 0.8103 |
| Martin, KY | 0.8103 |
| Mason, KY | 0.8103 |
| Meade, KY | 0.8103 |
| Menifee, KY | 0.8103 |
| Mercer, KY | 0.8103 |
| Metcalfe, KY | 0.8103 |
| Monroe, KY | 0.8103 |
| Montgomery, KY | 0.8103 |
| Morgan, KY | 0.8103 |
| Muhlenberg, KY | 0.8103 |
| Nelson, KY | 0.8103 |
| Nicholas, KY | 0.8103 |
| Ohio, KY | 0.8103 |
| Owen, KY | 0.8103 |
| Owsley, KY | 0.8103 |
| Perry, KY | 0.8103 |
| Pike, KY | 0.8103 |
| Powell, KY | 0.8103 |
| Pulaski, KY | 0.8103 |
| Robertson, KY | 0.8103 |
| Rockcastle, KY | 0.8103 |
| Rowan, KY | 0.8103 |
| Russell, KY | 0.8103 |
| Shelby, KY | 0.9903 |
| Simpson, KY | 0.8103 |
| Spencer, KY | 0.8103 |
| Taylor, KY | 0.8103 |
| Todd, KY | 0.8103 |
| Trigg, KY | 0.8103 |
| Trimble, KY | 0.8103 |
| Union, KY | 0.8103 |
| Warren, KY | 0.8103 |
| Washington, KY | 0.8103 |
| Wayne, KY | 0.8103 |
| Webster, KY | 0.8103 |
| Whitley, KY | 0.8103 |
| Wolfe, KY | 0.8103 |
| Louisiana: | |
| Allen, LA | 0.8237 |
| Assumption, LA | 0.8237 |
| Avoyelles, LA | 0.8237 |
| Beauregard, LA | 0.8237 |
| Bienville, LA | 0.8237 |
| Caldwell, LA | 0.8237 |
| Cameron, LA | 0.8237 |
| Catahoula, LA | 0.8237 |
| Claiborne, LA | 0.8237 |
| Concordia, LA | 0.8237 |
| De Soto, LA | 0.8237 |
| East Carroll, LA | 0.8237 |
| East Feliciana, LA | 0.8237 |
| Evangeline, LA | 0.8237 |
| Franklin, LA | 0.8237 |
| Grant, LA | 0.8237 |
| Iberia, LA | 0.8237 |
| Iberville, LA | 0.8237 |
| Jackson, LA | 0.8237 |
| Jefferson Davis, LA | 0.8237 |
| La Salle, LA | 0.8237 |
| Lincoln, LA | 0.8237 |
| Madison, LA | 0.8237 |
| Morehouse, LA | 0.8237 |
| Natchitoches, LA | 0.8237 |
| Pointe Coupee, LA | 0.8237 |
| Red River, LA | 0.8237 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Richland, LA | 0.8237 |
| Sabine, LA | 0.8237 |
| St. Helena, LA | 0.8237 |
| St. Mary, LA | 0.8237 |
| Tangipahoa, LA | 0.8237 |
| Tensas, LA | 0.8237 |
| Union, LA | 0.8237 |
| Vermilion, LA | 0.8237 |
| Vernon, LA | 0.8237 |
| Washington, LA | 0.8237 |
| West Carroll, LA | 0.8237 |
| West Feliciana, LA | 0.8237 |
| Winn, LA | 0.8237 |
| Maine: | |
| Aroostook, ME | 0.8737 |
| Franklin, ME | 0.8737 |
| Hancock, ME | 0.8737 |
| Kennebec, ME | 0.8737 |
| Knox, ME | 0.8737 |
| Lincoln, ME | 0.8737 |
| Oxford, ME | 0.8737 |
| Piscataquis, ME | 0.8737 |
| Somerset, ME | 0.8737 |
| Waldo, ME | 0.8737 |
| Washington, ME | 0.8737 |
| Maryland: | |
| Caroline, MD | 0.9212 |
| Dorchester, MD | 0.9212 |
| Garrett, MD | 0.9212 |
| Kent, MD | 0.9212 |
| St. Marys, MD | 0.9212 |
| Somerset, MD | 0.9212 |
| Talbot, MD | 0.9212 |
| Wicomico, MD | 0.9212 |
| Worcester, MD | 0.9212 |
| Massachusetts: | |
| Dukes, MA | 1.0280 |
| Franklin, MA | 1.0280 |
| Nantucket, MA | 1.0280 |
| Michigan: | |
| Alcona, MI | 0.9451. |
| Alger, MI | 0.9451. |
| Alpena, MI | 0.9451. |
| Antrim, MI | 0.9451. |
| Arenac, MI | 0.9451. |
| Baraga, MI | 0.9451. |
| Barry, MI | 0.9451. |
| Benzie, MI | 0.9451. |
| Branch, MI | 0.9451. |
| Cass, MI | 0.9451. |
| Charlevoix, MI | 0.9451. |
| Cheboygan, MI | 0.9451. |
| Chippewa, MI | 0.9451. |
| Clare, MI | 0.9451. |
| Crawford, MI | 0.9451. |
| Delta, MI | 0.9451. |
| Dickinson, MI | 0.9451. |
| Emmet, MI | 0.9451. |
| Gladwin, MI | 0.9451. |
| Gogebic, MI | 0.9451. |
| Grand Traverse, MI | 0.9451. |
| Gratiot, MI | 0.9451. |
| Hillsdale, MI | 0.9451. |
| Houghton, MI | 0.9451. |
| Huron, MI | 0.9451. |
| Ionia, MI | 0.9451. |
| Iosco, MI | 0.9451. |
| Iron, MI | 0.9451. |
| Isabella, MI | 0.9451. |
| Kalkaska, MI | 0.9451. |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Keweenaw, MI | 0.9451. |
| Lake, MI | 0.9451. |
| Leelanau, MI | 0.9451. |
| Luce, MI | 0.9451. |
| Mackinac, MI | 0.9451. |
| Manistee, MI | 0.9451. |
| Marquette, MI | 0.9451. |
| Mason, MI | 0.9451. |
| Mecosta, MI | 0.9451. |
| Menominee, MI | 0.9451. |
| Missaukee, MI | 0.9451. |
| Montcalm, MI | 0.9451. |
| Montmorency, MI | 0.9451. |
| Newaygo, MI | 0.9451. |
| Oceana, MI | 0.9451. |
| Ogemaw, MI | 0.9451. |
| Ontonagon, MI | 0.9451. |
| Osceola, MI | 0.9451. |
| Oscoda, MI | 0.9451. |
| Otsego, MI | 0.9451. |
| Presque Isle, MI | 0.9451. |
| Roscommon, MI | 0.9451. |
| St. Joseph, MI | 0.9451. |
| Sanilac, MI | 0.9451. |
| Schoolcraft, MI | 0.9451. |
| Shiawassee, MI | 0.9451. |
| Tuscola, MI | 0.9451. |
| Wexford, MI | 0.9451. |
| Minnesota: | |
| Aitkin, MN | 0.8621. |
| Becker, MN | 0.8621. |
| Beltrami, MN | 0.8621. |
| Big Stone, MN | 0.8621. |
| Blue Earth, MN | 0.8621. |
| Brown, MN | 0.8621. |
| Carlton, MN | 0.8621. |
| Cass, MN | 0.8621. |
| Chippewa, MN | 0.8621. |
| Clearwater, MN | 0.8621. |
| Cook, MN | 0.8621. |
| Cottonwood, MN | 0.8621. |
| Crow Wing, MN | 0.8621. |
| Dodge, MN | 0.8621. |
| Douglas, MN | 0.8621. |
| Faribault, MN | 0.8621. |
| Fillmore, MN | 0.8621. |
| Freeborn, MN | 0.8621. |
| Goodhue, MN | 0.8621. |
| Grant, MN | 0.8621 |
| Hubbard, MN | 0.8621 |
| Itasca, MN | 0.8621 |
| Jackson, MN | 0.8621 |
| Kanabec, MN | 0.8621 |
| Kandiyohi, MN | 0.8621 |
| Kittson, MN | 0.8621 |
| Koochiching, MN | 0.8621 |
| Lac Qui Parle, MN | 0.8621 |
| Lake, MN | 0.8621 |
| Lake of Woods, MN | 0.8621 |
| Le Sueur, MN | 0.8621 |
| Lincoln, MN | 0.8621 |
| Lyon, MN | 0.8621 |
| McLeod, MN | 0.8621 |
| Mahnomen, MN | 0.8621 |
| Marshall, MN | 0.8621 |
| Martin, MN | 0.8621 |
| Meeker, MN | 0.8621 |
| Mille Lacs, MN | 0.8621 |
| Morrison, MN | 0.8621 |
| Mower, MN | 0.8621 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Murray, MN | 0.8621 |
| Nicollet, MN | 0.8621 |
| Nobles, MN | 0.8621 |
| Norman, MN | 0.8621 |
| Otter Tail, MN | 0.8621 |
| Pennington, MN | 0.8621 |
| Pine, MN | 0.8621 |
| Pipestone, MN | 0.8621 |
| Pope, MN | 0.8621 |
| Red Lake, MN | 0.8621 |
| Redwood, MN | 0.8621 |
| Renville, MN | 0.8621 |
| Rice, MN | 0.8621 |
| Rock, MN | 0.8621 |
| Roseau, MN | 0.8621 |
| Sibley, MN | 0.8621 |
| Steele, MN | 0.8621 |
| Stevens, MN | 0.8621 |
| Swift, MN | 0.8621 |
| Todd, MN | 0.8621 |
| Traverse, MN | 0.8621 |
| Wabasha, MN | 0.8621 |
| Wadena, MN | 0.8621 |
| Waseca, MN | 0.8621 |
| Watonwan, MN | 0.8621 |
| Wilkin, MN | 0.8621 |
| Winona, MN | 0.8621 |
| Yellow Medicine, MN | 0.8621 |
| Mississippi: | |
| Adams, MS | 0.7956 |
| Alcorn, MS | 0.7956 |
| Amite, MS | 0.7956 |
| Attala, MS | 0.7956 |
| Benton, MS | 0.7956 |
| Bolivar, MS | 0.7956 |
| Calhoun, MS | 0.7956 |
| Carroll, MS | 0.7956 |
| Chickasaw, MS | 0.7956 |
| Choctaw, MS | 0.7956 |
| Claiborne, MS | 0.7956 |
| Clarke, MS | 0.7956 |
| Clay, MS | 0.7956 |
| Coahoma, MS | 0.7956 |
| Copiah, MS | 0.7956 |
| Covington, MS | 0.7956 |
| Franklin, MS | 0.7956 |
| George, MS | 0.7956 |
| Greene, MS | 0.7956 |
| Grenada, MS | 0.7956 |
| Holmes, MS | 0.7956 |
| Humphreys, MS | 0.7956 |
| Issaquena, MS | 0.7956 |
| Itawamba, MS | 0.7956 |
| Jasper, MS | 0.7956 |
| Jefferson, MS | 0.7956 |
| Jefferson Davis, MS | 0.7956 |
| Jones, MS | 0.7956 |
| Kemper, MS | 0.7956 |
| Lafayette, MS | 0.7956 |
| Lauderdale, MS | 0.7956 |
| Lawrence, MS | 0.7956 |
| Leake, MS | 0.7956 |
| Lee, MS | 0.7956 |
| Leflore, MS | 0.7956 |
| Lincoln, MS | 0.7956 |
| Lowndes, MS | 0.7956 |
| Marion, MS | 0.7956 |
| Marshall, MS | 0.7956 |
| Monroe, MS | 0.7956 |
| Montgomery, MS | 0.7956 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Neshoba, MS | 0.7956 |
| Newton, MS | 0.7956 |
| Noxubee, MS | 0.7956 |
| Oktibbeha, MS | 0.7956 |
| Panola, MS | 0.7956 |
| Pearl River, MS | 0.7956 |
| Perry, MS | 0.7956 |
| Pike, MS | 0.7956 |
| Pontotoc, MS | 0.7956 |
| Prentiss, MS | 0.7956 |
| Quitman, MS | 0.7956 |
| Scott, MS | 0.7956 |
| Sharkey, MS | 0.7956 |
| Simpson, MS | 0.7956 |
| Smith, MS | 0.7956 |
| Stone, MS | 0.7956 |
| Sunflower, MS | 0.7956 |
| Tallahatchie, MS | 0.7956 |
| Tate, MS | 0.7956 |
| Tippah, MS | 0.7956 |
| Tishomingo, MS | 0.7956 |
| Tunica, MS | 0.7956 |
| Union, MS | 0.7956 |
| Walthall, MS | 0.7956 |
| Warren, MS | 0.7956 |
| Washington, MS | 0.7956 |
| Wayne, MS | 0.7956 |
| Webster, MS | 0.7956 |
| Wilkinson, MS | 0.7956 |
| Winston, MS | 0.7956 |
| Yalobusha, MS | 0.7956 |
| Yazoo, MS | 0.7956 |
| Missouri: | |
| Adair, MO | 0.8198 |
| Atchison, MO | 0.8198 |
| Audrain, MO | 0.8198 |
| Barry, MO | 0.8198 |
| Barton, MO | 0.8198 |
| Bates, MO | 0.8198 |
| Benton, MO | 0.8198 |
| Bollinger, MO | 0.8198 |
| Butler, MO | 0.8198 |
| Caldwell, MO | 0.8198 |
| Callaway, MO | 0.8198 |
| Camden, MO | 0.8198 |
| Cape Girardeau, MO | 0.8198 |
| Carroll, MO | 0.8198 |
| Carter, MO | 0.8198 |
| Cedar, MO | 0.8198 |
| Chariton, MO | 0.8198 |
| Clark, MO | 0.8198 |
| Cole, MO | 0.8198 |
| Cooper, MO | 0.8198 |
| Crawford, MO | 0.8198 |
| Dade, MO | 0.8198 |
| Dallas, MO | 0.8198 |
| Daviess, MO | 0.8198 |
| De Kalb, MO | 0.8198 |
| Dent, MO | 0.8198 |
| Douglas, MO | 0.8198 |
| Dunklin, MO | 0.8198 |
| Gasconade, MO | 0.8198 |
| Gentry, MO | 0.8198 |
| Grundy, MO | 0.8198 |
| Harrison, MO | 0.8198 |
| Henry, MO | 0.8198 |
| Hickory, MO | 0.8198 |
| Holt, MO | 0.8198 |
| Howard, MO | 0.8198 |
| Howell, MO | 0.8198 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Iron, MO | 0.8198 |
| Johnson, MO | 0.8198 |
| Knox, MO | 0.8198 |
| Laclede, MO | 0.8198 |
| Lawrence, MO | 0.8198 |
| Lewis, MO | 0.8198 |
| Linn, MO | 0.8198 |
| Livingston, MO | 0.8198 |
| McDonald, MO | 0.8198 |
| Macon, MO | 0.8198 |
| Madison, MO | 0.8198 |
| Maries, MO | 0.8198 |
| Marion, MO | 0.8198 |
| Mercer, MO | 0.8198 |
| Miller, MO | 0.8198 |
| Mississippi, MO | 0.8198 |
| Moniteau, MO | 0.8198 |
| Monroe, MO | 0.8198 |
| Montgomery, MO | 0.8198 |
| Morgan, MO | 0.8198 |
| New Madrid, MO | 0.8198 |
| Nodaway, MO | 0.8198 |
| Oregon, MO | 0.8198 |
| Osage, MO | 0.8198 |
| Ozark, MO | 0.8198 |
| Pemiscot, MO | 0.8198 |
| Perry, MO | 0.8198 |
| Pettis, MO | 0.8198 |
| Phelps, MO | 0.8198 |
| Pike, MO | 0.8198 |
| Polk, MO | 0.8198 |
| Pulaski, MO | 0.8198 |
| Putnam, MO | 0.8198 |
| Ralls, MO | 0.8198 |
| Randolph, MO | 0.8198 |
| Reynolds, MO | 0.8198 |
| Ripley, MO | 0.8198 |
| St. Clair, MO | 0.8198 |
| St. Genevieve, MO | 0.8198 |
| St. Francois, MO | 0.8198 |
| Saline, MO | 0.8198 |
| Schuyler, MO | 0.8198 |
| Scotland, MO | 0.8198 |
| Scott, MO | 0.8198 |
| Shannon, MO | 0.8198 |
| Shelby, MO | 0.8198 |
| Stoddard, MO | 0.8198 |
| Stone, MO | 0.8198 |
| Sullivan, MO | 0.8198 |
| Taney, MO | 0.8198 |
| Texas, MO | 0.8198 |
| Vernon, MO | 0.8198 |
| Washington, MO | 0.8198 |
| Wayne, MO | 0.8198 |
| Worth, MO | 0.8198 |
| Wright, MO | 0.8198 |
| Montana: | |
| Beaverhead, MT | 0.8689 |
| Big Horn, MT | 0.8689 |
| Blaine, MT | 0.8689 |
| Broadwater, MT | 0.8689 |
| Carbon, MT | 0.8689 |
| Carter, MT | 0.8689 |
| Chouteau, MT | 0.8689 |
| Custer, MT | 0.8689 |
| Daniels, MT | 0.8689 |
| Dawson, MT | 0.8689 |
| Deer Lodge, MT | 0.8689 |
| Fallon, MT | 0.8689 |
| Fergus, MT | 0.8689 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Flathead, MT | 0.8689 |
| Gallatin, MT | 0.8689 |
| Garfield, MT | 0.8689 |
| Glacier, MT | 0.8689 |
| Golden Valley, MT | 0.8689 |
| Granite, MT | 0.8689 |
| Hill, MT | 0.8689 |
| Jefferson, MT | 0.8689 |
| Judith Basin, MT | 0.8689 |
| Lake, MT | 0.8689 |
| Lewis and Clark, MT | 0.8689 |
| Liberty, MT | 0.8689 |
| Lincoln, MT | 0.8689 |
| McCone, MT | 0.8689 |
| Madison, MT | 0.8689 |
| Meagher, MT | 0.8689 |
| Mineral, MT | 0.8689 |
| Missoula, MT | 0.8689 |
| Musselshell, MT | 0.8689 |
| Park, MT | 0.8689 |
| Petroleum, MT | 0.8689 |
| Phillips, MT | 0.8689 |
| Pondera, MT | 0.8689 |
| Powder River, MT | 0.8689 |
| Powell, MT | 0.8689 |
| Prairie, MT | 0.8689 |
| Ravalli, MT | 0.8689 |
| Richland, MT | 0.8689 |
| Roosevelt, MT | 0.8689 |
| Rosebud, MT | 0.8689 |
| Sanders, MT | 0.8689 |
| Sheridan, MT | 0.8689 |
| Silver Bow, MT | 0.8689 |
| Stillwater, MT | 0.8689 |
| Sweet Grass, MT | 0.8689 |
| Teton, MT | 0.8689 |
| Toole, MT | 0.8689 |
| Treasure, MT | 0.8689 |
| Valley, MT | 0.8689 |
| Wheatland, MT | 0.8689 |
| Wibaux, MT | 0.8689 |
| Yellowstone Natl Park, MT | 0.8689 |
| Nebraska: | |
| Adams, NE | 0.8000 |
| Antelope, NE | 0.8000 |
| Arthur, NE | 0.8000 |
| Banner, NE | 0.8000 |
| Blaine, NE | 0.8000 |
| Boone, NE | 0.8000 |
| Box Butte, NE | 0.8000 |
| Boyd, NE | 0.8000 |
| Brown, NE | 0.8000 |
| Buffalo, NE | 0.8000 |
| Burt, NE | 0.8000 |
| Butler, NE | 0.8000 |
| Cedar, NE | 0.8000 |
| Chase, NE | 0.8000 |
| Cherry, NE | 0.8000 |
| Cheyenne, NE | 0.8000 |
| Clay, NE | 0.8000 |
| Colfax, NE | 0.8000 |
| Cuming, NE | 0.8000 |
| Custer, NE | 0.8000 |
| Dawes, NE | 0.8000 |
| Dawson, NE | 0.8000 |
| Deuel, NE | 0.8000 |
| Dixon, NE | 0.8000 |
| Dodge, NE | 0.8000 |
| Dundy, NE | 0.8000 |
| Fillmore, NE | 0.8000 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Franklin, NE | 0.8000 |
| Frontier, NE, | 0.8000 |
| Furnas, NE | 0.8000 |
| Gage, NE | 0.8000 |
| Garden, NE | 0.8000 |
| Garfield, NE | 0.8000 |
| Gosper, NE | 0.8000 |
| Grant, NE | 0.8000 |
| Greeley, NE | 0.8000 |
| Hall, NE | 0.8000 |
| Hamilton, NE | 0.8000 |
| Harlan, NE | 0.8000 |
| Hayes, NE | 0.8000 |
| Hitchcock, NE | 0.8000 |
| Holt, NE | 0.8000 |
| Hooker, NE | 0.8000 |
| Howard, NE | 0.8000 |
| Jefferson, NE | 0.8000 |
| Johnson, NE | 0.8000 |
| Kearney, NE | 0.8000 |
| Keith, NE | 0.8000 |
| Keya Paha, NE | 0.8000 |
| Kimball, NE | 0.8000 |
| Knox, NE | 0.8000 |
| Lincoln, NE | 0.8000 |
| Logan, NE | 0.8000 |
| Loup, NE | 0.8000 |
| McPherson, NE | 0.8000 |
| Madison, NE | 0.8000 |
| Merrick, NE | 0.8000 |
| Morrill, NE | 0.8000 |
| Nance, NE | 0.8000 |
| Nemaha, NE | 0.8000 |
| Nuckolls, NE | 0.8000 |
| Otoe, NE | 0.8000 |
| Pawnee, NE | 0.8000 |
| Perkins, NE | 0.8000 |
| Phelps, NE | 0.8000 |
| Pierce, NE | 0.8000 |
| Platte, NE | 0.8000 |
| Polk, NE | 0.8000 |
| Red Willow, NE | 0.8000 |
| Richardson, NE | 0.8000 |
| Rock, NE | 0.8000 |
| Saline, NE | 0.8000 |
| Saunders, NE | 0.8000 |
| Scott Bluff, NE | 0.8000 |
| Seward, NE | 0.8000 |
| Sheridan, NE | 0.8000 |
| Sherman, NE | 0.8000 |
| Sioux, NE | 0.8000 |
| Stanton, NE | 0.8000 |
| Thayer, NE | 0.8000 |
| Thomas, NE | 0.8000 |
| Thurston, NE | 0.8000 |
| Valley, NE | 0.8000 |
| Wayne, NE | 0.8000 |
| Webster, NE | 0.8000 |
| Wheeler, NE | 0.8000 |
| York, NE | 0.8000 |
| Nevada: | |
| Churchill, NV | 0.9918 |
| Douglas, NV | 0.9918 |
| Elko, NV | 0.9918 |
| Esmeralda, NV | 0.9918 |
| Eureka, NV | 0.9918 |
| Humboldt, NV | 0.9918 |
| Lander, NV | 0.9918 |
| Lincoln, NV | 0.9918 |
| Lyon, NV | 0.9918 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Mineral, NV | 0.9918 |
| Pershing, NV | 0.9918 |
| Storey, NV | 0.9918 |
| White Pine, NV | 0.9918 |
| Carson City, NV | 0.9918 |
| New Hampshire: | |
| Belknap, NH | 1.0345 |
| Carroll, NH | 1.0345 |
| Cheshire, NH | 1.0345 |
| Coos, NH | 1.0345 |
| Grafton, NH | 1.0345 |
| Sullivan, NH | 1.0345 |
| New Mexico: | |
| Catron, NM | 0.9002 |
| Chaves, NM | 0.9002 |
| Cibola, NM | 0.9002 |
| Colfax, NM | 0.9002 |
| Curry, NM | 0.9002 |
| De Baca, NM | 0.9002 |
| Eddy, NM | 0.9002 |
| Grant, NM | 0.9002 |
| Guadalupe, NM | 0.9002 |
| Harding, NM | 0.9002 |
| Hidalgo, NM | 0.9002 |
| Lea, NM | 0.9002 |
| Lincoln, NM | 0.9002 |
| Luna, NM | 0.9002 |
| McKinley, NM | 0.9002 |
| Mora, NM | 0.9002 |
| Otero, NM | 0.9002 |
| Quay, NM | 0.9002 |
| Rio Arriba, NM | 0.9002 |
| Roosevelt, NM | 0.9002 |
| San Juan, NM | 0.9002 |
| San Miguel, NM | 0.9002 |
| Sierra, NM | 0.9002 |
| Socorro, NM | 0.9002 |
| Taos, NM | 0.9002 |
| Torrance, NM | 0.9002 |
| Union, NM | 0.9002 |
| New York: | |
| Allegany, NY | 0.8845 |
| Cattaraugus, NY | 0.8845 |
| Chenango, NY | 0.8845 |
| Clinton, NY | 0.8845 |
| Columbia, NY | 0.8845 |
| Cortland, NY | 0.8845 |
| Delaware, NY | 0.8845 |
| Essex, NY | 0.8845 |
| Franklin, NY | 0.8845 |
| Fulton, NY | 0.8845 |
| Greene, NY | 0.8987 |
| Hamilton, NY | 0.8845 |
| Jefferson, NY | 0.8845 |
| Lewis, NY | 0.8845 |
| Otsego, NY | 0.8845 |
| St Lawrence, NY | 0.8845 |
| Schuyler, NY | 0.8845 |
| Seneca, NY | 0.8845 |
| Steuben, NY | 0.8845 |
| Sullivan, NY | 0.8845 |
| Tompkins, NY | 0.8845 |
| Ulster, NY | 0.8845 |
| Wyoming, NY | 0.8845 |
| Yates, NY | 0.8845 |
| North Carolina: | |
| Alleghany, NC | 0.8488 |
| Anson, NC | 0.8488 |
| Ashe, NC | 0.8488 |
| Avery, NC | 0.8488 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Beaufort, NC | 0.8488 |
| Bertie, NC | 0.8488 |
| Bladen, NC | 0.8488 |
| Camden, NC | 0.8488 |
| Carteret, NC | 0.8488 |
| Caswell, NC | 0.8488 |
| Cherokee, NC | 0.8488 |
| Chowan, NC | 0.8488 |
| Clay, NC | 0.8488 |
| Cleveland, NC | 0.8488 |
| Columbus, NC | 0.8488 |
| Craven, NC | 0.8488 |
| Dare, NC | 0.8488 |
| Duplin, NC | 0.8488 |
| Gates, NC | 0.8488 |
| Graham, NC | 0.8488 |
| Granville, NC | 0.8488 |
| Greene, NC | 0.8488 |
| Halifax, NC | 0.8488 |
| Harnett, NC | 0.8488 |
| Haywood, NC | 0.8488 |
| Henderson, NC | 0.8488 |
| Hertford, NC | 0.8488 |
| Hoke, NC | 0.8488 |
| Hyde, NC | 0.8488 |
| Iredell, NC | 0.8488 |
| Jackson, NC | 0.8488 |
| Jones, NC | 0.8488 |
| Lee, NC | 0.8488 |
| Lenoir, NC | 0.8488 |
| McDowell, NC | 0.8488 |
| Macon, NC | 0.8488 |
| Martin, NC | 0.8488 |
| Mitchell, NC | 0.8488 |
| Montgomery, NC | 0.8488 |
| Moore, NC | 0.8488 |
| Northampton, NC | 0.8488 |
| Pamlico, NC | 0.8488 |
| Pasquotank, NC | 0.8488 |
| Pender, NC | 0.8488 |
| Perquimans, NC | 0.8488 |
| Person, NC | 0.8488 |
| Polk, NC | 0.8488 |
| Richmond, NC | 0.8488 |
| Robeson, NC | 0.8488 |
| Rockingham, NC | 0.8488 |
| Rutherford, NC | 0.8488 |
| Sampson, NC | 0.8488 |
| Scotland, NC | 0.8488 |
| Stanly, NC | 0.8488 |
| Surry, NC | 0.8488 |
| Swain, NC | 0.8488 |
| Transylvania, NC | 0.8488 |
| Tyrrell, NC | 0.8488 |
| Vance, NC | 0.8488 |
| Warren, NC | 0.8488 |
| Washington, NC | 0.8488 |
| Watauga, NC | 0.8488 |
| Wilkes, NC | 0.8488 |
| Wilson, NC | 0.8488 |
| Yancey, NC | 0.8488 |
| North Dakota: | |
| Adams, ND | 0.8217 |
| Barnes, ND | 0.8217 |
| Benson, ND | 0.8217 |
| Billings, ND | 0.8217 |
| Bottineau, ND | 0.8217 |
| Bowman, ND | 0.8217 |
| Burke, ND | 0.8217 |
| Cavalier, ND | 0.8217 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Dickey, ND | 0.8217 |
| Divide, ND | 0.8217 |
| Dunn, ND | 0.8217 |
| Eddy, ND | 0.8217 |
| Emmons, ND | 0.8217 |
| Foster, ND | 0.8217 |
| Golden Valley, ND | 0.8217 |
| Grant, ND | 0.8217 |
| Griggs, ND | 0.8217 |
| Hettinger, ND | 0.8217 |
| Kidder, ND | 0.8217 |
| La Moure, ND | 0.8217 |
| Logan, ND | 0.8217 |
| McHenry, ND | 0.8217 |
| McIntosh, ND | 0.8217 |
| McKenzie, ND | 0.8217 |
| McLean, ND | 0.8217 |
| Mercer, ND | 0.8217 |
| Mountrail, ND | 0.8217 |
| Nelson, ND | 0.8217 |
| Oliver, ND | 0.8217 |
| Pembina, ND | 0.8217 |
| Pierce, ND | 0.8217 |
| Ramsey, ND | 0.8217 |
| Ransom, ND | 0.8217 |
| Renville, ND | 0.8217 |
| Richland, ND | 0.8217 |
| Rolette, ND | 0.8217 |
| Sargent, ND | 0.8217 |
| Sheridan, ND | 0.8217 |
| Sioux, ND | 0.8217 |
| Slope, ND | 0.8217 |
| Stark, ND | 0.8217 |
| Steele, ND | 0.8217 |
| Stutsman, ND | 0.8217 |
| Towner, ND | 0.8217 |
| Traill, ND | 0.8217 |
| Walsh, ND | 0.8217 |
| Ward, ND | 0.8217 |
| Wells, ND | 0.8217 |
| Williams, ND | 0.8217 |
| Ohio: | |
| Adams, OH | 0.9063 |
| Ashland, OH | 0.9063 |
| Athens, OH | 0.9063 |
| Champaign, OH | 0.9063 |
| Clinton, OH | 0.9063 |
| Coshocton, OH | 0.9063 |
| Darke, OH | 0.9063 |
| Defiance, OH | 0.9063 |
| Erie, OH | 0.9063 |
| Fayette, OH | 0.9063 |
| Gallia, OH | 0.9063 |
| Guernsey, OH | 0.9063 |
| Hancock, OH | 0.9063 |
| Hardin, OH | 0.9063 |
| Harrison, OH | 0.9063 |
| Henry, OH | 0.9063 |
| Highland, OH | 0.9063 |
| Hocking, OH | 0.9063 |
| Holmes, OH | 0.9063 |
| Huron, OH | 0.9063 |
| Jackson, OH | 0.9063 |
| Knox, OH | 0.9063 |
| Logan, OH | 0.9063 |
| Marion, OH | 0.9063 |
| Meigs, OH | 0.9063 |
| Mercer, OH | 0.9063 |
| Monroe, OH | 0.9063 |
| Morgan, OH | 0.9063 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Morrow, OH | 0.9063 |
| Muskingum, OH | 0.9063 |
| Noble, OH | 0.9063 |
| Ottawa, OH | 0.9063 |
| Paulding, OH | 0.9063 |
| Perry, OH | 0.9063 |
| Pike, OH | 0.9063 |
| Preble, OH | 0.9063 |
| Putnam, OH | 0.9063 |
| Ross, OH | 0.9063 |
| Sandusky, OH | 0.9063 |
| Scioto, OH | 0.9063 |
| Seneca, OH | 0.9063 |
| Shelby, OH | 0.9063 |
| Tuscarawas, OH | 0.9063 |
| Union, OH | 0.9933 |
| Van Wert, OH | 0.9063 |
| Vinton, OH | 0.9063 |
| Wayne, OH | 0.9063 |
| Williams, OH | 0.9063 |
| Wyandot, OH | 0.9063 |
| Oklahoma: | |
| Adair, OK | 0.8395 |
| Alfalfa, OK | 0.8395 |
| Atoka, OK | 0.8395 |
| Beaver, OK | 0.8395 |
| Beckham, OK | 0.8395 |
| Blaine, OK | 0.8395 |
| Bryan, OK | 0.8395 |
| Caddo, OK | 0.8395 |
| Carter, OK | 0.8395 |
| Cherokee, OK | 0.8395 |
| Choctaw, OK | 0.8395 |
| Cimarron, OK | 0.8395 |
| Coal, OK | 0.8395 |
| Cotton, OK | 0.8395 |
| Craig, OK | 0.8395 |
| Custer, OK | 0.8395 |
| Delaware, OK | 0.8395 |
| Dewey, OK | 0.8395 |
| Ellis, OK | 0.8395 |
| Garvin, OK | 0.8395 |
| Grady, OK | 0.8395 |
| Grant, OK | 0.8395 |
| Greer, OK | 0.8395 |
| Harmon, OK | 0.8395 |
| Harper, OK | 0.8395 |
| Haskell, OK | 0.8395 |
| Hughes, OK | 0.8395 |
| Jackson, OK | 0.8395 |
| Jefferson, OK | 0.8395 |
| Johnston, OK | 0.8395 |
| Kay, OK | 0.8395 |
| Kingfisher, OK | 0.8395 |
| Kiowa, OK | 0.8395 |
| Latimer, OK | 0.8395 |
| Le Flore, OK | 0.8395 |
| Lincoln, OK | 0.8395 |
| Love, OK | 0.8395 |
| McCurtain, OK | 0.8395 |
| McIntosh, OK | 0.8395 |
| Major, OK | 0.8395 |
| Marshall, OK | 0.8395 |
| Mayes, OK | 0.8395 |
| Murray, OK | 0.8395 |
| Muskogee, OK | 0.8395 |
| Noble, OK | 0.8395 |
| Nowata, OK | 0.8395 |
| Okfuskee, OK | 0.8395 |
| Okmulgee, OK | 0.8395 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Ottawa, OK | 0.8395 |
| Pawnee, OK | 0.8395 |
| Payne, OK | 0.8395 |
| Pittsburg, OK | 0.8395 |
| Pontotoc, OK | 0.8395 |
| Pushmataha, OK | 0.8395 |
| Roger Mills, OK | 0.8395 |
| Seminole, OK | 0.8395 |
| Stephens, OK | 0.8395 |
| Texas, OK | 0.8395 |
| Tillman, OK | 0.8395 |
| Washington, OK | 0.8395 |
| Washita, OK | 0.8395 |
| Woods, OK | 0.8395 |
| Woodward, OK | 0.8395 |
| Oregon: | |
| Baker, OR | 0.9812 |
| Benton, OR | 0.9812 |
| Clatsop, OR | 0.9812 |
| Coos, OR | 0.9812 |
| Crook, OR | 0.9812 |
| Curry, OR | 0.9812 |
| Deschutes, OR | 0.9812 |
| Douglas, OR | 0.9812 |
| Gilliam, OR | 0.9812 |
| Grant, OR | 0.9812 |
| Harney, OR | 0.9812 |
| Hood River, OR | 0.9812 |
| Jefferson, OR | 0.9812 |
| Josephine, OR | 0.9812 |
| Klamath, OR | 0.9812 |
| Lake, OR | 0.9812 |
| Lincoln, OR | 0.9812 |
| Linn, OR | 0.9812 |
| Malheur, OR | 0.9812 |
| Morrow, OR | 0.9812 |
| Sherman, OR | 0.9812 |
| Tillamook, OR | 0.9812 |
| Umatilla, OR | 0.9812 |
| Union, OR | 0.9812 |
| Wallowa, OR | 0.9812 |
| Wasco, OR | 0.9812 |
| Wheeler, OR | 0.9812 |
| Pennsylvania: | |
| Adams, PA | 0.9895 |
| Armstrong, PA | 0.9910 |
| Bedford, PA | 0.9910 |
| Bradford, PA | 0.9910 |
| Cameron, PA | 0.9910 |
| Clarion, PA | 0.9910 |
| Clearfield, PA | 0.9910 |
| Clinton, PA | 0.9910 |
| Crawford, PA | 0.9910 |
| Elk, PA | 0.9910 |
| Forest, PA | 0.9910 |
| Franklin, PA | 0.9910 |
| Fulton, PA | 0.9910 |
| Greene, PA | 0.9910 |
| Huntingdon, PA | 0.9910 |
| Indiana, PA | 0.9910 |
| Jefferson, PA | 0.9910 |
| Juniata, PA | 0.9910 |
| Lawrence, PA | 0.9910 |
| McKean, PA | 0.9910 |
| Mifflin, PA | 0.9910 |
| Monroe, PA | 0.9524 |
| Montour, PA | 0.9910 |
| Northumberland, PA | 0.9910 |
| Potter, PA | 0.9910 |
| Schuylkill, PA | 0.9910 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Snyder, PA | 0.9910 |
| Sullivan, PA | 0.9910 |
| Tioga, PA | 0.9910 |
| Susquehanna, PA | 0.9910 |
| Union, PA | 0.9910 |
| Venango, PA | 0.9910 |
| Warren, PA | 0.9910 |
| Wayne, PA | 0.9910 |
| Puerto Rico: | |
| Adjuntas, PR | 0.6936 |
| Aibonito, PR | 0.6936 |
| Arroyo, PR | 0.6936 |
| Barranquitas, PR | 0.6936 |
| Ciales, PR | 0.6936 |
| Coamo, PR | 0.6936 |
| Culebra, PR | 0.6936 |
| Guanica, PR | 0.6936 |
| Guayama, PR | 0.6936 |
| Isabela, PR | 0.6936 |
| Jayuya, PR | 0.6936 |
| Lajas, PR | 0.6936 |
| Lares, PR | 0.6936 |
| Las Marias, PR | 0.6936 |
| Maricao, PR | 0.6936 |
| Maunabo, PR | 0.6936 |
| Orocovis, PR | 0.6936 |
| Patillas, PR | 0.6936 |
| Quebradillas, PR | 0.6936 |
| Rincon, PR | 0.6936 |
| Salinas, PR | 0.6936 |
| San Sebastian, PR | 0.6936 |
| Santa Isabel, PR | 0.6936 |
| Utuado, PR | 0.6936 |
| Vieques, PR | 0.6936 |
| Puerto Rico, Nfd, PR | 0.6936 |
| South Carolina: | |
| Abbeville, SC | 0.8058 |
| Allendale, SC | 0.8058 |
| Bamberg, SC | 0.8058 |
| Barnwell, SC | 0.8058 |
| Beaufort, SC | 0.8058 |
| Calhoun, SC | 0.8058 |
| Chester, SC | 0.8058 |
| Chesterfield, SC | 0.8058 |
| Clarendon, SC | 0.8058 |
| Colleton, SC | 0.8058 |
| Darlington, SC | 0.8058 |
| Dillon, SC | 0.8058 |
| Fairfield, SC | 0.8058 |
| Georgetown, SC | 0.8058 |
| Greenwood, SC | 0.8058 |
| Hampton, SC | 0.8058 |
| Jasper, SC | 0.8058 |
| Kershaw, SC | 0.8058 |
| Lancaster, SC | 0.8058 |
| Laurens, SC | 0.8058 |
| Lee, SC | 0.8058 |
| McCormick, SC | 0.8058 |
| Marion, SC | 0.8058 |
| Marlboro, SC | 0.8058 |
| Newberry, SC | 0.8058 |
| Oconee, SC | 0.8058 |
| Orangeburg, SC | 0.8058 |
| Saluda, SC | 0.8058 |
| Union, SC | 0.8058 |
| Williamsburg, SC | 0.8058 |
| South Dakota: | |
| Aurora, SD | 0.8000 |
| Beadle, SD | 0.8000 |
| Bennett, SD | 0.8000 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Bon Homme, SD | 0.8000 |
| Brookings, SD | 0.8000 |
| Brown, SD | 0.8000 |
| Brule, SD | 0.8000 |
| Buffalo, SD | 0.8000 |
| Butte, SD | 0.8000 |
| Campbell, SD | 0.8000 |
| Charles Mix, SD | 0.8000 |
| Clark, SD | 0.8000 |
| Clay, SD | 0.8000 |
| Codington, SD | 0.8000 |
| Corson, SD | 0.8000 |
| Custer, SD | 0.8000 |
| Davison, SD | 0.8000 |
| Day, SD | 0.8000 |
| Deuel, SD | 0.8000 |
| Dewey, SD | 0.8000 |
| Douglas, SD | 0.8000 |
| Edmunds, SD | 0.8000 |
| Fall River, SD | 0.8000 |
| Faulk, SD | 0.8000 |
| Grant, SD | 0.8000 |
| Gregory, SD | 0.8000 |
| Haakon, SD | 0.8000 |
| Hamlin, SD | 0.8000 |
| Hand, SD | 0.8000 |
| Hanson, SD | 0.8000 |
| Harding, SD | 0.8000 |
| Hughes, SD | 0.8000 |
| Hutchinson, SD | 0.8000 |
| Hyde, SD | 0.8000 |
| Jackson, SD | 0.8000 |
| Jerauld, SD | 0.8000 |
| Jones, SD | 0.8000 |
| Kingsbury, SD | 0.8000 |
| Lake, SD | 0.8000 |
| Lawrence, SD | 0.8000 |
| Lyman, SD | 0.8000 |
| McCook, SD | 0.8000 |
| McPherson, SD | 0.8000 |
| Marshall, SD | 0.8000 |
| Meade, SD | 0.8000 |
| Mellette, SD | 0.8000 |
| Miner, SD | 0.8000 |
| Moody, SD | 0.8000 |
| Perkins, SD | 0.8000 |
| Potter, SD | 0.8000 |
| Roberts, SD | 0.8000 |
| Sanborn, SD | 0.8000 |
| Shannon, SD | 0.8000 |
| Spink, SD | 0.8000 |
| Stanley, SD | 0.8000 |
| Sully, SD | 0.8000 |
| Todd, SD | 0.8000 |
| Tripp, SD | 0.8000 |
| Turner, SD | 0.8000 |
| Union, SD | 0.8000 |
| Walworth, SD | 0.8000 |
| Washabaugh, SD | 0.8000 |
| Yankton, SD | 0.8000 |
| Ziebach, SD | 0.8000 |
| Tennessee: | |
| Bedford, TN | 0.8000 |
| Benton, TN | 0.8000 |
| Bledsoe, TN | 0.8000 |
| Bradley, TN | 0.8000 |
| Campbell, TN | 0.8000 |
| Cannon, TN | 0.8000 |
| Carroll, TN | 0.8000 |
| Chester, TN | 0.8000 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Claiborne, TN | 0.8000 |
| Clay, TN | 0.8000 |
| Cocke, TN | 0.8000 |
| Coffee, TN | 0.8000 |
| Crockett, TN | 0.8000 |
| Cumberland, TN | 0.8000 |
| Decatur, TN | 0.8000 |
| DeKalb, TN | 0.8000 |
| Dyer, TN | 0.8000 |
| Fentress, TN | 0.8000 |
| Franklin, TN | 0.8000 |
| Gibson, TN | 0.8000 |
| Giles, TN | 0.8000 |
| Grainger, TN | 0.8791 |
| Greene, TN | 0.8000 |
| Grundy, TN | 0.8000 |
| Hamblen, TN | 0.8000 |
| Hancock, TN | 0.8000 |
| Hardeman, TN | 0.8000 |
| Hardin, TN | 0.8000 |
| Haywood, TN | 0.8000 |
| Henderson, TN | 0.8000 |
| Henry, TN | 0.8000 |
| Hickman, TN | 0.8000 |
| Houston, TN | 0.8000 |
| Humphreys, TN | 0.8000 |
| Jackson, TN | 0.8000 |
| Jefferson, TN | 0.8791 |
| Johnson, TN | 0.8000 |
| Lake, TN | 0.8000 |
| Lauderdale, TN | 0.8000 |
| Lawrence, TN | 0.8000 |
| Lewis, TN | 0.8000 |
| Lincoln, TN | 0.8000 |
| McMinn, TN | 0.8000 |
| McNairy, TN | 0.8000 |
| Macon, TN | 0.8000 |
| Marshall, TN | 0.8000 |
| Maury, TN | 0.8000 |
| Meigs, TN | 0.8000 |
| Monroe, TN | 0.8000 |
| Moore, TN | 0.8000 |
| Morgan, TN | 0.8000 |
| Obion, TN | 0.8000 |
| Overton, TN | 0.8000 |
| Perry, TN | 0.8000 |
| Pickett, TN | 0.8000 |
| Polk, TN | 0.8000 |
| Putnam, TN | 0.8000 |
| Rhea, TN | 0.8000 |
| Roane, TN | 0.8000 |
| Scott, TN | 0.8000 |
| Sequatchie, TN | 0.9114 |
| Smith, TN | 0.8000 |
| Stewart, TN | 0.8000 |
| Trousdale, TN | 0.8000 |
| Van Buren, TN | 0.8000 |
| Warren, TN | 0.8000 |
| Wayne, TN | 0.8000 |
| Weakley, TN | 0.8000 |
| White, TN | 0.8000 |
| Texas: | |
| Anderson, TX | 0.8082 |
| Andrews, TX | 0.8082 |
| Angelina, TX | 0.8082 |
| Aransas, TX , | 0.8082 |
| Armstrong, TX | 0.8082 |
| Atascosa, TX | 0.8082 |
| Austin, TX | 0.8082 |
| Bailey, TX | 0.8082 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Bandera, TX | 0.8082 |
| Baylor, TX | 0.8082 |
| Bee, TX | 0.8082 |
| Blanco, TX | 0.8082 |
| Borden, TX | 0.8082 |
| Bosque, TX | 0.8082 |
| Brewster, TX | 0.8082 |
| Briscoe, TX | 0.8082 |
| Brooks, TX | 0.8082 |
| Brown, TX | 0.8082 |
| Burleson, TX | 0.8082 |
| Burnet, TX | 0.8082 |
| Calhoun, TX | 0.8082 |
| Callahan, TX | 0.8082 |
| Camp, TX | 0.8082 |
| Carson, TX | 0.8082 |
| Cass, TX | 0.8082 |
| Castro, TX | 0.8082 |
| Cherokee, TX | 0.8082 |
| Childress, TX | 0.8082 |
| Clay, TX | 0.8082 |
| Cochran, TX | 0.8082 |
| Coke, TX | 0.8082 |
| Coleman, TX | 0.8082 |
| Collingsworth, TX | 0.8082 |
| Colorado, TX | 0.8082 |
| Comanche, TX | 0.8082 |
| Concho, TX | 0.8082 |
| Cooke, TX | 0.8082 |
| Cottle, TX, | 0.8082 |
| Crane, TX | 0.8082 |
| Crockett, TX | 0.8082 |
| Crosby, TX | 0.8082 |
| Culberson, TX | 0.8082 |
| Dallam, TX | 0.8082 |
| Dawson, TX | 0.8082 |
| Deaf Smith, TX | 0.8082 |
| Delta, TX | 0.8082 |
| De Witt, TX | 0.8082 |
| Dickens, TX | 0.8082 |
| Dimmit, TX | 0.8082 |
| Donley, TX | 0.8082 |
| Duval, TX | 0.8082 |
| Eastland, TX | 0.8082 |
| Edwards, TX | 0.8082 |
| Erath, TX | 0.8082 |
| Falls, TX | 0.8082 |
| Fannin, TX | 0.8082 |
| Fayette, TX | 0.8082 |
| Fisher, TX | 0.8082 |
| Floyd, TX | 0.8082 |
| Foard, TX | 0.8082 |
| Franklin, TX | 0.8082 |
| Freestone, TX | 0.8082 |
| Frio, TX | 0.8082 |
| Gaines, TX | 0.8082 |
| Garza, TX | 0.8082 |
| Gillespie, TX | 0.8082 |
| Glasscock, TX | 0.8082 |
| Goliad, TX | 0.8082 |
| Gonzales, TX | 0.8082 |
| Gray, TX | 0.8082 |
| Grimes, TX | 0.8082 |
| Hale, TX | 0.8082 |
| Hall, TX | 0.8082 |
| Hamilton, TX | 0.8082 |
| Hansford, TX | 0.8082 |
| Hardeman, TX | 0.8082 |
| Hartley, TX | 0.8082 |
| Haskell, TX | 0.8082 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Hemphill, TX | 0.8082 |
| Hill, TX | 0.8082 |
| Hockley, TX | 0.8082 |
| Hopkins, TX | 0.8082 |
| Houston, TX | 0.8082 |
| Howard, TX | 0.8082 |
| Hudspeth, TX | 0.8082 |
| Hutchinson, TX | 0.8082 |
| Irion, TX | 0.8082 |
| Jack, TX | 0.8082 |
| Jackson, TX | 0.8082 |
| Jasper, TX | 0.8082 |
| Jeff Davis, TX | 0.8082 |
| Jim Hogg, TX | 0.8082 |
| Jim Wells, TX | 0.8082 |
| Jones, TX | 0.8082 |
| Karnes, TX | 0.8082 |
| Kendall, TX | 0.8082 |
| Kenedy, TX | 0.8082 |
| Kent, TX | 0.8082 |
| Kerr, TX | 0.8082 |
| Kimble, TX | 0.8082 |
| King, TX | 0.8082 |
| Kinney, TX | 0.8082 |
| Kleberg, TX | 0.8082 |
| Knox, TX | 0.8082 |
| Lamar, TX | 0.8082 |
| Lamb, TX | 0.8082 |
| Lampasas, TX | 0.8082 |
| La Salle, TX | 0.8082 |
| Lavaca, TX | 0.8082 |
| Lee, TX | 0.8082 |
| Leon, TX | 0.8082 |
| Limestone, TX | 0.8082 |
| Lipscomb, TX | 0.8082 |
| Live Oak, TX | 0.8082 |
| Llano, TX | 0.8082 |
| Loving, TX | 0.8082 |
| Lynn, TX | 0.8082 |
| McCulloch, TX | 0.8082 |
| McMullen, TX | 0.8082 |
| Madison, TX | 0.8082 |
| Marion, TX | 0.8082 |
| Martin, TX | 0.8082 |
| Mason, TX | 0.8082 |
| Matagorda, TX | 0.8082 |
| Maverick, TX | 0.8082 |
| Medina, TX | 0.8082 |
| Menard, TX | 0.8082 |
| Milam, TX | 0.8082 |
| Mills, TX | 0.8082 |
| Mitchell, TX | 0.8082 |
| Montague, TX | 0.8082 |
| Moore, TX | 0.8082 |
| Morris, TX | 0.8082 |
| Motley, TX | 0.8082 |
| Nacogdoches, TX, | 0.8082 |
| Navarro, TX | 0.8082 |
| Newton, TX | 0.8082 |
| Nolan, TX | 0.8082 |
| Ochiltree, TX | 0.8082 |
| Oldham, TX | 0.8082 |
| Palo Pinto, TX | 0.8082 |
| Panola, TX | 0.8082 |
| Parmer, TX | 0.8082 |
| Pecos, TX | 0.8082 |
| Polk, TX | 0.8082 |
| Presidio, TX | 0.8082 |
| Rains, TX | 0.8082 |
| Reagan, TX | 0.8082 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Real, TX | 0.8082 |
| Red River, TX | 0.8082 |
| Reeves, TX | 0.8082 |
| Refugio, TX | 0.8082 |
| Roberts, TX | 0.8082 |
| Robertson, TX | 0.8082 |
| Runnels, TX | 0.8082 |
| Rusk, TX | 0.8082 |
| Sabine, TX | 0.8082 |
| San Augustine, TX | 0.8082 |
| San Jacinto, TX | 0.8082 |
| San Saba, TX | 0.8082 |
| Schleicher, TX | 0.8082 |
| Scurry, TX | 0.8082 |
| Shackelford, TX | 0.8082 |
| Shelby, TX | 0.8082 |
| Sherman, TX | 0.8082 |
| Somervell, TX | 0.8082 |
| Starr, TX | 0.8082 |
| Stephens, TX | 0.8082 |
| Sterling, TX | 0.8082 |
| Stonewall, TX | 0.8082 |
| Sutton, TX | 0.8082 |
| Swisher, TX | 0.8082 |
| Terrell, TX | 0.8082 |
| Terry, TX | 0.8082 |
| Throckmorton, TX | 0.8082 |
| Titus, TX | 0.8082 |
| Trinity, TX | 0.8082 |
| Tyler, TX | 0.8082 |
| Upton, TX | 0.8082 |
| Uvalde, TX | 0.8082 |
| Val Verde, TX | 0.8082 |
| Van Zandt, TX | 0.8082 |
| Walker, TX | 0.8082 |
| Ward, TX | 0.8082 |
| Washington, TX | 0.8082 |
| Wharton, TX | 0.8082 |
| Wheeler, TX | 0.8082 |
| Wilbarger, TX | 0.8082 |
| Willacy, TX | 0.8082 |
| Winkler, TX | 0.8082 |
| Wise, TX | 0.8082 |
| Wood, TX | 0.8082 |
| Yoakum, TX | 0.8082 |
| Young, TX | 0.8082 |
| Zapata, TX | 0.8082 |
| Zavala, TX | 0.8082 |
| Utah: | |
| Beaver, UT | 0.8634 |
| Box Elder, UT | 0.8634 |
| Cache, UT | 0.8634 |
| Carbon, UT | 0.8634 |
| Daggett, UT | 0.8634 |
| Duchesne, UT | 0.8634 |
| Emery, UT | 0.8634 |
| Garfield, UT | 0.8634 |
| Grand, UT | 0.8634 |
| Iron, UT | 0.8634 |
| Juab, UT | 0.8634 |
| Millard, UT | 0.8634 |
| Morgan, UT | 0.8634 |
| Piute, UT | 0.8634 |
| Rich, UT | 0.8634 |
| San Juan, UT | 0.8634 |
| Sanpete, UT | 0.8634 |
| Sevier, UT | 0.8634 |
| Summit, UT | 0.8634 |
| Tooele, UT | 0.8634 |
| Uintah, UT | 0.8634 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Wasatch, UT | 0.8634 |
| Washington, UT | 0.8634 |
| Wayne, UT | 0.8634 |
| Vermont: | |
| Addison, VT | 0.9012 |
| Bennington, VT | 0.9012 |
| Caledonia, VT | 0.9012 |
| Essex, VT | 0.9012 |
| Lamoille, VT | 0.9012 |
| Orange, VT | 0.9012 |
| Orleans, VT | 0.9012 |
| Rutland, VT | 0.9012 |
| Washington, VT | 0.9012 |
| Windham, VT | 0.9012 |
| Windsor, VT | 0.9012 |
| Virgin Islands | 0.6594 |
| Virginia: | |
| Accomack, VA | 0.8346 |
| Alleghany, VA | 0.8346 |
| Amelia, VA | 0.8346 |
| Appomattox, VA | 0.8346 |
| Augusta, VA | 0.8346 |
| Bath, VA | 0.8346 |
| Bland, VA | 0.8346 |
| Brunswick, VA | 0.8346 |
| Buchanan, VA | 0.8346 |
| Buckingham, VA | 0.8346 |
| Caroline, VA | 0.8346 |
| Carroll, VA | 0.8346 |
| Charlotte, VA | 0.8346 |
| Craig, VA | 0.8346 |
| Cumberland, VA | 0.8346 |
| Dickenson, VA | 0.8346 |
| Essex, VA | 0.8346 |
| Floyd, VA | 0.8346 |
| Franklin, VA | 0.8346 |
| Frederick, VA | 0.8346 |
| Giles, VA | 0.8346 |
| Grayson, VA | 0.8346 |
| Greensville, VA | 0.8346 |
| Halifax, VA | 0.8346 |
| Henry, VA | 0.8346 |
| Highland, VA | 0.8346 |
| King and Queen, VA | 0.8346 |
| King William, VA | 0.8346 |
| Lancaster, VA | 0.8346 |
| Lee, VA | 0.8346 |
| Louisa, VA | 0.8346 |
| Lunenburg, VA | 0.8346 |
| Madison, VA | 0.8346 |
| Mecklenburg, VA | 0.8346 |
| Middlesex, VA | 0.8346 |
| Montgomery, VA | 0.8346 |
| Nelson, VA | 0.8346 |
| Northampton, VA | 0.8346 |
| Northumberland, VA | 0.8346 |
| Nottoway, VA | 0.8346 |
| Orange, VA | 0.8346 |
| Page, VA | 0.8346 |
| Patrick, VA | 0.8346 |
| Prince Edward, VA | 0.8346 |
| Pulaski, VA | 0.8346 |
| Rappahannock, VA | 0.8346 |
| Richmond, VA | 0.8346 |
| Rockbridge, VA | 0.8346 |
| Rockingham, VA | 0.8346 |
| Russell, VA | 0.8346 |
| Shenandoah, VA | 0.8346 |
| Smyth, VA | 0.8346 |
| Southampton, VA | 0.8346 |

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

| Nonurban area | Wage index |
|---|---|
| Surry, VA | 0.8346 |
| Sussex, VA | 0.8346 |
| Tazewell, VA | 0.8346 |
| Westmoreland, VA | 0.8346 |
| Wise, VA | 0.8346 |
| Wythe, VA | 0.8346 |
| Buena Vista City, VA | 0.8346 |
| Clifton Forge City, VA | 0.8346 |
| Covington City, VA | 0.8346 |
| Emporia City, VA | 0.8346 |
| Franklin City, VA | 0.8346 |
| Galax City, VA | 0.8346 |
| Harrisonburg City, VA | 0.8346 |
| Lexington City, VA | 0.8346 |
| Martinsville City, VA | 0.8346 |
| Nansemond City, VA | 0.8346 |
| Norton City, VA | 0.8346 |
| Radford City, VA | 0.8346 |
| South Boston City, VA | 0.8346 |
| Staunton City, VA | 0.8346 |
| Waynesboro City, VA | 0.8346 |
| Winchester City, VA | 0.8346 |
| Washington: | |
| Adams, WA | 0.9850 |
| Asotin, WA | 0.9850 |
| Chelan, WA | 0.9850 |
| Clallam, WA | 0.9850 |
| Columbia, WA | 0.9850 |
| Cowlitz, WA | 0.9850 |
| Douglas, WA | 0.9850 |
| Ferry, WA | 0.9850 |
| Garfield, WA | 0.9850 |
| Grant, WA | 0.9850 |
| Grays Harbor, WA | 0.9850 |
| Jefferson, WA | 0.9850 |
| Kittitas, WA | 0.9850 |
| Klickitat, WA | 0.9850 |
| Lewis, WA | 0.9850 |
| Lincoln, WA | 0.9850 |
| Mason, WA | 0.9850 |
| Okanogan, WA | 0.9850 |
| Pacific, WA | 0.9850 |
| Pend Oreille, WA | 0.9850 |
| San Juan, WA | 0.9850 |
| Skagit, WA | 0.9850 |
| Skamania, WA | 0.9850 |
| Stevens, WA | 0.9850 |
| Wahkiakum, WA | 0.9850 |
| Walla Walla, WA | 0.9850 |
| Whitman, WA | 0.9850 |
| West Virginia: | |
| Barbour, WV | 0.8944 |
| Boone, WV | 0.8944 |
| Braxton, WV | 0.8944 |
| Calhoun, WV | 0.8944 |
| Clay, WV | 0.8944 |
| Doddridge, WV | 0.8944 |
| Fayette, WV | 0.8944 |
| Gilmer, WV | 0.8944 |
| Grant, WV | 0.8944 |
| Greenbrier, WV | 0.8944 |
| Hampshire, WV | 0.8944 |
| Hardy, WV | 0.8944 |
| Harrison, WV | 0.8944 |
| Jackson, WV | 0.8944 |
| Lewis, WV | 0.8944 |
| Lincoln, WV | 0.8944 |
| Logan, WV | 0.8944 |
| McDowell, WV | 0.8944 |
| Marion, WV | 0.8944 |
| Mason, WV | 0.8944 |
| Mercer, WV | 0.8944 |
| Mingo, WV | 0.8944 |
| Monongalia, WV | 0.8944 |
| Monroe, WV | 0.8944 |
| Morgan, WV | 0.8944 |
| Nicholas, WV | 0.8944 |
| Pendleton, WV | 0.8944 |
| Pleasants, WV | 0.8944 |
| Pocahontas, WV | 0.8944 |
| Preston, WV | 0.8944 |
| Raleigh, WV | 0.8944 |
| Randolph, WV | 0.8944 |
| Ritchie, WV | 0.8944 |
| Roane, WV | 0.8944 |
| Summers, WV | 0.8944 |
| Taylor, WV | 0.8944 |
| Tucker, WV | 0.8944 |
| Tyler, WV | 0.8944 |
| Upshur, WV | 0.8944 |
| Webster, WV | 0.8944 |
| Wetzel, WV | 0.8944 |
| Wirt, WV | 0.8944 |
| Wyoming, WV | 0.8944 |
| Wisconsin: | |
| Adams, WI | 0.8524 |
| Ashland, WI, | 0.8524 |
| Barron, WI | 0.8524 |
| Bayfield, WI | 0.8524 |
| Buffalo, WI | 0.8524 |
| Burnett, WI | 0.8524 |
| Clark, WI | 0.8524 |
| Columbia, WI | 0.8524 |
| Crawford, WI | 0.8524 |
| Dodge, WI | 0.8524 |
| Door, WI | 0.8524 |
| Dunn, WI | 0.8524 |
| Florence, WI | 0.8524 |
| Fond Du Lac, WI | 0.8524 |
| Forest, WI | 0.8524 |
| Grant, WI | 0.8524 |
| Green, WI | 0.8524 |
| Green Lake, WI | 0.8524 |
| Iowa, WI | 0.8524 |
| Iron, WI | 0.8524 |
| Jackson, WI | 0.8524 |
| Jefferson, WI | 0.8524 |
| Juneau, WI | 0.8524 |
| Kewaunee, WI | 0.8524 |
| Lafayette, WI | 0.8524 |
| Langlade, WI | 0.8524 |
| Lincoln, WI | 0.8524 |
| Manitowoc, WI | 0.8524 |
| Marinette, WI | 0.8524 |
| Marquette, WI | 0.8524 |
| Menomonee, WI | 0.8524 |
| Monroe, WI | 0.8524 |
| Oconto, WI | 0.8524 |
| Oneida, WI | 0.8524 |
| Pepin, WI | 0.8524 |
| Polk, WI | 0.8524 |
| Portage, WI | 0.8524 |
| Price, WI | 0.8524 |
| Richland, WI | 0.8524 |
| Rusk, WI | 0.8524 |
| Sauk, WI | 0.8524 |
| Sawyer, WI | 0.8524 |
| Shawano, WI | 0.8524 |
| Taylor, WI | 0.8524 |
| Trempealeau, WI | 0.8524 |
| Vernon, WI | 0.8524 |
| Vilas, WI | 0.8524 |
| Walworth, WI | 0.8524 |
| Washburn, WI | 0.8524 |
| Waupaca, WI | 0.8524 |
| Waushara, WI | 0.8524 |
| Wood, WI | 0.8524 |
| Wyoming: | |
| Albany, WY | 0.9299 |
| Big Horn, WY | 0.9299 |
| Campbell, WY | 0.9299 |
| Carbon, WY | 0.9299 |
| Converse, WY | 0.9299 |
| Crook, WY | 0.9299 |
| Fremont, WY | 0.9299 |
| Goshen, WY | 0.9299 |
| Hot Springs, WY | 0.9299 |
| Johnson, WY | 0.9299 |
| Lincoln, WY | 0.9299 |
| Niobrara, WY | 0.9299 |
| Park, WY | 0.9299 |
| Platte, WY | 0.9299 |
| Sheridan, WY | 0.9299 |
| Sublette, WY | 0.9299 |
| Sweetwater, WY | 0.9299 |
| Teton, WY | 0.9299 |
| Uinta, WY | 0.9299 |
| Washakie, WY | 0.9299 |
| Weston, WY | 0.9299 |

[FR Doc 96–22375 Filed 9–3–96; 8:45 am]

BILLING CODE 4120–03–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 1

**[CS Docket No. 96–83; IB Docket No. 95–59; FCC 96–328]**

## Telecommunications Act of 1996; Preemption of Restrictions on Over-the-Air Reception Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This Further Notice of Proposed Rulemaking seeks comment on the implementation of Section 207 as it relates to nongovernmental restrictions on property not within the exclusive use or control of the viewer and/or in which the viewer may not have a direct or indirect ownership interest. Section 207 directs that the Commission shall: ''pursuant to Section 303 of the Communications Act, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint

distribution service or direct broadcast satellite services.'' This FNPRM will provide interested parties an opportunity to submit comments that will provide the Commission with a sufficient record on which to base ultimate regulations.

**DATES:** Interested parties may file comments to the FNPRM on or before September 27, 1996 and reply comments on or before October 28, 1996. Written comments by the public on the proposed and/or modified information collections are due on or before September 27, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before November 4, 1996.

**ADDRESSES:** An original and six copies of all comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Jacqueline Spindler of the Cable Services Bureau, 2033 M Street, N.W., Room 700, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20054, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain____t@al.eop.gov.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Spindler, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained herein, contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's FNPRM in CS Docket No. 96–83, IB Docket No. 95–59, FCC No. 96–328, adopted August 5, 1996 and released August 6, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW, Washington, D.C. 20554. This FNPRM contains a proposed information collection subject to the Paperwork Reduction Act of 1995 (PRA). As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to comment on the information collection contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due on September 27, 1996; OMB comments are due 60 days from the date of publication in the Federal Register. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060–0707.

*Title:* Preemption of Restrictions on Over-the-Air Reception Devices—Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking.

*Type of Review:* Revision of an existing collection. The following are burden estimates for the Order portion of the document, as well as the Further Notice of Proposed Rulemaking portion of the document. We account for the burdens estimates separately. If, in a subsequent rulemaking, the proposed rules in the Further Notice of Proposed Rulemaking are not adopted in part or in whole, the Commission will adjust its burden estimates accordingly.

*Respondents:* State and local governments; small organizations; small businesses.

*Number of Respondents for the Order:* 248. (100 requests for declaratory rulings, 24 comments on requests, 100 petitions for waivers, 24 comments on petitions.)

*Estimated Time Per Response for the Order:* 2–5 hours.

*Total Annual Burden for the Order:* 844 hours. It is estimated that 50% of declaratory rulings will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on declaratory rulings will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours. It is estimated that 50% of petitions for waivers will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hours = 100 hours. It is estimated that 50% of comments on waivers will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hours = 24 hours.

*Estimated Costs Per Respondent for the Order:* It is estimated that 50 requests for declaratory rulings, 12 comments on requests for declaratory rulings, 50 petitions for waivers and 12 comments on petitions for waivers will be prepared each year through outside counsel. The estimated annual costs are $89,400, illustrated as follows: 50 declaratory rulings × 5 hours × $150/hr. = $37,500. 12 comments on declaratory rulings × 4 hours × $150/hr. = $7,200. 50 petitions for waivers × 5 hours × $150/hr. = $37,500. 12 comments on petitions for waivers × 4 hours × $150/hr. = $7,200.

*Number of Respondents for the FNPRM:* 248. (100 requests for declaratory rulings, 24 comments on requests, 100 petitions for wavers, 24 comments on petitions.)

*Estimated Time Per Response for the FNPRM:* 2–5 hours.

*Total Annual Burden for the FNPRM:* 844 hours. It is estimated that 50% of declaratory rulings will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hour = 100 hours. It is estimated that 50% of comments on declaratory rulings will be prepared

without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hour = 24 hours. It is estimated that 50% of petitions for waivers will be prepared without outside counsel with a burden of 5 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 50 (50% without outside counsel) × 5 hours = 250 hours. 50 (50% with outside counsel) × 2 hour = 100 hours. It is estimated that 50% of comments on waivers will be prepared without outside counsel with a burden of 4 hours each and 50% of parties will hire outside counsel. The estimated burden to coordinate information with outside counsel is 2 hours. 12 (50% without outside counsel) × 4 hours = 48 hours. 12 (50% with outside counsel) × 2 hour = 24 hours.

*Estimated Costs Per Respondent for the FNPRM:* It is estimated that 50 requests for declaratory rulings, 12 comments on requests for declaratory rulings, 50 petitions for waivers and 12 comments on petitions for waivers will be prepared each year through outside counsel. The estimated annual costs are $89,400, illustrated as follows: 50 declaratory rulings × 5 hours × $150/hr. = $37,500. 12 comments on declaratory rulings × 4 hours × $150/hr. = $7,200. 50 petitions for waivers × 5 hours × $150/hr. = $37,500. 12 comments on petitions for waivers × 4 hours × $150/hr. = $7,200.

*Needs and Uses:* Submitted information will be used to evaluate requests for declaratory ruling regarding the reasonableness of state, local and nongovernmental restrictions, or to requests for waiver of the rule.

## I. Synopsis of Further Notice of Proposed Rulemaking

1. On February 8, 1996, the Telecommunications Act of 1996 (''1996 Act'') became law. Section 207 of the 1996 Act directs that the Commission shall, ''pursuant to Section 303 of the Communications Act, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.'' On August 6, 1996, the Commission released a Report and Order implementing Section 207. In this Further Notice of Proposed Rulemaking (FNPRM) we seek comment on the implementation of Section 207 as it relates to restrictions on property not within the exclusive use or control of the viewer and/or in which the viewer may not have a direct or indirect ownership interest.

2. Neither the *DBS Order and FNPRM* nor the *TVBS–MMDS NPRM* specifically proposed rules to govern or sought comment on the question of whether the antenna restriction preemption rules should apply to the placement of antennas on rental and other property not within the exclusive control of a person with an ownership interest. As a consequence many of the specific practical problems of how possible regulations might apply were not commented on, nor were the policy and legal issues fully briefed. We conclude that the record before us at this time is incomplete and insufficient on the legal, technical and practical issues relating to whether, and if so how, to extend our rule to situations in which antennas may be installed on common property for the benefit of one with an ownership interest or on a landlord's property for the benefit of a renter. Accordingly, we request further comment on these issues. We invite comment on the potential for central reception facilities in situations where restrictions on individual antenna placement are preempted by the rules, and thus no involuntary use of common or landlord-owned property is involved. We seek comment on the technical and practical feasibility of an approach that would allow the placement of over-the-air reception devices on rental or commonly-owned property. In particular, we invite commenters to address technical and/or practical problems or any other considerations they believe the Commission should take into account in deciding whether to adopt such a rule and, if so, the form such a rule should take.

3. Specifically, we seek comment on the Commission's legal authority to prohibit nongovernmental restrictions that impair reception by viewers who do not have exclusive use or control and a direct or indirect ownership interest in the property. On the question of our legal authority, we note that in *Loretto* v. *Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982), the Supreme Court held that a state statute that allowed a cable operator to install its cable facilities on the landlord's property constituted a taking under the Fifth Amendment. In the same case, the Court stated, in dicta, that ''a different question'' might be presented if the statute required the landlord to provide cable installation desired by the tenant. *Id.* at 440 n.19. We therefore request comment on the question of whether adoption of a prohibition applicable to restrictions imposed on rental property or property not within the exclusive control of the viewer who has an ownership interest would constitute a taking under *Loretto*, for which just compensation would be required, and if so, what would constitute just compensation in these circumstances.

4. In this regard, we also request comment on how the case of *Bell Atlantic Telephone Companies* v. *FCC*, 24 F.3d 1441 (D.C. Cir. 1994), should affect the constitutional and legal analysis. In that case, the U.S. Court of Appeals for the District of Columbia invalidated Commission orders that permitted competitive access providers to locate their connecting transmission equipment in local exchange carrier central offices because these orders directly implicated the Just Compensation Clause of the Fifth Amendment.

## II. Initial Regulatory Flexibility Analysis

5. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (1996), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the potential economic impact on small entities of the approach proposed in this Further Notice of Proposed Rulemaking. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice of Proposed Rulemaking provided above.

6. *Reason for Action.* The rulemaking is initiated to obtain comment on the implementation of Section 207 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56, as it applies to the installation, maintenance or use of antennas on common areas or rental properties, property not within the exclusive control of a person with an ownership interest, where a community association or landlord is legally responsible for maintenance and repair.

7. *Objectives.* The Commission seeks to evaluate whether preempting non-federal Restrictions on commonly owned property and property subject to lease agreements, would: (1) enhance viewers' ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals and multichannel multipoint distribution services; (2) provide an unreasonable management burden for parties owning and legally responsible for the property

at issue; and (3) result in the Commission exceeding its statutory authority and Congress' constitutional authority.

8. *Legal Basis.* The proposed action is authorized under Section 1 of the Communications Act of 1934, *as amended,* 47 U.S.C. § 151, and Section 207 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56.

9. *Reporting, Recordkeeping, and Other Compliance Requirements.* Depending on the outcome of the Further Notice of Proposed Rulemaking, neighborhood associations, property management companies and individual landlords promulgating regulations that restrict the installation, maintenance or use of devices designed for receiving over-the-air signals of DBS, MMDS and TVBS may, in certain circumstances, request declaratory rulings from the Commission that their regulations are reasonable, or petition the Commission for waiver of the rule.

10. *Federal Rules that Overlap, Duplicate or Conflict with These Requirements.* None.

11. *Description and Estimate of the Number of Small Entities Impacted.* The Regulatory Flexibility Act defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction,'' and ''the same meaning as the term 'small business concern' under section 3 of the Small Business Act.'' A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA), 15 U.S.C. § 632. Neighborhood associations and property rental businesses may be affected by the ultimate outcome in the Further Notice of Proposed Rulemaking. These entities might need to revise their covenants and lease restrictions so that they conform with the rule.

12. Section 601(4) of the Regulatory Flexibility Act defines ''small organization'' as ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. § 601(4). This definition includes homeowner and condominium associations that operate as not-for-profit organizations. The Community Associations Institute estimates that there were 150,000 associations in 1993.

13. The U.S. Small Business Administration classifies a small entity as a firm with fewer than 500 employees. United States Small Business Administration, *A Guide to the Regulatory Flexibility Act,* App. A (1996). Utilizing the Standard Industrial Classification Codes for Real Estate Agents and Managers, 100,135 firms (of a total of 100,554) have fewer than 500 employees. United States Dept. of Commerce, Bureau of the Census, *1993 Census of Cable and Other Pay Television Services* (quoted by Dr. William Whiston, Chief, Research Contracts Branch, Office of Advocacy for the Small Business Administration, July 31, 1996). This number does include real estate agents, who would not be burdened by the proposed rule, but does not include sole proprietors engaged in leasing rental property, who might be burdened.

14. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives.* This Notice solicits comments on a general approach only.

## III. Paperwork Reduction Act of 1995 Analysis

15. *Final Paperwork Reduction Act of 1995 Analysis.* This FNPRM has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain an information collection requirement on the public. Implementation of an information collection requirement is subject to approval by the Office of Management and Budget as prescribed by the Act.

16. This FNPRM contains a proposed/modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to comment on the information collection contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law No.104–13. Public and agency comments are due on September 27, 1996; OMB comments are due November 4, 1996. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

17. Written comments by the public on the modified information collections are due on September 27, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed collections on or before November 4, 1996. A copy of any comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington DC 20503 or via the Internet to fain__t@al.eop.gov.

## IV. Procedural Provisions

18. *Ex parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, provided that they are disclosed as provided in Commission's rules. *See generally* 47 CFR §§ 1.1202, 1.1206.

19. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before September 27, 1996, and reply comments on or before October 28, 1996. To file formally in this proceeding, you must file an original and six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and eleven copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Jacqueline Spindler of the Cable Services Bureau, 2033 M Street, N.W., Room 700, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

## V. Ordering Clauses

20. It is ordered that pursuant to Sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303, and Section 207 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56, notice is hereby given and comment is sought regarding the proposals, discussion, and statement of issues in the Further Notice of Proposed Rulemaking.

21. It is further ordered that the requirements and regulations

established in this decision shall become effective upon approval by the Office of Management and Budget (OMB) of the new information collection requirements adopted herein, but no sooner than October 4, 1996.

22. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission rules. *See generally,* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

23. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before September 27, 1996, and reply comments on or before October 28, 1996. All pleadings must conform to Section 1.49(a) of the Commission's rules, 47 CFR § 1.49(a). To file formally in this proceeding, parties must file an original and six copies of all comments, reply comments and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus eleven copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Room of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554. For further information, contact Jacqueline Spindler at (202) 418–7200.

24. This Further Notice of Proposed Rulemaking contains a proposed information collection. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in the Further Notice of Proposed Rulemaking. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the OMB to comment on the information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due on September 27, 1996; OMB comments are due November 4, 1996. Comments should address: (a) Whether the modified and proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

25. It is further ordered that the Secretary shall send a copy of this Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

List of Subjects in 47 CFR Part 1

Telecommunications, Television.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96–22427 Filed 9–3–96; 8:45 am]

**BILLING CODE 6712–01–U**

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 501, 504, 507, 510, 511, 512, 514, 515, 538, 539, 543, 546, 552 and 570

**[APD 2800.12A, CHGE 70]**

**RIN 3090–AF86**

### General Services Administration Acquisition Regulation; Acquisition of Commercial Items

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Extension of comment period and notice of public meeting.

**SUMMARY:** This public notice is issued to familiarize the public with the status of finalizing the interim rule which amended the General Services Administration Acquisition Regulation (GSAR) to implement Items I and III of Federal Acquisition Circular 90–32. These items in FAC 90–32 amended the Federal Acquisition Regulation (FAR) to implement the portions of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) dealing with the Truth in Negotiation Act and with the acquisition of commercial items. The GSAR interim rule also canceled the Multiple Award Schedule (MAS) policy Statement of October 1, 1982 (47 FR 50242, November 5, 1982). This notice also extends the period for public comment and provides notification of a public meeting. GSA has made some revisions to the interim rule that was published in the February 16, 1996, Federal Register to address public comments and to take into account the enactment of the Federal Acquisition Reform Act of 1996. The revised coverage has been mailed to the public commentors and copies may be obtained by other interested parties.

**DATES:** *Comment Date:* Comments should be submitted in writing to the address shown below on or before September 30, 1996.

*Meeting Date:* The meeting will be held at 10:00 a.m. on September 19, 1996.

**ADDRESSES:** A copy of the revised coverage may be obtained by calling the GSA Acquisition Policy Division at 501–1224. Interested parties should submit written comments to the Office of Acquisition Policy (MV), General Services Administration, Room 4010, 18th & F Streets, NW, Washington, DC 20405.

The public meeting will be held at: General Services Administration Auditorium, 18th & F Streets, NW, Washington, DC, 20405.

**FOR FURTHER INFORMATION CONTACT:** Al Matera, Office of GSA Acquisition Policy, (202) 501–1224.

**SUPPLEMENTARY INFORMATION:** On February 16, 1996, a interim rule was published in the Federal Register (61 FR 6164). The interim rule afforded the public a 60-day comment period. During that time 13 organizations submitted comments. Based on comments received and the enactment of the Federal Acquisition Reform Act of 1996, GSA has refined the coverage. Accordingly, a copy of the revised coverage has been mailed to previous public commenters. The purpose of this notice is to advise the public generally of the availability of the revised coverage and enable other interested parties to obtain a copy by contacting the GSA Acquisition Policy Division.

To allow the public to present its views on the refinements to this interim rule, a public meeting will be held at the GSA Auditorium on September 19, 1996. Persons or organizations wishing to make presentations should notify

Marjorie Ashby at (202) 501–1224, and provide an advance copy of your remarks not later than September 17, 1996.

Dated: August 28, 1996.

Ida M. Ustad,

*Deputy Associate Administrator for Acquisition Policy.*

[FR Doc. 96–22488 Filed 9–3–96; 8:45 am]

**BILLING CODE 6820–61–M**

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AC22**

## Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To List the Barton Springs Salamander as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Fish and Wildlife Service (Service) withdraws the February 17, 1994, proposed rule (59 FR 7968) to list the Barton Springs salamander (*Eurycea sosorum*) as an endangered species under the Endangered Species Act of 1973, as amended. The Service finds that information now available, discussed below, justifies withdrawal of the proposed listing of this species as endangered. Various agencies of the State of Texas have committed to expedite developing and implementing conservation measures needed for the species and the Barton Springs segment of the Edwards Aquifer supporting its spring habitat, as set forth in the ''Barton Springs Salamander Conservation Agreement and Strategy'' (Agreement), signed August 13, 1996. The Texas Parks and Wildlife Department, Texas Natural Resource Conservation Commission, the Texas Department of Transportation, and the Service are signatories to the Agreement. The cooperative Agreement addresses risks to the survival and recovery of the Barton Springs salamander through a combination of measures. These measures include: revision, adoption, and implementation of regulations to protect water quality in the Barton Springs watershed and the Barton Springs segment of the Edwards Aquifer from degradation; development and implementation of Best Management Practices to address point source contaminants; refinement and enforcement of storage and disposal of hazardous waste protocols; increased commitment to compliance enforcement, monitoring, and reporting; and development and implementation of local management plans to prevent degradation of surface and springhead habitat. The Agreement contains measures to address potential water quantity concerns and to establish captive refugia to prevent extinction in case of catastrophic or chronic events. Because the commitment by the State of Texas to fully implement the cooperative Agreement significantly reduces the risks to the species, the Service concludes that listing is no longer warranted.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

**FOR FURTHER INFORMATION CONTACT:** Steve Helfert, Field Supervisor (see **ADDRESSES** section) (512/490–0057; facsimile 512/490–0974).

**SUPPLEMENTARY INFORMATION:**

### Background

The Service withdraws the proposal to designate the Barton Springs salamander (*Eurycea sosorum*) as endangered, under the authority of the Endangered Species Act (Act) (16 U.S.C. 1531 *et. seq.*). The Barton Springs salamander is entirely aquatic and neotenic (meaning it does not metamorphose into a terrestrial form and retains its bright red external gills throughout life) and depends on a constant supply of clean, flowing water from Barton Springs. Adults attain an average length of 6.35 cm (2.5 in). This species is slender, with slightly elongate limbs and reduced eyes. Dorsal coloration varies from pale purplish-brown or gray to yellowish-cream. Irregular spacing of dorsal pigments and pigment gaps results in a mottled, ''salt and pepper'' pattern (Sweet 1978, Chippindale *et al.* 1993a).

The Barton Springs salamander was first collected from Barton Springs Pool in 1946 by Bryce Brown and Alvin Flury (Chippindale *et al.* 1993a,b). Although he did not publish a formal description, Dr. Samuel Sweet (University of California at Santa Barbara) was the first to recognize the Barton Springs salamander as distinct from other central Texas *Eurycea* salamanders based on its restricted distribution and unique morphological and skeletal characteristics (such as its reduced eyes, elongate limbs, dorsal coloration, and reduced number of presacral vertebrae) (Sweet 1978, 1984). Based on Sweet's work and genetic studies conducted by the University of Texas and Chippindale *et al.* (1990, 1992, 1993b), the Barton Springs salamander was formally described in June 1993 (Chippindale *et al.* 1993a). An adult male (based on external examination only) collected from Barton Springs Pool in November 1992, was selected to be the holotype (Chippindale *et al.* 1993a).

The water that discharges at Barton Springs originates from the Barton Springs segment of the Edwards Aquifer (hereafter referred to as the ''Barton Springs segment''). Barton Springs is the fourth largest spring in Texas, exceeded only by Comal, San Marcos, and San Felipe springs (Brune 1981). The Barton Springs salamander is found near three of four hydrologically connected spring outlets that collectively make up Barton Springs. These three spring outlets are known as Parthenia (=Main), Eliza (=Concession, =Elk's), and Sunken Garden (=Old Mill, =Walsh) springs, and they occur in Zilker Park, which is owned and operated by the City of Austin. No salamanders have been found at the fourth spring outlet, which is in Barton Creek immediately above Barton Springs Pool (Chippindale *et al.* 1993a,b; Sweet, pers. comm., 1993; Hansen, *in litt.*, 1995a; William Russell, Texas Speleological Survey, *in litt.* 1995). The area around the main spring outlet (Parthenia Springs) was impounded in the late 1920's to create Barton Springs Pool. Flows from Eliza and Sunken Garden springs also are retained by concrete structures, forming small pools located on either side of Barton Springs Pool. The salamander has been observed at depths of about 0.1 to 5 m (0.3 to 16 ft) of water under gravel and small rocks, submerged leaves, and algae; among aquatic vegetation; and buried in organic debris. It is generally not found on exposed limestone surfaces or in silted areas (Sweet 1978; Dr. Charles Sexton, City of Austin, *in litt.*, 1992; Chippindale *et al.* 1993a,b; Jim Collett, Robert Hansen, and Mateo Scoggins, City of Austin, pers. comms., 1994–1995; O'Donnell, pers. obs., 1996).

''Dozens or hundreds'' of individuals were estimated to occur among sunken leaves in Eliza Pool during the 1970's (Chippindale *et al.* 1993a,b), while fewer than 15, and occasionally no individuals, were observed during surveys conducted in Eliza Pool between 1987 and 1992 (Chippindale *et al.* 1993a, b). Fifteen salamanders were observed on November 16, 1992 (Chippindale *et al.* 1993a,b). No salamanders were observed at this location between December 1993 and

May 1995 (Paul Chippindale, University of Texas at Arlington, Collett, Hansen, and Scoggins; pers. comms., 1994–1995; Hansen *in litt.* 1995b). Numbers ranged from 0 to 28 between June 1995 and July 1996. Dead salamanders also have been found (O'Donnell, unpubl. data, 1995–1996).

The Barton Springs salamander was reportedly abundant among the aquatic vegetation in the deep end of Barton Springs Pool when salamanders were collected there in 1946 (Hillis and Chippindale 1992; Chippindale *et al.* 1993a,b). Between 1989 and 1991, Sexton (*in litt.*, 1992) reported finding salamanders under rock rubble immediately adjacent to the main spring outflows on ''about one out of four [snorkeling] dives.'' On July 28, 1992, at least 50 salamanders (David Hillis, University of Texas at Austin, pers. comm., 1993) were found over an area of roughly 400 sq. m (4,300 sq. ft) near the spring outflows in Barton Springs Pool, about 3 to 5 m (10 to 15 ft) below the water (Chippindale *et al.* 1993a,b). Following reports of a fish kill on September 28, 1992, which was attributed to the improper application of chlorine to clean Barton Springs Pool, only 10 to 11 salamanders were observed and could only be found in an area of about 5 sq. m (54 sq. ft) in the immediate vicinity of the Parthenia Spring outflows (Chippindale *et al.* 1993a,b). At least 80 individuals were observed during the first comprehensive survey effort conducted in Barton Springs Pool on November 16, 1992, and about 150 individuals were seen on November 24, 1992 (Chippindale *et al.* 1993a,b). A comprehensive survey conducted immediately following an October 1994 flood event found a total of 16 salamanders. A total of 10 salamanders were counted in March 1995 (Hansen, *in litt.* 1995c).

The City of Austin initiated monthly transect surveys in June 1993 to provide more consistent data concerning the range and size of the Barton Springs salamander population in Barton Springs Pool. Survey counts ranged from 1 to 27 individuals (mean=13) between July 1993 and March 1995. The highest survey counts (27 individuals) were reported in November 1993 and May 1994. The lowest counts (ranging from 1 to 6 individuals) occurred during a five-month period following the October 1994 flood event (Hansen, *in litt.* 1995c). Survey counts between April 1995 and April 1996 ranged from 3 to 45 salamanders (City of Austin, unpubl. data).

The salamander was first observed at Sunken Garden Springs on January 12, 1993 (Chippindale *et al.* 1993b). Less than 20 individuals have been sighted on any given visit to that outlet (Chippindale 1993b; Hansen, pers. comm., 1995). Because it is part of the Barton Springs complex and is hydrologically connected to Parthenia Springs, biologists had speculated that the salamander occurred at Sunken Garden Springs. However, no salamanders were observed during previous surveys conducted at this location between 1987 and 1992. Low water levels and the presence of large rocks and sediment make searching for salamanders difficult at Sunken Garden Springs (Chippindale *et al.* 1993b; O'Donnell, pers. obs., 1995).

No evidence exists that the species' range extends beyond the immediate vicinity of Barton Springs. Despite survey efforts and searches at other spring outlets (including the spring outlet immediately above Barton Springs Pool), caves, and uncased wells in the Barton Springs segment, no other locations of the Barton Springs salamander have been found (Chippindale *et al.* 1993a,b; Russell, *in litt.* 1995; Russell 1996; Hillis; Andy Price, Texas Parks and Wildlife Department; Sweet; pers. comms., 1993; Hansen, *in litt.* 1995a). No other species of *Eurycea* is known to occur in this portion of the aquifer. Although the extent to which the Barton Springs salamander occurs in the aquifer is unknown, it is likely concentrated near the spring openings where light is available for photosynthesis and food supplies are abundant, water chemistry and temperatures are relatively constant, and where the salamander has immediate access to both surface and subsurface habitats. Barton Springs is also the main discharge point for the entire Barton Springs segment, and is one of the few perennial springs in the area.

The Barton Springs salamander's diet is believed to consist almost entirely of amphipods (*Hyallela azteca*) and other small invertebrates (James Reddell, Texas Memorial Museum, University of Texas at Austin, pers. comm., 1993; Hillis and Chippindale 1992; Chippindale *et al.* 1993a,b). Primary predators of the Barton Springs salamander are believed to be fish and crayfish (Chippindale *et al.* 1993a,b; Collett, Hansen, and Scoggins, pers. comms., 1995). Observations of larvae and females with eggs indicate breeding occurs year-round (Chippindale, pers. comm., 1993; Collett, Hansen, and Scoggins, pers. comms., 1994–1995). The Barton Springs salamander's eggs are white (Lynn Ables and Streett Coale, Dallas Aquarium; Jim Dwyer, Midwest Science Center; pers. comms., 1996) and have never been observed in the wild (Chippindale, Hillis, and Price, pers. comms. 1993; Collett, Hansen, and Scoggins, pers. comms., 1994–1995; O'Donnell, pers. obs., 1995–1996), and thus oviposition likely occurs in subsurface habitat.

Captive propagation of the Barton Springs salamander has been initiated at the Dallas Aquarium in Texas and at the National Biological Service's Midwest Science Center in Missouri. Although each facility has had one successful spawning, hatching success was less than 8 percent (Ables, Coale, and Dwyer, pers. comms., 1996).

The Barton Springs segment covers roughly 400 sq. km (155 sq. mi) from southern Travis County to northern Hays County, Texas, and has a storage capacity of over 37,000 hectare-meters (300,000 acre-feet) (Slade *et al.* 1985, 1986). The approximate boundaries are the ''bad-water'' line to the east (where dissolved solids are less than 1,000 milligrams/liter (mg/l) (1,000 parts per million (ppm)) in the aquifer, but greater than this to the east); the Colorado River to the north; the geologic divide between contiguous Edwards limestones overlying the aquifer and the Glen Rose limestones to the west (Slade *et al.* 1985, 1986); and a groundwater divide occurring roughly between the Onion Creek and Blanco River watersheds to the south. The area south of the southern boundary is known as the San Antonio segment of the Edwards aquifer and drains toward San Marcos Springs. Significant groundwater movement from the San Antonio segment northward to the Barton Springs segment is believed to occur only during extreme drought conditions. North of the southern boundary, water in the aquifer moves toward Barton Springs (Slade *et al.* 1985, 1986; Stein 1995). Transmissivity (the rate at which groundwater is transmitted through the aquifer) values for the Barton Springs segment have been estimated at 0.3 to 4,000 sq. m (3 to 47,000 sq. ft) per day and tend to increase as one moves northward toward the springs (Slade *et al.* 1985, 1986).

Barton Springs drains about 391 sq. km (151 sq. mi) of the Barton Springs segment. The remaining 10 sq. km (4 sq. mi) discharge at Cold and Deep Eddy springs and are believed to be hydrologically distinct from the area discharging from Barton Springs. Cold and Deep Eddy springs are recharged by Dry Creek and a portion of Barton Creek. About 96 percent of all springflow from the aquifer discharges through Barton Springs. The remaining 4 percent exits through intermittent springs. These intermittent springs flow only about 30

percent of the time and discharge up to 170 liters per second (l/s) (6 cubic feet per second (cfs)). The long-term mean discharge from Barton Springs is about 1,415 l/s (50 cfs), ranging from 283 l/s (10 cfs) to 4,700 l/s (166 cfs) (Andrews *et al.* 1984; Slade *et al.* 1985, 1986). The mean water temperature is 20°C (68°F) (Martyn-Baker *et al.* 1992). Depending on flow conditions and whether the pool is full or drained, about 55 to 82 percent of the total springflow from Barton Springs exits the main springs into Barton Springs Pool (Slade *et al.* 1986).

The Barton Springs segment is divided into the recharge and artesian zones. The recharge zone is that portion of the aquifer where Edwards limestones are exposed at the surface, and covers the western 79 percent (about 233 sq. km (90 sq. mi)) of the aquifer. The artesian zone is confined by an impermeable layer of Del Rio clay and covers the eastern 21 percent of the aquifer. About 85 percent of all recharge is through sinkholes, fractures, and other openings in the beds of six major creeks that cross the recharge zone, including (from north to south) Barton, Williamson, Slaughter, Bear, Little Bear, and Onion creeks. The remaining 15 percent of recharge is through tributaries and direct infiltration between the creeks (Andrews *et al.* 1984; Slade *et al.* 1985, 1986).

The watersheds of the six creeks upstream (west) of the recharge zone span about 684 sq. km (264 sq. mi). This area is referred to as the contributing zone and includes portions of Travis, Hays, and Blanco counties. The recharge and contributing zones (hereafter referred to collectively as the ''Barton Springs watershed'') make up the total area that provides water to the aquifer, which equals about 917 sq. km (354 sq. mi). Based on streamflow studies, Onion Creek and Barton Creek contribute the greatest percentages of total recharge to the aquifer (34 percent and 28 percent, respectively). Williamson, Slaughter, Bear, and Little Bear creeks each contribute 12 percent or less to total recharge (Andrews *et al.* 1984; Slade *et al.* 1985, 1986). The total maximum instantaneous recharge for the creeks has been estimated at 10,000 to 11,000 l/s (350 to 400 cfs), above which runoff does not infiltrate into the aquifer. Water flowing downstream off the recharge zone is runoff that has been rejected (Slade *et al.* 1985).

Water quality is highly variable throughout the Barton Springs segment and waters flowing from Barton Springs represent a mixture of these waters originating primarily from the six streams crossing the recharge zone. Owing to the amount of recharge contributed by Barton Creek and its proximity to Barton Springs, this creek has a greater impact on the water quality at the springs than any other recharge source in the Barton Springs segment (Slade *et al.* 1985, 1986). Although some development has occurred along Barton Creek near Barton Springs, these waters are diluted by recharge waters from more rural watersheds, such as Onion Creek. Although farthest from the springs, Onion Creek provides a significant amount of recharge and thus makes an important contribution to the water quality at Barton Springs (Andrews *et al.* 1984; Slade *et al.* 1985, 1986).

The Edwards Aquifer is a ''karst'' aquifer, characterized by subsurface features such as caves, sinkholes, and other conduits. The aquifer is made up of limestones that have high localized permeability and porosity. Dissolution of calcium carbonate along faults and fractures in the bedrock forms solution channels similar to an underground network of pipes. Since these subsurface ''pipes'' are not uniformly distributed, groundwater movement in the aquifer is highly variable, being rapid in areas where the ''pipes'' are large and extensive, and slow where permeability and porosity are low.

The potential of the Edwards Aquifer and other karst aquifers to rapidly transmit large volumes of water with little filtration makes them highly susceptible to pollution (Slade *et al.* 1986; Texas Water Commission (TWC) 1989; Environmental Protection Agency (EPA) 1990; City of Austin 1991; Margaret Hart, TWC, *in litt.* 1991; Ford and Williams 1994; Notenboom *et al.* 1994). Major potential sources of groundwater contamination have been attributed to construction activities, leaking underground storage tanks, pipelines, septic tanks, accidental spills, and pesticide and fertilizer use (EPA 1990, TWC 1989). Pollutants entering the creeks or other recharge features may then be rapidly transported into the aquifer. Once in a karst aquifer, treatment of water-borne contaminants is generally ineffective because: (1) Few materials (such as sand, gravel, and organic matter) are present to filter out pollutants; (2) little evaporation occurs, which is important in eliminating highly volatile organic compounds; (3) little filtration occurs through thin karst soils; (4) water is transported rapidly through a conduit system with little or no filtration (EPA 1990; TWC 1989; Slade *et al.* 1986; Ford and Williams 1994; Notenboom *et al.* 1994); and (5) some contaminants (such as nitrates and petroleum hydrocarbons) tend to be highly insoluble and mobile in water and may not adsorb onto karst substrates (TWC 1989).

Because of the characteristics of karst aquifers, Barton Springs is believed to be heavily influenced by the quality and quantity of runoff, particularly in the recharge zone (City of Austin 1991, Slade *et al.* 1986). Thus, increasing urban development over the area supplying recharge waters to the Barton Springs segment can threaten water quality within the aquifer. The Texas Water Commission (now known as the Texas Natural Resource Conservation Commission (TNRCC)) identified the Edwards Aquifer as being one of the most sensitive aquifers in Texas to groundwater pollution (TWC 1989; Hart, *in litt.*, 1991; TNRCC 1994).

## Previous Federal Action

The Barton Springs salamander was a Category 2 candidate species on the Service's candidate notices of review from December 30, 1982 (47 FR 58454; September 18, 1985: 50 FR 37958; January 6, 1989: 54 FR 554; and November 21, 1991: 56 FR 58804) until publication of the proposed rule to list the species as endangered (59 FR 7968). Dr. Mark Kirkpatrick and Ms. Barbara Mahler petitioned the Service to list the Barton Springs salamander on January 22, 1992, and on December 11, 1992 (57 FR 58779), the Service published a notice in the Federal Register that the petitioner presented substantial information that the requested action may be warranted. A proposed rule to list the Barton Springs salamander was published in the Federal Register on February 17, 1994 (59 FR 7968). The Service held a public hearing on June 16, 1994, in Austin, Texas (59 FR 27257). On March 10, 1995, the Service published a notice extending the 1-year deadline for final action on the proposed rule until August 17, 1995, and reopened the public comment period (59 FR 27257). Reasons for the 6-month extension are provided in the March 10, 1995, Federal Register notice.

On April 10, 1995, Congress enacted a moratorium prohibiting work on listing actions (Public Law 104–6) and eliminated funding for the Service to conduct final listing actions. On November 27, 1995, in response to a lawsuit from the Save Our Springs Legal Defense Fund (Save Our Springs Legal Defense Fund, Inc., et al., v. Bruce Babbitt), a U.S. District Court invalidated the Service's March 10, 1995, notice of extension and ruled that the Service had to make a final determination on whether to list the Barton Springs salamander within 14 days of the court order. The court

granted a stay pending the Service's appeal of the order, on the grounds that the moratorium and lack of funding prohibited the Service from making a final listing determination. The moratorium was lifted on April 26, 1996, by means of a Presidential waiver, at which time limited funding for listing actions was made available through the Omnibus Budget Reconciliation Act of 1996 (Public Law No. 104–134, 100 Stat. 1321, 1996). The Service published guidance for restarting the listing program on May 16, 1996 (61 FR 24722). Due to the potential for new information during the lapse between the reinstatement of the listing program and the close of the last comment period (May 17, 1995), the Service reopened the public comment period on June 24, 1996, for 30 days. That comment period closed July 10, 1996, by U.S. District Court order.

Development of Conservation Agreement

Following the Service's decision to propose the species for listing as endangered, the City of Austin and the Texas Parks and Wildlife Department (TPWD) formed the Aquatic Biological Assessment Team (ABAT) to conduct independent peer review of the listing proposal and to address salamander issues. The ABAT concluded that important information gaps exist that prevent a conclusive scientific assessment regarding the biology of the salamander. The ABAT also noted that both short-term and long-term threats to the viability of the species exist. On September 20, 1995, the ABAT issued a report detailing its recommendations for further study of the Barton Springs salamander so that improved scientific understanding could lead to the development of factually based conservation measures for the species. Those recommendations led to the ''Barton Springs Salamander Conservation Agreement and Strategy'' (Agreement) signed by the State agencies on August 13, 1996.

In order to meet the objectives of the Agreement, agencies of the State of Texas will implement five conservation actions. These actions are: (1) Enforcement and monitoring of compliance with existing regulations and adoption, implementation, and enforcement of currently proposed regulations; (2) prevention of catastrophic contaminant releases into the spring waters; (3) prevention of degradation of the springhead habitat; (4) establishment of a captive breeding program; and (5) development of a better biological understanding of the salamander population. In addition, the State will effect four general administrative actions: (1) Coordination of conservation activities; (2) implementation of the conservation schedule; (3) funding of conservation actions; and (4) assessment of the conservation progress. The actions listed above are adequate to reduce risks to the salamander. But, if in the future, the adequacy is questioned, the Barton Springs Salamander Conservation Team (Conservation Team) will assess such issues for follow up on conservation actions.

The Conservation Team was formed under the Agreement to administer and revise the Agreement as needed, based on new biological information on the species. Such information will include the results of a TPWD-sponsored population and habitat study, which may lead to a population viability and habitat analysis (PVHA) workshop. The Conservation Team will coordinate conservation activities and monitor conservation actions taken by the signatories of the Agreement. The Service understands that the Conservation Team will review the current and proposed regulatory programs that contribute to conserving the Barton Springs salamander, its habitat and the ecosystem, the Barton Springs segment of the Edwards Aquifer.

The Service believes that the Agreement ensures the implementation of conservation measures that will reduce the threats to the salamander to the point that it does not warrant listing. The Service therefore withdraws the proposal to list the Barton Springs salamander as endangered.

Public Comments on the Proposed Rule

In the February 17, 1994, proposed rule (59 FR 7968) and associated Federal Register notices, including notification of a public hearing (59 FR 27257) and each of the five comment periods (February 17 to April 18, 1994 (59 FR 7968); May 26 to July 1, 1994 (47 FR 13105); July 8 to July 29, 1994 (59 FR 35089); March 10 to May 17, 1995 (47 FR 13105); and June 24 to July 10, 1996 (61 FR 32414)), all interested parties were requested to submit factual reports or information to be considered in making a final listing determination. Appropriate Federal and State agencies, local governments, scientific organizations, and other interested parties were contacted and asked to comment. Legal notices of the public hearing which invited general public comment were published in the Dripping Springs Century News and Austin-American Statesman on June 8, 1994, in the Drippings Springs Dispatch on June 9, 1994, and in the Austin Chronicle on June 10, 1994.

The Service received 657 written and oral comments, 8 videotapes, 5 petitions, and 2 resolutions from individuals and agencies. Of the 657 comments, 524 supported the proposed action, 123 opposed it, and 10 stated neither support nor opposition. Four petitions totaling over 1,800 signatures and one resolution from the City of Austin supported listing, and one petition containing 29 signatures and one resolution from the city of Dripping Springs opposed the listing.

The Service held a public hearing in two sessions on June 16, 1994, at the Lyndon Baines Johnson Auditorium at the University of Texas at Austin. Over 160 people attended the public hearing, and 74 individuals provided oral testimony.

Written and oral comments are incorporated into this withdrawal notice where appropriate. Most of the comments were directly related to listing the salamander as endangered. Many of the comments supporting listing provided substantive factual information that documented risks to the Barton Springs salamander. Those comments were considered, and listing appeared warranted prior to the signing of the Agreement. Conversely, substantive comments opposing listing generally discussed the adequacy of existing regulatory mechanisms then in place to protect the salamander. Since development of the Agreement, commitment to conservation of the species has been insured, rendering most of the comments on this action moot, outdated, or otherwise irrelevant to this withdrawal notice. The Service carefully considered all comments submitted relevant to the decision to withdraw the proposed listing. Comments submitted are available for review at the Service's Austin Ecological Services Office (see **ADDRESSES**).

Summary of Factors Affecting the Species

The Service must consider five factors described in section 4(a)(1) of the Act when determining whether to list a species. These factors, and their application to the Service's decision to withdraw the proposal to list the Barton Springs salamander, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The primary risks to the Barton Springs salamander and its habitat, which the Service identified in its proposal to list the species (59 FR 7968), are degradation of water quality and

quantity resulting from urban expansion over the Barton Springs watershed (including roadway, residential, commercial, and industrial development). The Service identified cumulative degradation, catastrophic spills (such as hazardous materials), and increased water withdrawals from the aquifer (compounded by drought) as factors contributing to declining water quality and quantity in the portion of the Edwards Aquifer upon which the species depends. Other concerns identified by the Service are potential impacts to the salamander's surface habitat in Barton Springs pool caused by pool maintenance and cleaning activities.

The Agreement includes a State commitment to implement specific conservation measures to protect the salamander, its habitat and the ecosystem, the Barton Springs segment of the Edwards Aquifer. The Agreement addresses these risks to the Barton Springs salamander through a combination of measures. They are: (1) Revision, adoption, and implementation of regulations to protect water quality in the Barton Springs watershed and the Barton Springs segment of the Edwards Aquifer from degradation; (2) development and implementation of Best Management Practices (BMPs) to address point source contaminants; (3) refinement and enforcement of storage and disposal of hazardous waste protocols; (4) increased commitment to compliance enforcement, monitoring, and reporting; and (5) development of local management plans to prevent degradation of surface and springhead habitat.

The Agreement includes specific responsibilities to be implemented immediately and in Fiscal Year 1997 by the lead State agencies. Those responsibilities for the TPWD include: provide the team leader for the Conservation Team (formed in the Agreement); assist the City of Austin in Barton Springs pool maintenance; assist other State and local agencies in evaluating existing and proposed conservation actions that benefit the Barton Springs salamander; sponsor a salamander population and habitat study and follow up on a population viability and habitat analysis (PVHA) workshop; serve as the responsible State agency for protection and conservation of the salamander and its unique ecosystem; serve as the responsible State agency for enforcement of the Act; and serve as the responsible lead for establishing a captive breeding/refugium program. The responsibilities of the TNRCC include: evaluate existing and proposed water quality regulations for State and local agencies and private development compliance in the protection and conservation of Barton Springs, the Barton Springs segment of the Edwards Aquifer, and the recharge zone and contributing streams and watersheds; serve as the responsible State agency for ensuring water quality compliance and monitoring; and serve as the responsible State agency for coordinating State/regional/local response and remediation on hazardous materials spills and contingency plans and operations. Commitments by The Texas Department of Transportation (TxDOT) include: serve as the responsible State agency for ensuring that all transportation projects over the recharge zone are developed with BMPs that will minimize or prevent the degradation of recharging waters to Barton Springs; serve as responsible State agency for the design, construction and maintenance of permanent structural controls (e.g., hazardous materials traps, detention ponds, filtration basins, etc.) on transportation projects over the recharge zone; serve as the responsible State agency for ensuring that transportation projects are constructed in a manner to minimize water quality impacts in accordance with State law and regulations; and work with TPWD on conservation issues related to transportation activities in accordance with the Memorandum of Understanding between the two State agencies. The Service is responsible for: serving on the Conservation Team and providing technical assistance to all State agencies, regional and local agencies and cooperators; and providing technical input to State, regional and local agencies and cooperating interests concerning the conservation of the salamander.

The Agreement includes measures to address potential water quantity concerns and to minimize chances of a catastrophic event, however the Agreement establishes captive refugia to prevent extinction in case of catastrophic or chronic events. The Barton Springs salamander is still considered rare and potentially vulnerable; however, the commitment by the State of Texas to implement the cooperative Agreement reduces the imminence and severity of threats to the species so that listing is no longer considered warranted.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No threat from overutilization of this species is known at this time.

C. *Disease or predation.* The Service is not aware of diseases or parasites of the Barton Springs salamander. Primary predators of the Barton Springs salamander are believed to be predatory fish and crayfish; however, no information exists to indicate that predation poses a major threat to this species.

D. *The inadequacy of existing regulatory mechanisms.* The conservation and recovery of this species is tied to the protection of water quality and quantity through regulatory mechanisms for Barton Springs, the Barton Creek watershed, and the Barton Springs segment of the Edwards Aquifer. The Service evaluated existing State and local regulatory mechanisms and BMPs prior to preparing the proposed rule for listing the species. The Service found evidence of inadequacy of existing regulatory mechanisms in 1994 and published the proposed rule with information on this factor. Several commentors, including the State of Texas, presented information on the issue of existing regulatory programs. The Service reopened the comment period on June 24, 1996, in part due to the potential for new information on proposed regulatory protection under State authorities and disagreement concerning data on existing regulatory mechanisms that would conserve the species. The State of Texas developed the Agreement specifically to implement conservation measures using existing and proposed regulatory mechanisms in a comprehensive program for the conservation of the Barton Springs salamander.

The Service recognizes that the Agreement reduces the threats to the salamander. The Agreement addresses the issue of reducing threats by charging the Conservation Team to review the adequacy of those regulatory mechanisms, rules, regulations, and State agency policies for conserving the species and its habitat. This review will ensure that revisions or changes will be developed cooperatively and implemented expeditiously through State government mechanisms to conserve the salamander and its ecosystem. As team leader, TPWD is charged with ensuring that these conservation measures are implemented. The Service serves on the team, but if the team's recommendations to State agencies are not implemented, the Service may withdraw from the Agreement and will consider the use of the full range of its listing authority, including emergency listing, to protect the species.

The signatories of the Agreement are those agencies with the responsibility, authority, and funding mechanisms to implement the provisions of the Agreement. The signatories include the

TPWD, the TNRCC, the TXDOT, and the Service. Other parties may be included as additional measures are added to the Agreement. The Agreement follows the recommendations presented by the ABAT report (1995), using an ecosystem approach to conserve the Barton Springs salamander population by maintaining the high quality spring ecosystem within which the salamander exists.

The Agreement focuses on two objectives. The main objective is to eliminate or significantly reduce the threats to the species. This includes eliminating risk of catastrophic events. In case this does not work, the Agreement establishes a captive breeding/refugium program in order to avoid extinction of the species should any potential threats actually cause the species to disappear in the wild. These objectives will be reached through implementation of the Agreement for the species.

The TNRCC has implemented a comprehensive water quality protection program for the Edwards Aquifer and related surface waters. This program covers the Barton Springs segment of the Edwards Aquifer that yields flow to Barton Springs and provides the most stringent groundwater quality protection measures in the State.

The Federal Clean Water Act and the Environmental Protection Agency's (EPA) rules require each State to develop and implement an anti-degradation policy, as a part of its water quality standards (40 CFR 131.6). Such standards, including the anti-degradation policy, must be approved by the EPA. The TNRCC's policy, which has been approved by EPA, is contained in 30 TAC 307.5 and adopts the language used by the EPA in its anti-degradation policy (40 CFR 131.12).

The Tier II Anti-degradation Policy contained in section 307.5 of the TNRCC's rules is currently applicable to the Barton Creek watershed. This policy provides that no activities subject to regulatory action which would cause degradation of waters which exceed fishable/swimmable quality will be allowed, unless it can be shown that the lowering of the water quality is necessary for important economic or social development. Degradation is defined as a lowering of water quality beyond a de minimus extent, to the extent that an existing use is impaired. Fishable/swimmable waters are waters which have quality sufficient to support propagation of indigenous fish, shellfish and wildlife, as well as recreation in and on the water. Water quality sufficient to protect existing uses is to be maintained. The Conservation Team will assess the potential impact to the salamander of the anti-degradation policy exception (important economic or social development) that could lead to degradation of the salamander's habitat. The policy exception would require careful assessment and recommended action to alleviate the threat to the salamander, its habitat and the ecosystem, the Barton Springs segment of the Edwards Aquifer. If the Conservation Team's recommended action is not implemented, the Service may withdraw from the Agreement and will consider the use of the full range of its listing authority, including emergency listing, to protect the species.

The TNRCC's rules seek to maintain and protect the water quality standards and related aquatic life uses designated for the Barton Creek watershed. The regulation of point discharges and effluent on and upstream of the recharge zone (section 313.6), as well as the design, installation, and removal of petroleum storage tanks (PSTs) (sections 313.10 and 313.11) and on-site sewage systems (section 285.9) are the most stringent in the State and are summarized in the TNRCC's July 1, 1996, memo entitled ''Protecting Water Quality in the Edwards Aquifer.'' No new or increased discharges are allowed in the recharge zone. Additionally, no confined animal operations may be located in the recharge zone (section 313.10).

In addition to the more broadly applicable chapter 313 TNRCC's rules, for which revisions are currently proposed, under State Senate Bill 1017 (codified as section 26.179, Texas Water Code), special water quality protection plans are being developed and implemented in the Barton Creek watershed within the contributing zone of the Edwards Aquifer. This legislation applies to property of 200 hectares (500 acres) or more within the City of Austin's extraterritorial jurisdiction where a designated water quality protection zone and a water quality protection plan are subject to review and approval by the TNRCC. The legislation provides a non-degradation water quality goal by providing that development on the property may not result in exceeding background water quality. The quality of runoff water must be comparable to those levels that existed prior to new development. Proposed rules under 30 TAC chapter 216 (relating to Water Quality Protection Zones) that implement this legislation were published in the *Texas Register* on April 14, 1996, for public comment. Adoption of these rules by the TNRCC is expected in October 1996. If not adopted in a timely manner, the Service would withdraw from the Agreement and re-propose the salamander for listing.

The TNRCC proposed a new Edwards Aquifer rule as a new chapter 213 to streamline and consolidate the existing chapter 313 Edwards Aquifer rule, which are also expected to be adopted in October, 1996. The proposed rule would also update the current day-to-day operations of the agency relating to the protection of the water quality of the Edwards Aquifer and make the administration of the Edwards Aquifer Protection Program more efficient and effective. The proposed rule also provides: new or revised definitions for regulated activity, BMP, aboveground and underground storage tank facilities, commencement of construction, geologic or manmade feature, sensitive feature, and site. The rule consolidates into one section the requirement for filing and processing an Edwards Aquifer protection plan, details how the plan will be processed by the agency; prohibits the commencement of construction of any regulated activity until a plan has been approved by the agency; and provides that the term of approval of a plan will expire two years after the initial issuance unless commencement of construction has occurred. The rule also consolidates the description of activities that require an Edwards Aquifer protection plan, the contents of various plans, notification and inspection requirements, and exemptions from submitting a plan.

Five new requirements for the technical report submitted as part of an Edwards Aquifer protection plan are proposed under the new rule in chapter 213. The report must include a description of measures to be taken to avoid or minimize instream erosion from water flowing off the site. Measures that would decrease instream erosion will protect water quality. The report must include a description of the BMPs and measures that will be taken to prevent pollutants from entering the aquifer while, to the extent practicable, maintaining flow to sensitive features identified in either the assessment of area geology or during excavation, blasting, or construction. The report must include a plan for inspection of BMPs and measures and their maintenance and repair. The existing rule requires measures to prevent pollution of stormwater flowing onto and off a site. The submission of this plan will formalize maintenance and repair as part of an Edwards Aquifer protection plan. The requirement for a downgradient assessment of area geology has been changed from one mile to one-half mile. A geological assessment will be performed 15 m (50

feet) on either side of the path of a proposed sewer line, allowing for pre-planning to address sensitive features. The rule prohibits construction on either the recharge or transition zone of new municipal solid waste landfill activities and restricts further the construction and use of underground and aboveground storage tanks and facilities.

Prior to commencement of construction, a developer of a project on the Edwards Aquifer recharge zone must submit a Water Pollution Abatement Plan (WPAP) to the TNRCC for review and approval. The developer must propose in the plan measures and practices that will prevent pollution of stormwater entering the site, on-site, and leaving the site. Pollution is defined in the rule as the alteration of the physical, chemical or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental or injurious to humans, animal life, vegetation or property, or to public health, safety or welfare, or impairs the usefulness of the public enjoyment of the waters for any lawful or reasonable purpose. The plans must meet this performance goal of water quality protection. Under the proposed new rule in chapter 213, BMPs must be included and implemented as part of the WPAP.

The TNRCC is responsible for compliance monitoring of water pollution abatement plans for the Barton Creek watershed. The TNRCC's staff perform pre-construction onsite inspections prior to approval of WPAPs. This includes inspection to verify that all recharge features have been identified on the site. The TNRCC's staff conduct a follow-up inspection for each site during construction to ensure that all pollution prevention measures are in place, maintained properly and working as required. A reporting requirement in all approved plans is the immediate notification by the permittee to the TNRCC of any previously unidentified recharge feature discovered during construction. If such a feature is found, construction must stop until the TNRCC's staff can inspect the feature and approve the proposed measures to prevent pollution from entering the feature. The TNRCC conducts inspections before, during, and after construction of all TxDOT road and highway projects as well as commercial developments. The TNRCC also inspects any non-State road development project (e.g., city) to ensure that water quality protection under permitted WPAPs is enforced. During Fiscal Year 1996, TNRCC Austin field staff conducted 182 initial site assessments and 289 follow-up inspections. Almost all non-compliances (typically failure to properly maintain a BMP such as a sediment control fence or other structure) were remedied immediately during these inspections. The remainder were remedied after receipt of a ''Notice of Violation'' letter. In only one instance during Fiscal Year 1996 was it necessary for the field staff to refer a violation for formal enforcement in order to achieve compliance.

Statewide rules for the protection of water quality have been applied to the Barton Springs area since their inception. This includes requirements for PSTs, spill response and remediation, hazardous waste control, and point and non-point source pollution prevention programs. The Edwards Aquifer rules contained in chapter 313 were extended to Travis County beginning in 1990. Chapter 313 provides that if construction on a project has not commenced within two years of application approval, a new application must be submitted for review and approval. However, rules in effect at the time of resubmission of the initial application shall apply to the new application.

Pursuant to the TNRCC's authority to protect the water quality of the Edwards Aquifer, the TNRCC's rules contained in section 313.4(b)(4)(D) provide that a water pollution abatement plan must contain a description of the measures that will be taken to prevent pollutants from entering recharge features ''while maintaining or enhancing the quantity of water entering the recharge features. * * *'' This language is also contained in the proposed amendments to these rules and more clearly states that the sealing of a recharge feature may not be an acceptable measure to prevent contaminants from entering the aquifer unless there is no reasonable, practicable alternative.

The Edwards Aquifer/Barton Springs Conservation District controls the withdrawal and use of the Barton Springs segment of the Edwards Aquifer. The District's rules require users to implement water conservation measures and mandate reduction measures during a drought. When fully implemented, the District's drought contingency plan is set up to prevent the aquifer from dropping below historically low levels and thus conserve springflow at Barton Springs.

Full implementation of spill contingency plans and hazardous materials storage, transportation, and use during construction is a key component of protection of the waters supporting Barton Springs and the salamander. In particular, the potential for catastrophic spills from a highway over the recharge zone is a major risk to the species. In order to eliminate the risk, the TNRCC works with the TxDOT to address both potential contamination issues surrounding the construction of highways and the placement of hazardous materials traps (HMTs) to capture accidental spills resulting from accidents.

The U.S. Department of Transportation (USDOT) regulates the transportation of hazardous materials. The requirements for driver training, shipping papers, insurance, placarding and container integrity and labeling are established by the USDOT pursuant to the Hazardous Materials Uniform Transportation Safety Act. The TNRCC imposes additional regulations on the transportation of hazardous wastes, which call for tracking of shipments to ensure that they reach their intended destination. The Texas Department of Public Safety provides enforcement of both the USDOT and TNRCC transporter regulations.

The TxDOT began implementing stormwater runoff controls on projects over the Barton Springs segment of the Edwards Aquifer recharge zone in 1991. These controls include facilities to capture spills of hazardous material occurring on roadways that contribute runoff to creeks and streams in the recharge zone. To date, the TxDOT has constructed 44 HMTs at a cost of over $15 million at outfalls over the recharge zone on three major projects: Loop 1, State Highway (SH) 45, and U.S. Highway 290. These outfalls discharge to the watersheds of Slaughter, Williamson, and Barton creeks, all of which contribute to the recharge of the Barton Springs segment of the Edwards Aquifer. All new and retrofit TxDOT project plans incorporate stormwater runoff controls and HMTs where needed for water quality protection.

The HMT is a concrete-lined basin located at the end of the storm drainage system just prior to discharging to the natural drainageway. The HMT is designed to hold 38,000 l (10,000 gallons), the capacity of a large tanker truck. The HMTs operate as stand-alone structures or work in combination with other stormwater runoff controls such as detention ponds or filtration basins. Routine maintenance procedures for HMTs include regular inspections by TxDOT personnel. The HMTs are inspected at least monthly and/or after each rainfall event. Based on these inspections, the HMTs are cleaned, drained or otherwise repaired as necessary.

The TNRCC is authorized by statute to conduct emergency spill response and

cleanup activities statewide pursuant to section 26.264 of the Texas Water Code. This includes spills occurring on the recharge zone, within the transition zone and in the contributing watershed of the Edwards Aquifer. The TNRCC is the lead State agency for response to all hazardous substance spills into State waters. The TNRCC works with State, regional and local entities to carry out a comprehensive, coordinated plan that can be implemented in the event of a crisis. The TNRCC works closely with the TxDOT by implementing a contractual agreement (statute requirement) whereby personnel, equipment and materials under TxDOT control may be diverted and utilized for spill and discharge cleanup. The TNRCC works closely with the Edwards Aquifer/Barton Springs Conservation District in spill response and cleanup planning and action for the Barton Springs segment of the Edwards Aquifer. The TNRCC, the District and the TxDOT conduct joint training exercises to respond to simulated spills. The TNRCC works with local fire departments and county emergency services districts to develop and implement spill response plans, such as in the Barton Creek watershed with the Oak Hill Fire Department and Travis County Services District Number 3.

The TNRCC prohibits the storage of hazardous materials and waste in the recharge zone of the Edwards Aquifer. Hazardous waste storage facilities, waster piles or landfills containing hazardous waste may not be located in the recharge zone of the Edwards Aquifer unless secondary containment is provided to preclude migration to groundwater from spills, leaks or discharges. Approximately 70 to 80 percent of the recharge to the Edwards Aquifer comes from surface streams. Protection of water quality is provided in these affected riparian areas in the recharge zone as well as in the contributory watershed.

Wetlands are a major contributor of surface water to groundwater recharge and serve a vital water quality protection function. They trap sediments, filter contaminants, and help prevent flooding and increased soil erosion. The State regulates the location of hazardous material storage facilities in wetlands. Protected wetlands include those that may provide recharge to the Barton Springs segment of the Edwards Aquifer and serve a water quality protection function for the aquifer and related springs. Transition zones, areas of downgradient of the recharge zone but where faults and fractures may occur, provide additional recharge to the Edwards Aquifer. Waster disposal wells and disposal are also prohibited in the transition zone.

The Barton Springs pool is an on-channel impoundment on Barton Creek and constitutes a State water under the TNRCC's water quality rules and statutes. Any pool maintenance activity carried out by the City of Austin must have prior TNRCC review and approval. The TPWD and the Service have been working with the City to develop and implement BMPs for Barton Springs pool maintenance. The City of Austin is continuing to review and revise as necessary its pool maintenance practices in order to protect the salamander and its habitat while considering human recreational needs. The maintenance plan is designed to avoid impacting the salamander and maintain the highest possible level of water quality. The TPWD will work with the City of Austin to continue to improve the BMPs for the Barton Springs pool. The Service believes that current pool maintenance BMPs are sufficient to reduce threats to the salamander.

The Baron Spring salamander's limited geographic distribution, small population size, and presumed delayed reproductive strategy contribute to the recommendation for a captive breeding program for the species. Such a program may prevent extinction of the species should any of the potential threats previously described cause the salamander to disappear at Barton Springs. Small breeding populations are currently maintained at the Dallas Aquarium and at the Midwest Science Center of the National Biological Service in Columbia, Missouri. Both of these captive programs will continue and could serve as refugia in the event of a catastrophe. The Agreement commits to a third more local captive breeding/refugium program, to be established when sufficient founding stock are available. Local facilities may be available at either the national fish center at San Marcos, Texas, or the TPWD fish hatchery in San Marcos.

The Service believes that the actions noted above are sufficient to reduce the risks to the salamander. But uncertainty exists on the biological information on the species. Therefore, the Agreement makes the TPWD responsible for providing population monitoring studies for the Barton Springs salamander . These studies will include surveys of population numbers and observations on distribution, body sizes, stages of development, and habitat. Surveys will include times immediately following storm events, during periods of low spring flow, and during recovery periods from abnormal events such as prolonged drought or contamination events. Surveys will be conducted at all three springs. The TPWD will sponsor a Barton Springs salamander PVHA workshop based upon these studies and other information concerning the salamander.

By protecting the water quality and quantity at Barton Springs and in the Barton Springs segment of the Edwards Aquifer, the involved agencies will reduce the threats to the species to the point that it does not warrant listing. The Service will closely monitor the implementation of the Agreement and, if the Agreement is not accomplishing its purpose the Service will consider the use of the full range of its listing authority, including emergency listing, to protect the species.

E. *Other natural or manmade factors affecting its continued existence.* The very restricted range of the Barton Springs salamander makes this species especially vulnerable to acute and/or cumulative groundwater contamination. As described above, the threat to the salamander due to limited distribution, along with catastrophic spills and drought-related effects on the salamander through groundwater use of the Barton Springs segment of the Edwards Aquifer are factors that are addressed in the Agreement. The signatories of the Agreement will conduct a salamander population and habitat study, including sponsoring a PVHA workshop; develop a captive breeding/refugium program; and work with other agencies, local water conservation districts, local communities and private landowners to protect water quality in the Barton Springs segment of the Edwards Aquifer.

## Finding and Withdrawal

The Barton Springs salamander is known only from the immediate vicinity of the three spring outlets that are collectively known as Barton Springs in Zilker Park, Austin, Travis County, Texas. The waters at Barton Springs originate from a 920 sq. km (354 sq. mile) area, which consists of the recharge zone of the Barton Springs segment of the Edwards Aquifer and its contributing zone. The Barton Springs segment is a designated sole source of water for over 35,000 people in a three-county area. The Barton Springs watershed occurs in Blanco, Hays and Travis counties.

The proposed rule identified degradation of water quality and quantity of Barton Springs, resulting from urban expansion over the Barton Springs watershed, as the primary threat to the Barton Springs salamander.

Reasons for this degradation were listed as: chronic degradation, catastrophic spills, and increasing water withdrawals from the Barton Springs segment of the Edwards Aquifer. Following the Service's publication of the proposed rule, the City of Austin and the TPWD initiated an effort to develop an independent peer review process to address salamander issues. The resulting Aquatic Biological Assessment Team (ABAT) concluded that both short-term and long-term threats to the viability of the salamander exist. The ABAT concluded that important information gaps exist that prevent a conclusive scientific assessment regarding the biology of the salamander. The ABAT report included conservation recommendations that emphasize an ecosystem approach to conservation and recovery of the Barton Springs salamander. Through its signatory agencies, the state of Texas developed the ''Barton Springs Salamander Conservation Agreement and Strategy'' (Agreement) to expedite conservation measures recommended by the ABAT. The signatory State agencies have committed to implement those conservation measures using existing and proposed regulatory mechanisms in a comprehensive program for the conservation of the salamander.

One function of the implemented Agreement is for the Barton Springs Salamander Conservation Team (Conservation Team) to review the adequacy of those regulatory mechanisms, rules, regulations, and State agency policies to ensure that revisions or changes can be developed cooperatively and implemented expeditiously through State responsibility for conservation of the salamander and its ecosystem. The goal of the Agreement is to conserve the Barton Springs salamander by protecting the high quality spring ecosystem within which the salamander exists.

The agreement focuses on two objectives. The primary objective is to eliminate or significantly reduce the threats to the species and to minimize chances of a catastrophic event. The Agreement establish a captive breeding/refugium program in order to avoid extinction of the species should any potential threats cause the species to disappear in the wild. These objectives will be reached through implementing the five management actions: (1) Enforce and monitor compliance with existing regulations and adopt, implement, and enforce currently proposed regulations to protect the Barton Springs recharge zone; (2) prevent catastrophic contaminant releases into spring waters; (3) prevent degradation of springhead habitat; (4) establish a captive breeding/refugium program; and (5) study the salamander population. In addition, four administrative actions will be implemented: (1) Coordinate conservation activities; (2) implement the conservation schedule; (3) fund conservation actions; and (4) assess conservation progress. The Agreement establishes the Conservation Team to ensure that the coordination and assessment roles are carried out under the team leadership of the TPWD. The Agreement will provide for conservation and recovery of the Barton Springs salamander by establishing a framework for interagency cooperation, State and local community leadership, and coordination on conservation efforts, setting recovery priorities, and assessing existing, proposed and future regulatory programs to ensure that the threats are reduced. By protecting water quality at Barton Springs and in the Barton Springs segment of the Edwards Aquifer and conserving water quantity, this Agreement reduces the threats to the species to the point that the Service no longer believes the species warrants listing. The Service will closely monitor the implementation of the Agreement and, if the Agreement is not accomplishing its purpose, the Service may list the salamander on an emergency basis if appropriate and re-propose it for permanent listing.

After a thorough review and consideration of all information available, including the development and implementation of the Agreement, the Service has determined that listing the Barton Springs salamander as endangered or threatened is no longer warranted. The Service has carefully assessed the best scientific and commercial information available in the development of this withdrawal notice.

## References Cited

A complete list of all references cited herein is available upon request from the Austin Ecological Services Field Office (see **ADDRESSES** section).

## Author

The primary author of this proposed rule is Steve Helfert, Austin Ecological Services Field Office (see **ADDRESSES** section).

**AUTHORITY:** The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: August 28, 1996.

John G. Rogers,

*Director, Fish and Wildlife Service.*

[FR Doc. 96–22503 Filed 9–3–96; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register
Vol. 61, No. 172
Wednesday, September 4, 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.

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of Determination of Termination of Existence of Price Conditions Necessary for Imposition of Temporary Duty on Frozen Concentrated Orange Juice from Mexico.

**SUMMARY:** Pursuant to Section 309(a) of the North American Free Trade Agreement Implementation Act of 1993 (''NAFTA Implementation Act''), this is a notification that for 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price.

**FOR FURTHER INFORMATION CONTACT:** Joseph Somers, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–2974.

**SUPPLEMENTARY INFORMATION:** The NAFTA Implementation Act authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under Section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive business days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term ''daily price'' means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the ''Exchange''), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term ''business day'' means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange.

The term ''trigger price'' means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price. Whenever the price conditions are determined to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any of calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the Federal Register of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term ''entered'' means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period August 5–9, the daily price for frozen concentrated orange juice has exceeded the trigger price.

Issued at Washington, DC the 26th day of August 1996.

Timothy J. Galvin,

*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 96–22451 Filed 9–3–96; 8:45 am]

BILLING CODE 3410–10–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review: Not later than September 30, 1996, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

| | Period |
|---|---|
| Antidumping Duty Proceedings: | |
| Argentina: Silicon Metal, A–357–804 | 9/1/95–8/31/96 |
| Canada: Steel Jacks, A–122–006 | 9/1/95–8/31/96 |
| Canada: Steel Rail, A–122–804 | 9/1/95–8/31/96 |
| Germany: Crankshafts, A–428–604 | 9/1/95–8/31/96 |
| Italy: Woodwind Pads, A–475–017 | 9/1/95–8/31/96 |
| Japan: Electroluminescent Flat Panel Diplays, A–588–838 | 9/1/93–8/31/94 |
| | 9/1/94–8/31/95 |
| | 9/1/95–8/31/96 |
| Taiwan: Lug Nuts, A–583–810 | 9/1/95–8/31/96 |
| The People's Republic of China: CDIW Fittings & Glands, A–570–820 | 9/1/95–8/31/96 |
| The People's Republic of China: Greige Polyester Cotton Printcloth, A–570–101 | 9/1/95–8/31/96 |
| The People's Republic of China: Lug Nuts, A–570–808 | 9/1/95–8/31/96 |
| The United Kingdom: Crankshafts, A–412–602 | 9/1/95–8/31/96 |
| Countervailing Duty Proceedings: | |
| Canada: New Steel Rail, Except Light Rail, C–122–805 | 1/1/95–12/31/95 |
| Thailand: Steel Wire Rope, C–459–806 | 1/1/95–12/31/95 |

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 CFR 355.22(a) of the regulations, an interested party must specify the individual producers or exporters covered by the order for which they are requesting a review, (Interim Regulations, 60 FR 25130, 25137 (May 11, 1995)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to: Sheila Forbes in room 3061 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of ''Initiation of Antidumping (Countervailing) Duty Administrative Review,'' for requests received by the last day of September 1996. If the Department does not receive, by September 30, 1996, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: August 27, 1996.

Holly Kuga,

*Acting Principal Deputy Assistant Secretary for Import Administration.*

[FR Doc. 96–22522 Filed 9–3–96; 8:45 am]

**BILLING CODE 3510–DS–M**

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**[A–122–601]**

## Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On February 27, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers exports of this merchandise to the United States by one manufacturer/exporter, Wolverine Tube (Canada) Inc. (Wolverine), during the period January 1, 1994, through December 31, 1994.

The review indicates the existence of no dumping margins for this period.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have made certain changes for these final results.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas Killiam or John Kugelman, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2704 or 482–0649, 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 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 February 27, 1996, the Department published in the Federal Register (61 FR 7238) the preliminary results of its administrative review of the

antidumping duty order on brass sheet and strip (BSS) from Canada (51 FR 44319). The preliminary results indicated that no dumping margin existed for Wolverine.

Scope of the Review

Imports covered by this review are shipments of BSS, other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

Pursuant to the final affirmative determination of circumvention of the antidumping duty order, we determined that brass plate used in the production of BSS falls within the scope of the antidumping duty order on BSS from Canada. *See Brass Sheet and Strip from Canada: Final Affirmative Determination of Circumvention of Antidumping Duty Order,* 58 FR 33610 (June 18, 1993).

The review covers one manufacturer/exporter, Wolverine, and the period January 1, 1994, through December 31, 1994.

Analysis of Comments Received

We received a case brief from the petitioners, Hussey Copper, Ltd., The Miller Company, Olin Corporation-Brass Group, Outokumpu American Brass, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), United Steelworkers of America (AFL–CIO/CLC). We received a rebuttal brief from the respondent.

*Comment 1:* The petitioners argue that the Department must match Wolverine's U.S. and home market sales based on the actual physical characteristics of the finished brass sheet and strip, rather than Wolverine's product control number system. The petitioners contend that Wolverine has not defined its product control numbers and that Wolverine's system contains an element that does not reflect the physical characteristics of the finished brass sheet and strip, namely, alloy designations which distinguish between reroll and non-reroll materials. Reroll materials are those which Wolverine purchases from outside suppliers that do not require casting. Non-reroll materials are those which Wolverine processes from the casting stage. The petitioners argue that no distinction should be made or allowed for model-matching purposes because products made from either source of brass are physically identical.

The respondent counters that the petitioners' claims are untimely and incorrect, and that the Department was correct in using Wolverine's control numbers. The respondent notes that the petitioners raised this issue for the first time in their March 28, 1996, case brief, and not in their September 12 or 19, 1995, comments, in which the petitioners urged the Department to reject certain other aspects of Wolverine's response, including other aspects of the product code numbering system not pertaining to the distinction between reroll and non-reroll brass. The respondent argues that to adopt the petitioners' arguments for changing the product codes to erase the distinction between the Wolverine sources of raw material would deprive Wolverine of the opportunity to meaningfully participate in this proceeding, since it could not respond or place new information on the record to rebut the petitioners' claim.

Concerning the substance of the petitioners' complaint, the respondent answers that certain applications require low impurities, which produce a fine grain size at a heavy finished gauge and, therefore, require reroll inputs, not material cast by Wolverine.

*Department's Position:* We agree with the respondent. The respondent's distinction between the two metal categories is supported by the record evidence and was used in prior reviews of this order.

Wolverine explained the physical differences between the two types of brass in its September 1, 1995, response. The petitioners furnished no evidence in rebuttal to support their claim that the product codes wrongly differentiate between what it alleges to be physically identical materials.

The petitioners' claim that the respondent never defined its product control numbers in the CONNUMH/U fields is correct; however, we derived and used this information from the PRODCODH/U fields.

*Comment 2:* The petitioners argue that the Department should revise Wolverine's reported general and administrative (G&A) expenses to include expenses incurred by the U.S. parent in support of Wolverine. The respondent argues that the cost of production (COP) data which it submitted accurately reflected G&A expenses, and that the Department correctly determined not to artificially inflate Wolverine's G&A expenses by adding a portion of the U.S. parent's G&A expenses to COP and constructed value. The respondent also argues that to allocate the U.S. parent's G&A to the Canadian facility's COP would double-count the subsidiary's G&A, because the latter is included in the parent's consolidated financial statements.

The respondent further argues that it complied with our questionnaire by including a proportionate amount of G&A expenses from its Canadian headquarters, which supplies it with administrative, computer, and other services, whereas the U.S. parent provides no services which would warrant an allocation of the latter's G&A expenses.

*Department's Position:* We agree with the respondent, in light of the record evidence in this case and our policy as stated in *Certain Hot-Rolled Carbon Steel Flat Products et al., from Japan* (58 FR 37154, 37166, July 9, 1993) (*Certain Steel/Japan*):

> The Department normally computes the G&A and other non-operating income and expense ratio of a company based on its unconsolidated operations and includes an amount of G&A from related companies which pertains to the product under investigation. G&A and other non-operating income and expense items are not considered fungible in nature. Thus, other non-operating income and expenses realized by a related company does not necessarily affect the general activity of [the respondent].

Since the record shows the U.S. headquarters provides no support services to Wolverine, allocating a portion of the U.S. G&A expenses to Wolverine would be inappropriate.

*Comment 3:* The petitioners argue that Wolverine's submitted G&A expenses fail to reflect expenses which the respondent's parent company incurred in holding an inactive manufacturing facility in New Westminster, Canada. The petitioners note that in the 1992 review of this order, the respondent also did not report the same expense item, and the Department included an allocated amount for it in Wolverine's G&A in the final review results.

The respondent argues that such an adjustment would be inappropriate because 1) information concerning the inactive facility which the petitioners submit in its brief was available in the response, but the petitioners did not raise the issue earlier, 2) the Department's supplemental questionnaire did not request additional information or calculations concerning the respondent's G&A, and 3) the Department altered its treatment of this expense in its preliminary results of review of the 1993 period of review because it verified that the inactive plant had handled only non-subject merchandise, whereas the Department only accounts for G&A expenses that relate to covered merchandise. The respondent cites the Department's position in *Certain Steel/Japan* in this regard.

*Department's Position:* We agree with the respondent. The plant in question never handled subject merchandise, and, as explained in *Certain Steel/ Japan,* we allocate G&A based on expenses associated with subject merchandise.

*Comment 4:* The petitioners argue that the Department must consider Wolverine's selling functions when performing its level-of-trade (LOT) analysis. The petitioners state that Wolverine neglected to identify the selling functions corresponding to what it claimed to be three different home market levels of trade.

The petitioners note that the Statement of Administrative Action accompanying the Uruguay Round Agreements Act requires the Department to calculate normal value for sales at the same level of trade as the U.S. sales, to the extent possible. The petitioners claim that ''in recent cases the Department has expressed its emphasis on the seller's functions in its level of trade analysis.'' To support this contention the petitioners cite the *Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Certain Pasta From Italy,* 61 FR 1344, 1347 (January 19, 1996) and *Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Administrative Review,* 61 FR 8915, 8916 (March 6, 1996).

The respondent argues that the Department would err if it were to reject Wolverine's LOT claim on the basis of a perceived change in the Department's policy, after issuing the preliminary review results. The respondent claims that it fully documented the fact that it sells to three different levels of trade in the home market, that it maintains separate price lists for each of these customer categories, and that it performs significantly different processing services for each.

The respondent claims that in a recent final determination, ''the Department appeared to disregard the criteria where there were sales at identical levels of trade in U.S. and home markets,'' citing *Polyvinyl Alcohol from Taiwan,* 61 FR 14064, 14069 (March 29, 1996)(*Polyvinyl Alcohol*).

The respondent argues that we should not apply a new set of criteria at this stage of the review, that ''it would be an even greater abuse of the Department's discretion to apply such a standard when it has not requested the pertinent information from Wolverine,'' and cites *Usinor Sacilor* v. *United States,* 893 F. Supp. 1112, 1141–42 (CIT 1995) and *Creswell Trading Co., Inc.* v. *United States,* 15 F. 3d 1054, 1062 (Fed. Cir. 1994) to support this point. The respondent also notes that in the cases cited by the petitioners, the Department issued specific questions to elicit detailed LOT data.

*Department's Position:* We agree with the petitioners. Contrary to the respondent's claims, in our questionnaire we specifically asked the respondent to describe the functions performed and services offered in each distribution channel, for each customer or class of customer in the U.S. market and the comparison market. We gave examples of selling functions and asked the respondent to specify whether sales services were provided by the respondent or by an affiliate. Wolverine stated only that it provides customized slit-to-width products to original equipment manufacturers, and not to processing distributors. The respondent did not mention any other of the selling functions identified in our questionnaire, or provide any further information to document, justify, or quantify the differences it claims the Department should recognize between three different LOTs in the home market.

As documentation to support its LOT claim, the respondent supplied price lists, but these lists do not identify any particular LOT or show any differences in selling functions. On the contrary, if anything, the price lists show that Wolverine offers identical terms, services, and service charges to all customers.

Wolverine's assertion that it provided information on different selling functions to three different LOTs is not supported by information on the record. Here, just as in *Carbon and Alloy Steel Wire Rod From Canada,* 59 FR 18791, 18794 (April 20, 1994), the respondent ''did not demonstrate that any differences in sales process or expenses were directly related to differences in selling at the claimed levels of trade.''

We note that the case which Wolverine cites as evidence that the Department may overlook the selling function criteria, *Polyvinyl Alcohol,* does not support the respondent's argument. On the contrary, rather than overlooking these criteria in that case, we applied them and determined that the respondent provided ''nearly all of the same or very similar selling functions to all customers,'' and that there was only one level of trade in the home market.

Because Wolverine performed similar selling functions in all channels of distribution, we determined that there is only one LOT in the home market. Furthermore, we determined that this level is comparable to the LOT in the U.S. market and, therefore, no LOT adjustment is necessary.

We also disagree with the respondent's claim that to disallow the claimed differences in home market LOTs would be an unwarranted reversal of our preliminary determination. Although the Department allowed the LOT distinctions in its preliminary determination, further analysis of the LOT claim, the petitioners' arguments, and the evidence on the record indicates that our preliminary results were in error, and that there was only one LOT in the home market.

The respondent's argument that, in making its final determination, Commerce cannot apply the LOT standards associated with the new statute is incorrect. This statute, and the interpretive approach taken in the SAA, clearly apply to this review.

As for the respondent's argument that it would be unfair to place it at risk of losing its LOT distinctions without having been asked for detailed information, in our original questionnaire we clearly asked Wolverine for detailed information on the selling functions it provided at each claimed LOT. We acknowledge that in our supplemental questionnaire we did not repeat our earlier request for this information. However, we are not obligated by law or practice to repeat every original request in a supplemental questionnaire. The Department's practice of requesting additional information or clarification of a previous response does not relieve a respondent of its obligation to answer every question in an original questionnaire.

*Comment 5:* The petitioners argue that the Department's computer program for the preliminary results omitted selling expenses that Wolverine reported in its

home market COP database under the category ''INDSELEX''. The respondent did not address this claim.

*Department's Position:* We agree with the petitioners, and have amended our final results to include these indirect selling expenses in our COP calculations.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margin exists for Wolverine:

| Manufacturer/exporter | Period | Margin (percent) |
|---|---|---|
| Wolverine ..... | 1/1/94–12/31/94. | 0 |

Individual differences between the U.S. price and normal value may vary from the above percentage. The Department shall instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act.

(1) 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 8.10 percent, the ''all others'' rate established in the LTFV investigation.

This notice also serves as a 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 the 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 notice also serves as a reminder to parties subject to administrative protective order (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction. This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. § 1675(a)(1)) and 19 CFR § 353.22.

Dated: August 26, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96–22520 Filed 9–03–96; 8:45 am]

BILLING CODE 3510–DS–P

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**[A–588–837]**

## Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** William Crow at (202) 482–0116 or Irene Darzenta at (202) 482–6320, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

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 by the Uruguay Round Agreements Act (URAA).

Amended Final Determination

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on July 15, 1996, the Department made its final determination that large newspaper printing presses (LNPPs) and components thereof from Japan are being, or are likely to be, sold in the United States at less than fair value (61 FR 38139, July 23, 1996). Subsequent to the final determination, on July 27, 1996, we received a submission, timely filed pursuant to 19 CFR 353.28(b), from Mitsubishi Heavy Industries Ltd. (MHI), alleging ministerial errors in the Department's final determination. We also received comments from the petitioner rebutting MHI's allegations on August 2, 1996.

We determine, in accordance with 19 CFR 353.28(d), that ministerial errors were made in our margin calculations for MHI. Specifically, we inadvertently: (1) overstated the amount of the outstanding payment on the Guard sale in our calculations; (2) did not take into account the reduction in the sales price for the outstanding payment in the calculation of imputed credit; (3) incorporated the total costs from our preliminary determination imputed interest schedules instead of our final determination interest schedules in the calculation of imputed interest on SG&A; and (4) included the interest income associated with the commission on the Guard sale in the schedule of payments used in the calculation of imputed credit, while we excluded this amount from the commission deducted from the constructed export price. For a detailed discussion of the above-cited ministerial errors and the Department's analysis, *see* Memorandum from The Team to Susan Kuhbach, dated August 12, 1996. In accordance with 19 CFR 353.28(c), we are amending the final determination of the antidumping duty investigation of LNPPs from Japan to correct these ministerial errors. The revised final weighted-average dumping margins are as follows:

| Manufacturer/producer exporter | Original margin percentage | Revised margin percentage |
|---|---|---|
| Mitsubishi Heavy Industries, Ltd ..... | 62.96 | 62.26 |
| Tokyo Kikai Seisakusho, Ltd ..... | 56.28 | 56.28 |
| All Others ..... | 58.97 | 58.69 |

Scope of Order

The products covered by this investigation are large newspaper printing presses, including press systems, press additions and press components, whether assembled or unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of this investigation includes the five press system components. They are:

(1) a printing unit, which is any component that prints in monocolor, spot color and/or process (full) color;

(2) a reel tension paster, which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit;

(3) a folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format;

(4) conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and

(5) a computerized control system, which is any computer equipment and/or software *designed specifically* to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, large newspaper printing press systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for large newspaper printing press systems, press additions, or press components, regardless of degree of assembly and/or degree of combination with non-subject elements before or after importation, is included in the scope of this investigation. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major LNPP components of which they are a part.

For purposes of this investigation, the following definitions apply irrespective of any different definition that may be found in Customs rulings, U.S. Customs law or the HTSUS: the term ''unassembled'' means fully or partially unassembled or disassembled; and (2) the term ''incomplete'' means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the original start-up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of this investigation. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Further, this investigation covers all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by this investigation are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. Large newspaper printing presses may also enter under HTSUS subheadings 8443.21.00 and 8443.40.00. Large newspaper printing press computerized control systems may enter under HTSUS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

## Antidumping Duty Order

On August 28, 1996, the U.S. International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(ii) of the Act, that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Japan. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act, that, but for the suspension of liquidation of entries of the subject merchandise, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative ''but for'' finding, the ''Special Rule'' provision of section 736(b)(2) applies. Therefore, only unliquidated entries of LNPP from Japan entered or withdrawn from warehouse, for consumption on or after the date on which the ITC published its notice of final determination of threat of material injury in the Federal Register are liable for the assessment of antidumping duties.

Accordingly, the Department will direct the Customs Service to terminate the suspension of liquidation of entries of LNPP imported from Japan, entered or withdrawn from warehouse, for consumption before the date on which the ITC published its notice of final determination of threat of material injury in the Federal Register, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the normal value of merchandise exceeds constructed export price of all relevant entries of LNPP from Japan. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below. The ''All Others'' rate listed applies to all Japanese exporters of LNPP not specifically listed below.

The ad valorem weighted-average dumping margins are as follows:

| Manufacturer/producer/exporter | Revised margin percentage |
|---|---|
| Mitsubishi Heavy Industries, Ldt ... | 62.26 |
| Tokyo Kikai Seisakusho, Ltd ..... | 56.28 |
| All Others ..... | 58.69 |

This notice constitutes the antidumping duty order with respect to LNPPs from Japan, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published pursuant to section 736(a) of the Act (19 USC 1673e(a)) and 19 CFR 353.21.

Dated: August 30, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96–22677 Filed 9–3–96; 8:45 am]

BILLING CODE 3510–DS–P

**[A–428–821]**

## Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** William Crow at (202) 482–0116 or Irene Darzenta at (202) 482–6320, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

### 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 by the Uruguay Round Agreements Act (URAA).

### Amended Final Determination

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on July 15, 1996, the Department made its final determination that large newspaper printing presses (LNPPs) and components thereof from Germany is being, or is likely to be, sold in the United States at less than fair value (61 FR 38166, July 23, 1996). Subsequent to the final determination, on July 29, 1996, we received a submission, timely filed pursuant to 19 CFR 353.28(b), from the petitioner, alleging ministerial errors in the Department's final determination. We also received such allegations from MAN Roland Druckmaschinen AG (MRD) on August 5, 1996. In addition, we received comments from the petitioner rebutting MRD's allegations on August 12, 1996.

We determine, in accordance with 19 CFR 353.28(d), that ministerial errors were made in our margin calculations for MRD. Specifically, we failed to exclude from our calculations for the Fargo and Global sales, certain non-subject parts (*i.e.*, imported parts which did not constitute at least 50 percent of the cost of manufacture of the LNPP component of which they are a part). We also incorrectly calculated the indirect selling expenses incurred in Germany for the Global sale. For a detailed discussion of the above-cited ministerial errors and the Department's analysis, *see* Memorandum for Susan Kuhbach from Neal Halper, *et al.*, dated August 15, 1996. In accordance with 19 CFR 353.28(c), we are amending the final determination of the antidumping duty investigation of LNPPs from Germany to correct these ministerial errors. The revised final weighted-average dumping margins are as follows:

| Manufacturer/producer exporter | Original margin percentage | Revised margin percentage |
|---|---|---|
| MAN Roland Druckmaschinen AG | 30.80 | 30.72 |
| Koenig Bauer-Albert AG | 46.40 | 46.40 |
| All Others ..... | 30.80 | 30.72 |

### Scope of Order

The products covered by this investigation are large newspaper printing presses, including press systems, press additions and press components, whether assembled or unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of this investigation includes the five press system components. They are:

(1) a printing unit, which is any component that prints in monocolor, spot color and/or process (full) color;

(2) a reel tension paster, which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit;

(3) a folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format;

(4) conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and

(5) a computerized control system, which is any computer equipment and/or software *designed specifically* to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, large newspaper printing press systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for large newspaper printing press systems, press additions, or press components, regardless of degree of assembly and/or degree of combination with non-subject elements before or after importation, is included in the scope of this investigation. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major LNPP components of which they are a part.

For purposes of this investigation, the following definitions apply irrespective of any different definition that may be found in Customs rulings, U.S. Customs law or the HTSUS: the term ''unassembled'' means fully or partially unassembled or disassembled; and (2) the term ''incomplete'' means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the original start-up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of this investigation. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Further, this investigation covers all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by this investigation are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. Large newspaper printing presses may also enter under HTSUS

subheadings 8443.21.00 and 8443.40.00. Large newspaper printing press computerized control systems may enter under HTSUS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Antidumping Duty Order

On August 28, 1996, the U.S. International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(ii) of the Act, that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Germany. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act, that, but for the suspension of liquidation of entries of the subject merchandise, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative ''but for'' finding, the ''Special Rule'' provision of section 736(b)(2) applies. Therefore, only unliquidated entries of LNPP from Germany entered or withdrawn from warehouse, for consumption on or after the date on which the ITC published its notice of final determination of threat of material injury in the Federal Register are liable for the assessment of antidumping duties.

Accordingly, the Department will direct the Customs Service to terminate the suspension of liquidation of entries of LNPP imported from Germany, entered or withdrawn from warehouse, for consumption before the date on which the ITC published its notice of final determination of threat of material injury in the Federal Register, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the normal value of merchandise exceeds constructed export price of all relevant entries of LNPP from Germany. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below. The ''All Others'' rate listed applies to all German exporters of LNPP not specifically listed below.

The ad valorem weighted-average dumping margins are as follows :

| Manufacturer/producer/exporter | Revised margin percentage |
|---|---|
| MAN Roland Druckmaschinen AG | 30.72 |
| Koenig Bauer-Albert AG | 46.40 |
| All Others | 3.72 |

Any securities posted on entries of elements relevant to MAN Roland's Charlotte contract shall be refunded or canceled.

This notice constitutes the antidumping duty order with respect to LNPPs from Germany, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published pursuant to section 736(a) of the Act (19 USC 1673e(a)) and 19 CFR 353.21.

Dated: August 30, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary, for Import Administration.*

[FR Doc. 96–22678 Filed 9–3–96; 8:45 am]

BILLING CODE 3510–DS–P

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**[A–588–823]**

## Professional Electric Cutting Tools from Japan; Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request by the respondent, Makita Corporation and Makita U.S.A. Inc. (Makita), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on professional electric cutting tools (PECTs) from Japan. The review covers shipments of the subject merchandise to the United States during the period July 1, 1994, through June 30, 1995. The review indicates the existence of dumping margins during the period of review.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the constructed export price (CEP) and NV.

Interested parties are invited to comment on these 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:** September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Trainor or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department'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 July 12, 1993, the Department published in the Federal Register the antidumping duty order on PECTs from Japan (58 FR 37461). On July 3, 1995, the Department published in the Federal Register a notice of opportunity to request an administrative review of this antidumping duty order (60 FR 34511). On July 27, 1995, Makita requested that we conduct an administrative review in accordance with 19 CFR 353.22(a)(1). We published the notice of initiation of this antidumping duty administrative review on August 16, 1995 (60 FR 42500).

The Department is conducting this review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are PECTs from Japan. PECTs may be assembled or unassembled and corded or cordless.

The term ''electric'' encompasses electromechanical devices, including tools with electronic variable speed features. The term ''assembled'' includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term ''unassembled'' means components, which when taken

as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations, (*e.g.*, kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable bank saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. They are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (HTSUS); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

''Corded'' and ''cordless'' PECTs are included within the scope of this order. ''Corded'' PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings);
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power supply cord with a length of 8 feet or more;
4. Power supply cord with a separate cord protector;
5. Externally accessible motor brushes;
6. The predominate use of heat-treated transmission parts (*i.e.*, a majority or greater number of the transmission parts in the tool are heat treated); and
7. The presence of more than one coil per slot armature.

If only six of the above seven characteristics are applicable to a particular ''corded'' tool, then that tool must have at least four of the six characteristics to be considered a ''corded'' PECT.

''Cordless'' PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description remains dispositive as to the scope of the order.

This review covers one manufacturer/exporter of PECTs from Japan, Makita, and the period July 1, 1994 through June 30, 1995.

## Verification

From June 3 through June 12, 1996, the Department conducted verification of Makita's questionnaire responses, as provided in section 782(i) of the Act. We used standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant accounting, sales, and other financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

## Constructed Export Price

In calculating United States price, we used CEP, in accordance with subsections 772(b), (c), and (d) of the Act, because Makita's sales to the first unaffiliated purchaser occurred after importation into the United States. We calculated CEP based on the packed, delivered prices to the first unrelated purchaser in the United States.

Where appropriate, we made deductions from the starting price for discounts, rebates, Japanese and U.S. inland freight, ocean freight, Japanese and U.S. brokerage and handling, and those imputed credit and warranty expenses that were incurred in the United States. In accordance with section 772(d)(1) and the Statement of Administrative Action (SAA) at 823–24, we also deducted those selling expenses that related to commercial activity in the United States, and added revenues earned from drop-ship fees and miscellaneous charges, where appropriate. Finally, we made an adjustment for an amount of profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

## Normal Value

Based on a comparison of the aggregate quantity of Makita's home-market and U.S. sales, we determined that the quantity of the foreign like product Makita sold in Japan was sufficient to permit a proper comparison to its sales of PECTs to the United States, pursuant to section 773(a) of the Act. Makita's quantity of home-market sales was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in Japan.

In calculating NV, we disregarded sales to affiliated customers where we determined that such sales were not made at arm's-length prices, *i.e.*, at prices comparable to prices at which Makita sold identical merchandise to unrelated customers.

Based on petitioner's allegation, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that Makita made sales in the home market at prices below the cost of production (COP). As a result, we initiated a sales-below-cost investigation. We calculated COP based on the sum of Makita's cost of materials and fabrication employed in producing 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. We compared Makita's weighted-average COP for the review period 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 below-cost prices within an extended period of time in substantial quantities, and whether they were at prices which permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices, less any applicable movement charges,

discounts, rebates, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C), where less than 20 percent of 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 during the review period of a given product were at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made within an extended period of time in ''substantial quantities'' in accordance with section 773(b)(2)(B) and (C) of the Act, and because we determined that the below-cost sales of the product were at prices which would not permit 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 model were at prices below the COP, we disregarded all sales of that model, and calculated NV based on CV, in accordance with section 773(b)(1) of the Act.

Home-market prices were based on the packed, delivered prices to affiliated or unaffiliated purchasers in the home market. Where applicable, we made adjustments for differences in packing and for movement expenses in accordance with section 773(a)(6)(A) and (B) of the Act. We also made adjustments for discounts and rebates, and differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. If appropriate, we made COS adjustments by deducting home-market direct selling expenses and adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act.

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we based NV on sales at the same level of trade as the CEP sales. If NV was calculated at a different level of trade, we made an adjustment, if appropriate, and if possible, in accordance with section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section below.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, profit, and U.S. packing. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home-market selling expenses. We calculated CV by level of trade, using the selling expenses and profit determined for each level of trade in the comparison market.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for COS differences and level-of-trade differences. We made COS adjustments by deducting home-market direct selling expenses and adding U.S. direct selling expenses except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act.

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 NV based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare U.S. sales to comparison market sales at a different level of trade.

In accordance with section 773(a)(7)(A) of the Act, if sales at allegedly different levels of trade are compared, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling activities performed by the exporter at the level of trade of the U.S. sale and the level of trade of the comparison-market sales used to determine NV. In making this determination, we consider all selling functions and activities performed by the exporter. The fact that there is some overlap in selling functions and activities does not preclude us from finding that sales were made at different levels of trade. Where selling functions and activities are substantially the same, however, we normally will consider sales to have been made at the same level of trade. *See, Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7348 (February 27, 1996).

Second, pursuant to section 773(a)(7)(A), 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 NV is determined.

Makita reported two levels of trade in the home market and one level of trade in the United States. We reviewed and verified the selling functions and activities associated with each claimed level of trade. Because Makita's sales to the United States were all CEP sales made by an affiliated company, we considered only the parent company's selling activities reflected in the price after the deduction of expenses and profit, pursuant to section 772(d) of the Act. In examining all of Makita's selling functions and activities, we found that no single selling function or activity was sufficient to warrant distinguishing separate levels of trade.

We also determined that Makita's selling functions with respect to the channels of distribution for wholesalers and retailers in the home market are sufficiently dissimilar to conclude that two separate levels of trade exist in the home market. Further, we determined that Makita's aggregate selling functions and activities in the United States were substantially the same as those it performs in Japan at the wholesaler channel of distribution. Thus, we concluded that sales to the United States and sales in the home market at the wholesaler channel of distribution were made at the same level of trade.

When we were unable to find sales of the foreign like product in the home market at the same level of trade as the U.S. sale, we examined whether a level of trade adjustment was appropriate. We will make this adjustment when it is demonstrated that a difference in level of trade has an effect on price comparability. This is the case when it is established that, with respect to sales used to calculate NV, there is a pattern of consistent price differences between sales made at the two different levels of trade. To make this determination, we compared the weighted average of Makita's NV prices of sales made in the ordinary course of trade at the two levels of trade for models sold at both levels, after making any other adjustments required under section 773(a)(6). If the weighted-average prices were higher at one of the levels of trade for a preponderance of the models, we considered this to demonstrate a pattern of consistent price differences. We also considered whether the weighted-average prices were higher at one of the levels of trade for a preponderance of sales, based on the quantities of each

model sold, in making this determination. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews*, 61 FR 35713 (July 8, 1996). As a result of our analysis, we found that there was a pattern of consistent price differences between the two levels of trade in the home market. Thus, we made an adjustment to NV for the differences in levels of trade.

We calculated the level of trade adjustment based on home-market sales made in the ordinary course of trade and on prices net of movement expenses, discounts, rebates, direct selling expenses and packing expenses. For each model sold at both levels of trade in the home market, we calculated the difference between the weighted-average prices at the two levels of trade as a percentage of the weighted-average price at the comparison level of trade. We then calculated a weighted average of these model-specific percentage differences. We calculated the amount of the level-of-trade adjustment by applying this weighted-average percentage price difference to the NV determined at the different level of trade.

The level of trade methodology employed in these preliminary results of review is based on the facts particular to this review. We will continue to examine our policy for making level-of-trade comparisons and adjustments for the final results of review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

| Manufacturer/ exporter | Time period | Margin (percent) |
|---|---|---|
| Makita Corporation. | 7/1/94–6/30/95 | 6.34 |

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit comments are requested to submit with their comments (1) A statement of the issue and (2) a brief summary of the comment. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments. The Department will issue the final results of this review within 180 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between CEP and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of PECTs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for Makita will be the rate we determine in the final results of review; (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 shall 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, the cash deposit rate will be 54.52 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: August 27, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96–22521 Filed 9–3–96; 8:45 am]

BILLING CODE 3510–DS–P

## National Oceanic and Atmospheric Administration

**[I.D. 082796D]**

## Marine Mammals; Scientific Research Permit No. 1012 (P616)

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that Dr. David R. Young, Professor, Oregon State University, College of Oceanography, Hatfield Marine Science Center, Newport, Oregon 97365–5260, has been issued a permit to import Baikal seal specimens for scientific purposes.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Director, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150).

**SUPPLEMENTARY INFORMATION:** On July 9, 1996, notice was published in the Federal Register (61 FR 36036) that a request for a scientific research permit to import Baikal seal (*Phoca sibirica*) samples from Russia had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: August 27, 1996.

William Windom,

*Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 96–22523 Filed 9–3–96; 8:45 am]

BILLING CODE 3510–22–F

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Revision of the AmeriCorps*VISTA Project Pre-Application Inquiry, Project Application and Project Progress Report Forms

**AGENCY:** Corporation for National and Community Service (CNCS).

**ACTION:** Notice of 30-day OMB Review of Project Application and Project Progress Report Forms.

**SUMMARY:** On June 14, 1996, AmeriCorps*VISTA announced a 60-day review and comment ending on August 13, 1996, during which project sponsors and the public were encouraged to submit comments suggesting revisions to the Americorps*VISTA Pre-Application Inquiry, CNCS 3045–0042 (formerly form A–1421), Project Application and Grant Application CNCS 3045–0038 (formerly forms 1421 and 1421–B), Project Progress Report forms (CNCS 3045–0042, and Project Progress Report, CNCS–3045–0033 (formerly form 1433).

The Pre-Application Inquiry and Project Application were submitted by prospective grantees to apply for, or renew sponsorship of projects under the AmeriCorps*VISTA Program. Completion of the application is required to obtain or retain sponsorship and to refund the continuation of projects. The Project Progress Report is submitted by project sponsors to periodically report on activities listed in an approved application.

In the June 14 announcements, comments were invited on (1) whether the forms collect information sufficient to meet operational management, planning and reporting needs of the AmeriCorps*VISTA program; (2) ways to enhance the quality, utility and clarity of the information collected (3) accuracy of Corporation estimates of reporting burden; and (4) ways to further reduce the reporting burden.

No comments were received.

AmeriCorps*VISTA is requesting extension of the authorization to use the revised Project Application Part A and Part B (new title of the combined Pre-Application Inquiry and Project Application) and the Project Progress Report.

**DATES:** AmeriCorps*VISTA and the Office of Management and Budget will consider written comments on the Project Application and Project Progress Report and record keeping requirements which are received within 30 days from the date of publication.

**ADDRESSES:** David Gurr, Corporation for National Service, 1201 New York Ave., N.W., Washington, D.C. 20525.

*Estimated Annual Reporting Burden:* 13,500 hours (900 annual respondents at an average of 15 hours per respondent) for the Project Application. 10,800 hours (900 respondents at an average of 3 hours, submitted 4 times each year).

**FOR FURTHER INFORMATION, PLEASE CONTACT:** David Gurr (202) 606–5000, extension 212.

*This document will be made available in alternate format upon request. TDD (202) 606–5256.

**REGULATORY AUTHORITY:** National Service Trust Act of 1993.

Dated: August 29, 1996.

Larry Bevan,

*Program and Field Support Manager, AmeriCorps*VISTA.*

[FR Doc. 96–22519 Filed 9–3–96; 8:45 am]

**BILLING CODE 6050–28–M**

### Availability of Education Awards under the AmeriCorps Education Awards Program

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of education awards.

**SUMMARY:** The Corporation for National Service (The Corporation) seeks to expand opportunities for individuals to serve as AmeriCorps Members and earn educational benefits, broaden the network of national service programs and strategies, and increase the number of communities joining with AmeriCorps to better meet their education, public safety, environmental, and other human needs.

Accordingly, the Corporation announces the availability of up to 5,000 education awards from the National Service Trust (the Trust) through a simplified application process for community service programs that (1) Can support most or all of the AmeriCorps Member and program costs from sources other than the Corporation; (2) meet certain AmeriCorps program requirements; and (3) are judged to be high quality according to Corporation criteria, as highlighted below and set forth in the application materials. The education awards being made available may be earned by AmeriCorps Members successfully completing Full-time or Part-time terms in a community service program approved through this application process.

While programs supported under this Notice should be similar to other AmeriCorps*State and *National programs to maintain the integrity of the AmeriCorps national service network, the Corporation is modifying certain AmeriCorps requirements and permitting programs greater management and operating flexibility. In addition, the Corporation will consider requests for up to $1,000 per full-time Member (pro-rated for a part-time Member) to manage these programs.

Potential program sponsors eligible to apply under this Notice include national nonprofit organizations, multi-state collaborations, state commissions for national and community service, institutions for higher education, and state education agencies. Other applicants may apply through state commissions, provided they meet criteria established by the state commission.

**DATES:** Applications may be obtained on or after September 4, 1996. For applications received by October 31, 1996, we anticipate making decisions by November 30, 1996. For applications received by February 28, 1997, we anticipate making decisions by March 31, 1997. For applications received by June 30, 1997, we anticipate making decisions by July 31, 1997.

**ADDRESSES:** Application materials may be obtained from, and must be submitted to, the following address: AmeriCorps Education Awards Program, Corporation for National Service, 1201 New York Avenue NW, Washington, DC 20525. They may also be requested by telephone, at 202/606–5000, ext. 260, or (TDD) 202/565–2700. This notice may be requested in an alternative format for the visually impaired.

**FOR FURTHER INFORMATION:** For further information about this program, contact the Corporation for National Service, Hank Oltmann at 202/606–5000, ext. 417, or (TDD) 202/565–2700.

**SUPPLEMENTARY INFORMATION:**

Background

The Corporation is a federal government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, environmental, or other human needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as

amended, 42 U.S.C. 12501, *et seq.* (the Act), the Corporation may ''support innovative and model programs.'' 42 U.S.C. Sec. 12653(b). In addition, an individual can receive an education award from the National Service Trust if, among other things, the individual ''successfully completes the required term of service . . . in an approved national service position.'' 42 U.S.C. 12602. The Act defines an approved national service position to include six specific service positions and ''such other national service positions as the Corporation considers to be appropriate.'' 42 U.S.C. 12573.

Although AmeriCorps Education Award programs should be similar to existing AmeriCorps programs to maintain the integrity of the AmeriCorps national service network, the Corporation recognizes that some modifications to program and administrative requirements are appropriate. Program, grant, and administrative requirements are set forth in the application guidelines.

Program Eligibility and Design

The Corporation will accept applications from eligible applicants proposing to sponsor a national service program that addresses the unmet education, public safety, environmental, and other human needs in the community served, and provides a direct and demonstrable benefit that is valued by the community. The Corporation is looking for high-quality programs that (1) ''get things done'' to meet local needs, (2) strengthen communities, and (3) develop Members. Programs must establish specific objectives for the program, which are subject to the Corporation's approval.

For this initiative, the Corporation seeks programs that will support most or all program and participant costs (other than education awards) through sources other than the Corporation. The Corporation will consider requests for up to $1,000 per new full-time Member (pro-rated for a part-time Member) to manage the program. A request for funds in addition to the education awards should reflect the minimum support necessary to manage the program; should, in the case of existing service programs, reflect only the management costs related to adding new Members; may affect approval of the proposal due to lack of available funding; and will be the subject of negotiation between the applicant and the Corporation.

By ''getting things done,'' programs will help their communities meet education, public safety, environmental, or other human needs through direct and demonstrable service. Programs must be large enough to achieve a demonstrable impact on the community served. Accordingly, the Corporation expects programs to enroll a sufficient number of either full-time or part-time Members, regardless of whether they are placed individually or in teams, to produce a demonstrable impact. If the program uses part-time Members, the program must demonstrate that the service provided by individual Members will be sustained and ongoing, not merely episodic.

To strengthen communities, programs should engage a full range of local partners to build a self-sustaining commitment to service. Service projects should be designed, implemented, and evaluated with appropriate local input and consultation with representatives of the community served, including community-based agencies, foundations, businesses, local labor organizations representing employees of service sponsors, and local government.

To develop Members, programs should provide appropriate training, education, supervision, and support, and emphasize the ethic and skills needed for productive, active citizenship.

Programs must keep time and attendance records on all AmeriCorps Members to document their eligibility for the education award. Programs will be required to cooperate with the Corporation and its evaluators in all its monitoring and evaluation efforts. Semi-annual program progress reports will be required. Member enrollment, end-of-term, and other National Service Trust forms must be submitted in compliance with existing requirements.

Program Models

The Corporation intends to support a variety of models under this initiative. The following is a list of models for both part-time (including summer) and full-time programs the Corporation intends to support. Applicants are encouraged to propose additional models.

(1) School-based and community-based service programs, including youth corps. Potential projects include tutoring and mentoring younger children and leading them in service projects after school, on weekends, and during summer.

(2) College-based programs in which student AmeriCorps Members eligible for education awards act as part-time service-learning coordinators in local schools, or perform other service.

(3) Programs run by colleges in which institutions agree to provide (a) future scholarships to middle and secondary level students if they qualify for admission, and (b) provide younger students with college student mentors, who are part-time AmeriCorps Members.

(4) Summer programs in which AmeriCorps Members organize service and other activities for children and youth.

(5) Joint initiatives between community organizations and private sector organizations in which full-time employees perform service in the community on their own time as AmeriCorps Members and receive a part-time education award.

(6) Before and after-school child care programs led by AmeriCorps Members funded by local communities.

(7) Full-time service programs run by religious organizations, youth corps, or other entities where expansion will be achieved by offering additional education awards.

(8) Fellowship programs in which individuals such as recent college or professional school graduates serve in public interest positions in their field of service for a year before seeking more permanent employment.

(9) Programs initiated by mayors and other local officials to integrate locally funded AmeriCorps Members into community-wide strategies to solve local problems; for example, a city or town with a shortage of supervised activities for middle-school students during summer months might design and fund a program for AmeriCorps Members to lead teams of youth in service activities.

Matching Funds Requirements

There is no matching funds requirement under the AmeriCorps Education Award Program.

Member Recruitment and Development

Programs must enroll Members to complete full-time (at least 1700 hours in a nine to twelve month period) or part-time (at least 900 hours over not more than two years or approved reduced part-time) terms of service.

Programs must select their Members in a non-partisan, non-political, and non-discriminatory manner. Members must be U.S. citizens, U.S. nationals, or lawful permanent resident aliens. Members must be at least 17 years old, except that out-of-school 16 year olds may participate in youth corps programs and programs for disadvantaged youth that address the need for housing and other community facilities in low-income areas.

Programs are encouraged to recruit Members who possess leadership potential and a commitment to the goals of national service, regardless of the

Member's educational level, work experience, or economic background. In recruiting and placing their Members, programs must not displace any employee or position, or otherwise violate the non-displacement provisions of the Corporation's regulations, which are published at 45 CFR Sec. 2540.100(f).

In addition, programs should strive to build strong communities by engaging diverse Members, community volunteers and staff in service activities and by encouraging mutual understanding and cooperation. Programs should actively seek to include Members and staff from the communities in which projects are conducted, as well as individuals of different races and ethnicities, ages, education levels, socioeconomic backgrounds, both men and women, and individuals with physical and cognitive disabilities.

Programs must provide Members with the training, skills, and knowledge necessary to perform the tasks required in their respective projects. In addition, programs are encouraged to help participants who have not completed their secondary education to earn the equivalent of a high school diploma.

Member Benefits

The Corporation will not set a minimum living allowance for full-time Members (which, for current AmeriCorps programs, is $7,945 per year) under the AmeriCorps Education Award Program. The maximum living allowance for full-time AmeriCorps Members under this program is $10,000 per year. Any living allowance for a part-time Member may not exceed a prorated share of a maximum of $10,000 per year on a full-time basis. This maximum may be waived by the Corporation, upon request, for certain professional corps and similar programs.

Health care and child care are not required under the AmeriCorps Education Award Program, but may be offered by the local program which is responsible for all Member benefits.

Programs must provide reasonable accommodation, including auxiliary aids and services, based on the individualized need of a Member who is a qualified individual with a disability. Programs must also establish and maintain a procedure for receiving and resolving grievances from participants and other interested individuals concerning the program.

Eligibility for the Education Award

Members who successfully complete full-time or part-time terms of service are eligible for education awards for each of up to two terms of service. Full-time Members must serve at least 1700 hours during a period of not less than nine months and not more than a year. Part-time Members must generally serve at least 900 hours during a period of not more than two years. Members may also serve in approved reduced part-time programs (such as summer programs or other programs requiring less than 900 hours), with education awards prorated to the number of hours served.

Under the AmeriCorps Education Awards Program, the Corporation will not accept proposals for part-time service of more than two years. Full-time education awards are $4,725 and part-time education awards are $2,362.50.

Use of Education Award

The education award may be used only for specific educational purposes: (1) To repay a Member's qualified loans; or (2) towards the cost of a Member's attendance at a qualified institution of higher education or approved School-to-Work program. The education award is not transferable to anyone other than the Member. The award must be paid directly to the loan holder or the educational institution. Regulations governing AmeriCorps education awards are published at 45 CFR Sec. 2525–2529.

Prohibited Service

Prohibited activities may not be performed by Members in the course of their duties, at the request of program staff, or in a manner that would associate the activities with the national service program or the Corporation. However, Members are free to engage in such activities on their own initiative, on their own time, and at their own expense. These activities include:

(1) any effort to influence legislation, as defined under Sec. 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 501);

(2) organizing or engaging in protests, petitions, boycotts, or strikes;

(3) assisting, promoting, or deterring union organizing;

(4) impairing existing contracts for services or collective bargaining agreements;

(5) engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;

(6) participating in, or endorsing, events or activities which are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

(7) engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious education or worship, constructing or operating facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization; and providing a direct benefit to (a) A business organized for profit, (b) a labor union, (c) a partisan political organization, (d) a nonprofit organization that fails to comply with the restrictions contained in Sec. 501(c)(3) of the Internal Revenue Code of 1986, or (e) an organization engaged in the religious activities described in paragraph (6) above, unless Corporation assistance is not used to support those religious activities.

Eligible Applicants

State Commissions, national non-profit organizations proposing to operate in more than one state, multi-state collaborations, institutions of higher education, and state education agencies may apply directly to the Corporation.

Local non-profit organizations, State and local units of government (other than state education agencies), other state-wide programs, and programs operating only within the state must apply through respective State Commissions on National and Community Service. Interested applicants should first contact their respective Commissions.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities is not eligible to apply, serve as a host site for Member placements, or act in any type of supervisory role in the program.

This Notice does not apply to organizations interested in applying to become AmeriCorps*VISTA cost-share projects. Such organizations should contact their respective State Office of the Corporation for National Service.

Criteria for the Selection of Programs

The Corporation will employ the following criteria in the review of proposals under this initiative:

1. Program Quality. A proposal must demonstrate the applicant's capacity to establish clear and specific objectives to meet compelling community needs, design meaningful service activities based on these needs, and recruit, select, train and manage AmeriCorps Members to carry out these needs. The proposal should demonstrate the applicant's organizational and staff

capacity to manage a high quality program. The proposal should evidence strong community support, and have a demonstrable impact on the community being served, together with the capacity to document that impact.

2. Program Growth. If the applicant currently sponsors an AmeriCorps project or another service project, there must be evidence that the availability of education awards will increase the size and scope of the service program and/or enhance its quality.

3. Preference for Children and Youth Programs. The Corporation will give preference to those programs addressing the needs of our Nation's children and youth, such as tutoring, mentoring, after-school and summer programs, and immunization. Especially important are efforts designed to involve children and youth being served in performing service themselves, not simply the implementation of programs designed to serve them.

4. Preference for identified models. Although the Corporation will consider all model program proposals, the Corporation will give preference to the models identified in this announcement.

Selection Process

The Corporation will judge proposals with a process that includes review by outside experts, staff review and recommendations, and final decisions by the Corporation Board. The Corporation will enter into negotiations with potentially successful applicants in a manner that may require significant modifications to original proposals. Awards are contingent on successful completion of negotiations. The number of applications approved, the number of education awards provided to approved programs, and the duration of approved programs are subject to the availability of funds and education awards.

Dated: August 28, 1996.

Shirley Sagawa,

*Managing Director for Planning, Corporation for National Service.*

[FR Doc. 96–22449 Filed 9–3–96; 8:45 am]

**BILLING CODE 6050–28–P**

## Availability of Funds for Technical and Administrative Support for the National Service Scholarship Program

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Corporation for National Service (the Corporation) announces the availability of up to $250,000 to provide technical and administrative support for a new National Service Scholarship Program to recognize high school juniors and seniors engaged in outstanding community service. Students selected for recognition will receive locally-funded scholarships, matched or supplemented with federal funds provided by the Corporation. Of the National Service Scholars, a small number selected at the State level will receive special recognition and larger scholarships, and an even smaller number selected at the national level will receive special recognition and still larger scholarships. The Corporation's goal in this effort is to highlight the outstanding community service performed by high school students across the country, to recognize the particularly noteworthy service accomplishments of outstanding young individuals, and to assist those individuals in pursuing higher education.

As part of this effort, the Corporation is interested in selecting an organization to provide administrative and technical support related to this program. The successful applicant will assist in the design of the program, conduct outreach and promote the program, solicit input from interested nonprofit organizations with relevant expertise, work with local nonprofits and other organizations to carry out the program, and provide the administrative and technical support necessary to accomplish the objectives described above.

**DATES:** The deadline for submission of applications is October 15, 1996. Applications must be received by the Corporation no later than 3:00 p.m. Eastern Standard Time on that date.

**ADDRESSES:** Applications must be addressed to: Corporation for National Service, 1201 New York Avenue NW, Ninth Floor, Washington, DC 20525. Attention: Simon G. Woodard. Applications may not be submitted by facsimile.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Simon G. Woodard at (202) 606–5000, ext. 114. This notice may be requested in an alternative format for the visually impaired by calling (202) 606–5000, ext. 260. The Corporation's T.D.D. number is (202) 565–2799.

**SUPPLEMENTARY INFORMATION:**

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental and other human needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, 42 U.S.C. Sec. 12501, et seq. (the Act), the Corporation may ''support innovative and model programs.'' Under this authority, the Corporation intends to conduct a National Service Scholarship Program that will recognize high school juniors/seniors for outstanding service in their communities and provide modest scholarship support in recognition of such service.

Through this notice, the Corporation invites proposals from interested applicants to design and implement the program. An outline of the program, and the expectations of performance are provided below.

Purpose and Potential Design of the National Service Scholarship Program

The purpose of this program is to highlight the outstanding community service performed by high school students across the country, to recognize the particularly noteworthy service accomplishments of outstanding young individuals, and to assist those individuals in pursuing higher education.

The Corporation anticipates that the final design of this program will come from a collaboration involving the organization selected under this notice, an independent panel of experts in the field, and State and local stakeholders. The Corporation expects that the national service scholarship program will be implemented by local schools and communities across the country according to guidelines and procedures they will establish, consistent with the following general guidelines:

(1) The volunteer activities of the high school junior/senior should demonstrate effort over a sustained period of no less than one year, and should have a significant impact in meeting the needs of the local community.

(2) The awarding of the scholarship should be made by a local organization in recognition of the individual's community service and in accordance with procedures that are equitable and provide the opportunity for consideration of all eligible candidates.

(3) It may be connected with service learning programs of the school district.

(4) The selection process should be strictly non-partisan and non-political.

(5) The scholarship recipient should be acknowledged by the community and school in an appropriate fashion, such as high school graduation.

(6) The scholarship should be provided by private funding sources, and should be a minimum of $500.

The following is one potential design of the program to assist organizations in understanding the scope and magnitude of the effort required in this project. In this scenario, individuals might be selected by local high schools or community organizations as National Service Scholars. They, in turn, might complete a brief application and submit them to either the State Education Agency, which now administers service learning programs, or to the State Commission on National and Community Service, as determined by the governor of the State. That organization, based on merit criteria and consistent with the local guidelines, could select a number of individuals who would have their scholarship matched by the Corporation; and award a number of larger scholarships to particularly noteworthy individuals. The application might also include reference to the connection between service and school studies. Each State agency would forward the applications of the statewide scholarship recipients to a panel of nationally renowned individuals who will select several larger scholarship recipients across the nation.

The scholarships provided by private organizations should be for the purpose of paying the cost of a student's higher education and will be granted under the terms and conditions set by those organizations. The matching amount provided by the Corporation, as well as the larger scholarships, would be paid directly to an institution of higher education.

Eligible Applicants

To be eligible, applicants must be a non-profit organization or educational institution. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities is not eligible.

Required Activities of the Successful Applicant

The organization selected will (1) Complete a final program design and implementation plan for approval by the Corporation; (2) publicize the program to local school districts, State agencies, and other affected parties; (3) provide assistance to local nonprofits and seek input from national nonprofit organization with relevant expertise and knowledge; (4) respond to inquiries from all parties in timely fashion; (5) organize the selection process for nationally-selected scholarships; and (6) provide administrative and technical support to the Corporation at all phases of the program.

Corporation Involvement

Substantial involvement is expected between the Corporation and the successful applicant when carrying out the program. The Corporation anticipates providing sufficient staff to support this effort and to oversee the provision of Corporation funds. The applicant must keep relevant Corporation staff informed of its activities; work with Corporation staff during development, delivery and assessment of services provided; and attend meetings/conferences at the Corporation's request.

Project Duration

The Corporation anticipates entering into a cooperative agreement covering a project period of approximately November, 1996 through approximately October, 1997, with the possibility of renewal based on performance, need, and the availability of funds at the discretion of the Corporation.

Overview of Application Requirements

The application should include a narrative section describing the organization's background and capacity to provide the technical and administrative support for this program, an implementation timeline, a staffing plan, and a certification that it will comply with all conditions attendant to the receipt of federal funding. The application may be no longer than 20 single-sided pages double-spaced in 12-point font.

Initially all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains the information required. The Corporation will assess applications based on the criteria listed below (in descending order of importance):

(1) *Quality*

(2) *Organizational Capacity*

(3) *Proposed Costs.*

The Corporation reserves the right to request additional written information from applicants subsequent to the submission of initial applications.

Dated: August 28, 1996.

Shirley Sagawa,

*Managing Director for Planning, Corporation for National Service.*

[FR Doc. 96–22450 Filed 9–3–96; 8:45 am]

BILLING CODE 6050–28–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### Pharmacoeconomic Center Notice Regarding Use of Drugs for Unlabeled Applications

**AGENCY:** Department of Defense Pharmacoeconomic Center.

**ACTION:** Notice.

**SUMMARY:** The Pharmacoeconomic Center (PEC) announces as a matter of policy that Food and Drug Administration (FDA) approved drugs may be used, where appropriate, for unlabeled indications. It is the further intent of the Department of Defense (DoD) that such drugs may be included, where appropriate, in disease state analyses which may result in their selection to the Tri-Service Formulary and promotion for a given disease state.

**FOR FURTHER INFORMATION CONTACT:** Captain Charles S. Reeves, USN, DoD Pharmacoeconomic Center, Fort Sam Houston, Texas 78234, (210) 221–5596.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 352(f) et seq., notice is given that pharmacies on DoD installations will, as a matter of policy, fill prescriptions in appropriate cases with drugs that are not necessarily approved by the FDA for the treatment of the underlying medical condition but have nonetheless been proven effective for treatment of the disease state in question.

Errol L. Moran,

*Director, Pharmacoeconomic Center.*

[FR Doc. 96–22479 Filed 9–3–96; 8:45 am]

BILLING CODE 3710–08–M

### Performance Review Boards

**AGENCY:** Assistant Secretary of the Army (Manpower and Reserve Affairs).

**ACTION:** Notice.

**SUMMARY:** Notice is given of the names of members of the Performance Review Boards for the Department of the Army.

**EFFECTIVE DATE:** August 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower &

Reserve Affairs, 111 Army, Washington, DC 20310–0111.

**SUPPLEMENTARY INFORMATION:** Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives; performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the U.S. Army Materiel Command (AMC) are:

1. Major General (MG) Michael S. Davison, Jr., Commander, U.S. Army Security Assistance Command
2. MG Robert D. Orton, Program Manager for Chemical Demilitarization
3. Brigadier General (BG) Jerry L. Laws, Commander, U.S. Army White Sands Missile Range
4. BG David R. Gust, Program Executive Officer, Intelligence and Electronic Warfare, Army Acquisition Executive
5. BG James R. Snider, Comanche Program Manager, Program Executive Office, Aviation, Army Acquisition Executive
6. Mr. Dale G. Adams, Principal Deputy for Acquisition, U.S. Army Materiel Command
7. Mr. Edward Bair, Deputy PEO, Intelligence and Electronic Warfare, Army Acquisition Executive
8. Mr. Jerry L. Chapin, Director, Tank Automotive RD&E Center, U.S. Army Tank-automotive and Armaments Command, AMC
9. Dr. Andrew Crowson, Director, Materiels Science Division, U.S. Army Research Office, AMC
10. Ms. L. Marlene Cruze, Director, Acquisition Center, U.S. Army Missile Command, AMC
11. Dr. Larry O. Daniel, Director, Systems Engineering and Production, U.S. Army Missile Command, AMC
12. Mr. Vito J. DeMonte, Director, Information Sciences and Technology, U.S. Army Research Laboratory, AMC
13. Mr. Edward G. Elgart, Director, CECOM Acquisition Center, U.S. Army Communications-Electronics Command, AMC
14. Mr. Eugene Famolari, Jr., Associate Technical Director, CECOM RD&E Center, U.S. Army Communications-Electronics Command, AMC
15. Mr. Alexander Farkas, Director for Development Business Group, U.S. Army Tank-Automotive and Armaments Command, AMC
16. Mr. Frank E. Fiorilli, Comptroller, U.S. Army Communications-Electronic Command, AMC
17. Mr. James L. Flinn III, Director, Integrated Materiel Management Center, U.S. Army Missile Command, AMC
18. Dr. John T. Fraiser, Associate Director for Science and Technology, U.S. Army Research Laboratory, AMC
19. Mr. John F. Gehbauer, Deputy Director, Close Combat Armaments Center, Armament RD&E Center, AMC
20. Ms. Linda J. Glasgow, Executive Director, Integrated Materiel Management Center, U.S. Army Aviation and Troop Command, AMC
21. Mr. Spencer S. Hirshman, Associate Technical Dir, Producibility and Process Technology, U.S. Army Armament RD&E Center, AMC
22. Ms. Kathryn T. Hoener, Chief Counsel, U.S. Army Communications-Electronics Command, AMC
23. Mr. Gary L. Holloway, Director for Test and Assessment, U.S. Army Test and Evaluation Command, AMC
24. Mr. Thomas L. House, Executive Director, Aviation RD&E Center, U.S. Army Aviation and Troop Command, AMC
25. Dr. Paul L. Jacobs, Associate Director for Technology, U.S. Army Missile Command, AMC
26. Mr. Larry H. Johnson, Director, Redstone Technical Test Center, U.S. Test and Evaluation Command, AMC
27. Mr. Arthur R. Keltz, Principal Deputy for Logistics, U.S. Army Materiel Command
28. Ms. Barbara A. Leiby, Deputy Chief of Staff for Resource Management, U.S. Army Materiel Command
29. Mr. Harold L. Mabrey, Executive Director, Acquisition Center, U.S. Army Aviation and Troop Command, AMC
30. Dr. Ingo W. May, Acting Director, Weapons Technology Directorate, U.S. Army Research Laboratory, AMC
31. Mr. Douglas R. Newberry, Deputy to the Commander, U.S. Army Tank-Automotive and Armaments Command, AMC
32. Ms. Renata F. Price, Associate Technical Director, U.S. Army Armament RD&E Center, U.S. Army Tank-Automotive and Armaments Command, AMC
33. Dr. Bhakta Rath, Associate Director for Research, U.S. Naval Research Laboratory
34. Mr. Arend H. Reid, Retired SES Member
35. Mr. Daniel J. Rubery, Deputy to the Commander, U.S. Army Aviation and Troop Command, AMC
36. Mr. Carmine Spinelli, Technical Director, U.S. Army Armament RD&E Center, U.S. Army Tank-Automotive and Armaments Command, AMC
37. Dr. James J. Streilein, Chief, Reliability Analysis Division, U.S. Army Materiel Systems Analysis Activity
38. Mr. Joseph J. Vervier, Acting Technical Director, Edgewood RD&E Center, U.S. Army Chemical and Biological Defense Command, AMC
39. Mr. Walter Wynbelt, Program Executive Officer, Tactical Wheeled Vehicles, Army Acquisition Executive

The members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Mr. Chester A. Kowalczyk, Assistant Director, Energy and Troop Support, Office of the Deputy Chief of Staff for Logistics (DCSLOG)
2. Mr. A. David Mills, Assistant Director for Maintenance Management, DCSLOG
3. MG Charles S. Mahan, Acting Assistant Deputy Chief of Staff for Logistics, DCSLOG
4. BG Boyd E. King, Director, Transportation, Energy and Troop Support, DCSLOG
5. Mr. Mark W. Ewing, Assistant Deputy Chief of Staff for Intelligence, Office of the Deputy Chief of Staff for Intelligence (DCSINT)
6. MG Claudia J. Kennedy, Assistant Deputy Chief of Staff for Intelligence, DCSINT
7. Dr. James R. Fisher, Director, Missile Defense and Space Technology Center, U.S. Army Space and Strategic Defense Command (SSDC)
8. Mr. Mark J. Lumer, Principal Assistant Responsible for Contracting, SSDC
9. MG F.E. Vollrath, Assistant Deputy Chief of Staff for Personnel, Office of the Deputy Chief of Staff for Personnel (DCSPER)
10. BG Stephen Smith, Director of Enlisted Personnel Management Directorate, DCSPER
11. Dr. Jack H. Hiller, Director of MANPRINT, DCSPER

12. Dr. Zita M. Simutis, Deputy Director, Army Research Institute, DCSPER
13. Mr. John Riente, Technical Advisor to the Deputy Chief of Staff for Operations and Plans, Office of the Deputy Chief of Staff for Operations and Plans

The members of the Performance Review Board for the Consolidated Commands are:

1. Mr. William R. Lucas, Deputy to the Commander, Military Traffic Management Command (MTMC)
2. Mr. Thomas D. Collinsworth, Director, MTMC Transportation Engineering Agency
3. MG Robert H. Scales, Deputy Chief of Staff for Doctrine, U.S. Army Training and Doctrine Command (TRADOC)
4. Mr. Roy Reynolds, Director of Operations, White Sands Missile Range, TRADOC
5. Mr. Robert Seger, Assistant Deputy Chief of Staff for Training (Plans and Policy), TRADOC
6. BG Timothy J. Maude, Deputy Chief of Staff for Personnel, U.S. Army, Europe (USAREUR)
7. Mr. Leland A. Goeke, Assistant Deputy Chief of Staff for Personnel (Civilian Personnel), USAREUR
8. Dr. Michael Gentry, Technical Director/Chief Engineer, U.S. Army Information Systems Command (ISC)
9. Mr. James A. Macinko, Deputy Chief of Staff for Resource Management, ISC
10. BG Joseph E. Oder, Director of Resource Management, Forces Command (FORSCOM)
11. Mr. Philip Sakowitz, Assistant Deputy Chief of Staff for Personnel and Installation Management, FORSCOM
12. Ms. Vickie Jefferies, Deputy Director of Resource Management, FORSCOM
13. Mr. William S. Rich, Jr., Deputy/Technical Director, National Ground Intelligence Center, U.S. Army Intelligence and Security Command

The members of the Performance Review Board for the U.S. Army Acquisition Executive are:

1. Mr. Edward Bair, Program Executive Officer (PEO), Intelligence & Electronic Warfare
2. Mr. Paul Bogosian, PEO, Aviation
3. MG William Campbell, PEO, Command and Control Systems
4. Dr. Herbert K. Fallin, Jr., Director for Assessment & Evaluation, Office of the Assistant Secretary of the Army (Research, Development & Acquisition)
5. Mr. Bennett Hart, PEO, Command and Control Systems
6. MG John Michitsch, PEO, Field Artillery Systems
7. Mr. Walter Wynbelt, PEO, Tactical Wheeled Vehicles
8. Mr. Daryl White, Deputy Director, Army Digitization Office

The members of the Performance Review Board for the Office of the Secretary of the Army are:

1. Mr. Walter Hollis, Deputy Under Secretary of the Army (Operations Research) (DUSA{OR})
2. Mr. Vernon Bettencourt, Special Assistant for Forces and Program Evaluation, DUSA(OR)
3. Mr. John Zirschky, Principal Deputy Assistant Secretary of the Army (Civil Works) (ASA{CW})
4. Mr. Steven Dola, Deputy Assistant Secretary of the Army (Management & Budget & Budget), ASA(CW)
5. Mr. William K. Takakoshi, Special Assistant to the Under Secretary of the Army
6. Ms. Alma Moore, Principal Deputy Assistant Secretary of the Army (Installations, Logistics & Environment) (ASA{ILE})
7. Mr. Eric Orsini, Deputy Assistant Secretary of the Army (Logistics), ASA(ILE)
8. Mr. Thomas Brown, Director, Acquisition and Force Management, Army Audit Agency
9. Mr. Francis Reardon, The Auditor General
10. Dr. Richard Chait, Director for Research, Office of the Assistant Secretary of the Army (Research, Development and Acquisition) (ASA {RDA})
11. BG Harry D. Gatanas, Assistant Deputy for Systems Management and International Cooperation, ASA(RDA)
12. Mr. David Borland, Vice Director to the Director for Information Systems for Command, Control, Communications, and Computers
13. Mr. Robert Young, Deputy for Cost Analysis, Office of the Assistant Secretary of the Army (Financial Management and Comptroller)
14. Mr. Archie Barrett, Principal Deputy Assistant Secretary of the Army (Manpower & Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower & Reserve Affairs) (ASA{MRA})
15. Ms. Carol Smith, Deputy Assistant Secretary of the Army (Civilian Personnel Policy)/Director of Civilian Personnel, ASA(MRA)
16. Mr. Claude M. Kicklighter, Deputy Under Secretary of the Army (International Affairs)
17. Mr. Joel B. Hudson, Administrative Assistant to the Secretary of the Army

The members of the Performance Review Board for the United States Army, Corps of Engineers (USACE) are:

1. MG Stanley Genega, Director of Civil Works, USACE
2. Mr. Lester Edelman, Chief Counsel, USACE
3. Dr. William Roper, Assistant to the Chief of Engineers for Research and Development (R&D) and Director, Directorate of R&D, USACE
4. Mr. Charles Schroer, Chief, Construction Division, Directorate of Military Programs, USACE
5. Mr. Charles Hess, Director of Engineering and Technical Services, Ohio River Division, USACE
6. Dr. William Marcuson, Director, Geotechnical Laboratory, Waterways Experiment Station, USACE
7. BG Robert Flowers, Commander, Lower Mississippi Division, USACE
8. Dr. G. Edward Dickey, Chief, Planning Division, Directorate of Civil Works, USACE
9. Mr. William Brown, Sr., Chief, Programs Management Division, Directorate of Military Programs, USACE
10. Mr. Frank Oliva, Director of Programs Management, North Atlantic Division, USACE
11. Mr. Earl Stockdale, Deputy General Counsel (Civil Works and Environment), Office of the General Counsel.

The members of the Performance Review Board for the United States Army, Office of The Surgeon General are:

1. BG John S. Parker, Assistant Surgeon General, Health Services, Operations, & Logistics, Office of The Surgeon General
2. BG Patrick D. Sculley, Assistant Surgeon, Personnel & Resources Management, and Commander, U.S. Army Center for Health Promotion & Preventive Medicine
3. Mr. John L. Maddy, Principal Director, Office of Deputy Assistant Secretary (Health Budgets and Programs), Office of the Assistant Secretary of Defense (Health Affairs)
4. Ms. Jean Storck, Principal Director, Office of Deputy Assistant Secretary (Health Services Financing), Office of the Assistant Secretary of Defense (Health Affairs)
5. Dr. John F. Mazzuchi, Deputy Assistant Secretary (Clinical Services), Office of the Assistant

Secretary of Defense (Health Affairs).

6. Dr. Edgar M. Johnson, Director, U.S. Army Institute for Behavioral Sciences, Office of the Deputy Chief of Staff for Personnel

Gregory D. Showalter,

*Army Federal Register Liaison Officer.*

[FR Doc. 96–22477 Filed 9–3–96; 8:45 am]

**BILLING CODE 3710–08–M**

## Corps of Engineers

### Final Environmental Impact Statement/Report for Proposed U.S. Food & Drug Administration Laboratory, Irvine, California

**AGENCY:** U.S. Army Corps of Engineers, Los Angeles District, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Food and Drug Administration (FDA) plans to consolidate the functions of several of its California facilities as recommended by the April 15, 1994 document, ''Proposal for Implementing and Managing the Restructuring of the Field Laboratories''. As a consolidated facility, the laboratory would be multi-functional with respect to FDA activities, including administration functions, such as investigation and compliance activities, and laboratory testing and analytical services. The facility would have a Food Chemistry Branch, Drug Chemistry Section, Pesticide Branch, Microbiology Branch, and Biochemistry section for its testing and analytical services. In addition, the FDA, in cooperation with University of California, Irvine, may utilize portions or functions of the laboratory for educational purposes.

No long-term adverse ecological or environmental health effects are expected due to the land acquisition for, and the construction and operation of the proposed U.S. Food and Drug Administration Laboratory. No significant impacts are expected to occur.

The Draft EIS/EIR was released for a 45 day public comment period on June 14, 1996.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the FEIS/EIR or for further information, please contact Mr. Dale Bulick, (213) 452–4010, or by writing to the U.S. Army Corps of Engineers, Los Angeles District (Attn: CESPL–PM–C), P.O. Box 2711, Los Angeles, CA 90053–2325. Written comments on the Final EIS/EIR can be sent to Mr. Dale Bulick, U.S. Army Corps of Engineers, at the above address, or Faxed to him at (213) 452–4213.

**SUPPLEMENTARY INFORMATION:** *Scoping:* A Public Hearing was held in Irvine, California on July 10, 1996. Public notices requesting comments from the public concerning the environmental impact statement were issued in the regional area surrounding University of Irvine Campus. Separate notification of the hearing was sent to all parties on the project mailing list.

The Final EIS/EIR has been prepared as an addendum to the Draft, and includes all comments received on the Draft document, responses to the comments, and changes made to the text of the document.

Copies of the FEIS/R, including the Draft EIS/EIR, are available for review at the following locations:

UCI Main Library, Government Publications, P.O. Box 19557, Irvine, California 92623–9557

Heritage Park Regional Library, 14361 Yale Avenue, Irvine, California 92714

Newport Beach Public Library, Central Library, 1000 Avocado Avenue, Newport Beach, California 92660

University Park Library, 4512 Sandburg Way, Irvine, CA 92715

U.S. Army Corps of Engineers, Los Angeles District, Environmental Resources Branch, 911 Wilshire Boulevard, 14th Floor, Los Angeles, CA 90017

Dated: August 22, 1996.

Michal R. Robinson,

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 96–22478 Filed 9–3–96; 8:45 am]

**BILLING CODE 3710–KF–M**

## Corps of Engineers

### Intent to Prepare a Draft Environmental Impact Statement, Environmental Restoration, Jackson Hole, Wyoming

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of Intent.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps), Walla Walla District, intends to prepare a Draft Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). The EIS will evaluate the environmental effects of providing environmental restoration to riverine, wetland, and riparian habitat for four sites within the active Snake River channel between Grand Teton National Park and the South Park Elk Feed Grounds in Jackson Hole, Wyoming. Teton County and the Teton County Natural Resources District are cost sharing sponsors and participating partners in the project and in developing the EIS.

The objective of this study is to provide site-specific restoration measures. Formulation of the restoration activities focuses on examining the condition of the existing ecosystem and determining the feasibility of restoring degraded ecosystem structure, function, and dynamic processes to a less degraded and more natural condition. Ecosystem restoration provides a more comprehensive approach than focusing only on fish and wildlife habitat for addressing problems associated with disturbed and degraded ecological resources.

**FOR FURTHER INFORMATION CONTACT:** Please contact Mr. Bill MacDonald, Study Manager, Walla Walla District, Corps of Engineers, CENPW–PL–PF, 201 North Third Avenue, Walla Walla, WA 99362, phone (509) 527–7253 or Ms. Anneli Aston, NEPA Coordinator, Walla Walla District, Corps of Engineers, CENPW–PL–ER, 201 North Third Avenue, Walla Walla, WA 99362, phone (509) 527–7263.

**SUPPLEMENTARY INFORMATION:** By focusing on the Upper Snake River ecosystem structure, the Corps' interdisciplinary planning team will identify parameters that are altering water quantity or quality and adversely impacting the ecosystem, or parts thereof, within the watershed. Consideration must be given, during plan formulation, to those activities and conditions in the watershed that may influence the success and resilience of the restoration proposal, even though they may exist outside of the study area. Hydrology and sediment transport are two key functions that must be investigated in order for this restoration effort to be successful.

*Alternatives:* Along a 25-mile reach of the Snake and Gros Ventre rivers, twelve locations which showed the best potential for restoration were selected for evaluation. In an effort to reduce the scope and cost of the study, the number of sites was reduced to four. Alternatives that could be implemented at the four sites include:

a. Channel restoration to rehabilitate fisheries.

b. Island protection measures to preserve riparian island values.

c. Island restoration measures to restore riparian island values.

d. Fish habitat creation through stream structure alteration.

e. Headgate opportunities to provide for future water diversions to restore spring creeks, wetlands, and riparian habitats.

f. No action.

*Scoping Process:* The Corps invites affected Federal, state and local

agencies, Native American tribes, and other interested organizations, parties, and the public to participate in the scoping process for the EIS. Input from other agencies and organizations that have a special interest and expertise in key resource areas such as fisheries, wildlife, water quality, hydrology, and stream restoration techniques is welcome. The EIS process includes environmental review and consultation in accordance with other environmental statutes, rules, and regulations which apply to the proposed action.

*Scoping meeting:* A public scoping meeting for the EIS will be held in Jackson, Wyoming on September 25, 1996. Time and location information will be advertised and provided in a scoping letter that will be distributed throughout the region.

*Availability:* The draft EIS should be available in September 1998.

Gregory D. Showalter,

*Army Federal Register Liaison Officer.*

[FR Doc. 96–22480 Filed 9–3–96; 8:45 am]

**BILLING CODE 3710–GC–M**

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## Department of the Navy

### Notice of Intent to Prepare an Environmental Impact Statement and to Open Scoping for the Disposal and Reuse of Long Beach Naval Shipyard, Long Beach, California

**SUMMARY:** Pursuant to Section 102(2) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) and to open scoping to evaluate the environmental effects associated with the disposal and reuse of Long Beach Naval Shipyard (NSY), Long Beach, California. Long Beach NSY is located in Long Island Beach Harbor, immediately east of Long Beach Naval Station, and includes approximately 259 acres of real estate. On this, approximately 4 acres will be retained as a government-owned, contractor-operated parcel, and 85 acres will revert automatically to the City of Long Beach in conformance with the original deed which transferred land from the City to the Navy. These parcels are not included as part of the disposal and reuse of the Long Beach NSY. The proposed action involves the disposal of land, buildings, and infrastructure for subsequent reuse of the remaining 170 acres.

As a result of the Defense Base Closure and Realignment Act (DBCRA) of 1990 (Public Law 101–510), and in accordance with the Base Realignment and Closure (BRAC) process of 1995, Long Beach NSY is slated for operational closure on September 30, 1997. The DBCRA, as amended by the Defense Authorization Act for Fiscal Year 1996, established procedures to minimize hardships on local communities adversely affected by base closures and to facilitate economic recovery of such communities. In this regard, job creation and economic development are given the highest priority in the reuse of closed military bases, in accordance with objectives for disposal of federal property.

The Secretary of the Navy must consider the community's redevelopment plan proposed for the base slated for closure. The development plan is a plan approved by the Local Redevelopment Authority (LRA) which provides for the reuse or redevelopment of the closed military installation. The City of Long Beach was designated as the LRA by the Secretary of Defense. The City of Long Beach has prepared a reuse plan (July 1996) with recommendations for the reuse of surplus Long Beach Naval Shipyard property.

An Environmental Impact Statement (EIS) is being prepared by the Department of the Navy in accordance with NEPA and DBCRA requirements. The EIS will analyze the environmental effect of the disposal and reuse of the Long Beach NSY. The environmental studies will be based on the reasonably foreseeable reuse of the existing buildings and redevelopment of the site. The EIS will analyze three reuse alternatives in an equal level of detail and a ''no action'' alternative. The proposed action is the disposal of the base for reuse. Alternative 1 is consistent with the reuse plan proposed by the LRA and would involve demolition of three piers, two dry-docks (one large dry-dock would remain), and most buildings. These would be replaced by a 152-acre container terminal; an intermodal railyard; an 18-acre (one pier) shipyard facility surrounding the remaining dry-dock, with a 100,000 square-foot support building (possibly an existing building); and six 500,000-barrel tanks in a 36-acre liquid bulk facility. Alternative 2, Two-pier Shipyard, would be identical to the proposed action except that the shipyard area would be expanded to 32 acres and contain 2 piers and some additional buildings. Alternative 3, Commercial Shipyard, would involve the conversion of the existing shipyard for commercial use. Under this alternative, all the piers and dry-docks would remain and most of the buildings could be reused. The EIS will also address any alternatives that are raised during the public scoping process. Environmental issues to be addressed in the EIS include: geology, topography, and soils; hydrology; biology; noise; air quality; land use; historic and archaeological resources; socio-economic; transportation/circulation; public facilities/recreation; safety and environmental health; aesthetics; and utilities. Issue analysis will include an evaluation of the direct, indirect, short-term, and cumulative impacts associated with the proposed action. The decision to implement the proposed action will not be made until the NEPA process is complete.

**ADDRESSES:** The Department of the Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying significant issues relative to this action. A public meeting to allow oral comments from the public will be held at the Long Beach Public Library, Main Branch, 101 Pacific Avenue, Long Beach, California on September 18, 1996 at 7:00 P.M. This meeting will be advertised in area newspapers. Navy representatives will be available at the scoping meeting to receive comments from the public regarding issues of concern. A brief presentation describing the disposal and NEPA processes will precede request for public comments. It is important that federal, state, and local agencies, as well as interested organizations and individuals, take this opportunity to identify environmental concerns that they feel should be addressed during the preparation of the EIS.

Agencies and the public are invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics that the commenter believes the EIS should address. Written comments or questions regarding the scoping process and/or EIS should be postmarked no later than October 4, 1996 and sent to the following address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melanie Ault (Code 232MA), BRAC Program Office, Southwest Division, Naval Facilities Engineering Command, 1420 Kettner Boulevard, Suite 507, San Diego, CA 92101–2404; telephone (619) 556–0250 Ext. 226.

Dated: August 28, 1996.

D.E. Koenig,

*LCDR, JAGC, USN, Federal Register Liaison Officer.*

[FR Doc. 96–22425 Filed 9–3–96; 8:45 am]

**BILLING CODE 3810–FF–M**

## DEPARTMENT OF EDUCATION

### National Committee on Foreign Medical Education and Accreditation

*Date and Time:* Wednesday, September 18, 1996, 9:00 a.m. until 5:30 p.m.; Thursday, September 19, 1996, 9:00 a.m. until 5:30 p.m.; Friday, September 20, 1996, 9:00 a.m. until 5:30 p.m.

*Place:* The Latham Hotel, 3000 M Street, N.W., Washington, D.C. 20007.

*Status:* Parts of this meeting will be open to the public. Parts of this meeting will be closed to the public.

*Matters to be Considered:* The standards of accreditation applied to medical schools by a number of foreign countries and the comparability of those standards to standards of accreditation applied to the United States medical schools. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 481 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. § 1088), the Secretary established within the Department of Education the National Committee on Foreign Medical Education and Accreditation. The Committee's responsibilities are to (1) evaluate the standards of accreditation applied to applicant foreign medical schools; and (2) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

**FOR FURTHER INFORMATION CONTACT:**

Carol F. Sperry, Executive Director, National Committee on Foreign Medical Education and Accreditation, 600 Independence Avenue, S.W., Room 3905, ROB #3, Washington, D.C. 20202–7563. Telephone: (202) 260–3636. Beginning Tuesday, September 10, 1996, you may call to obtain the identity of the countries whose standards are to be evaluated during this meeting.

August 28, 1996.

David A. Longanecker,

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 96–22424 Filed 9–3–96; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF ENERGY

### Deviation for the Research for Improving Vehicular Transportation, and Reducing Energy Consumption, and Pollution from Manufacturing Processes Program

**AGENCY:** Department of Energy.

**ACTION:** Notice of Class Deviation.

**SUMMARY:** The Department of Energy (DOE), pursuant to 10 CFR 600.4, announces a deviation from its Financial Assistance Rules for the Research for Improving Vehicular Transportation, and Reducing Energy Consumption, and Pollution from Manufacturing Processes program. This program is a joint effort between DOE and the National Science Foundation (NSF) to further basic research involving vehicles of the future and environmental technologies. The approval of this deviation from the requirement of 10 CFR 600.26(b) permits coextensive budget and project periods for multi-year awards.

**EFFECTIVE DATE:** September 19, 1996.

**FOR FURTHER INFORMATION CONTACT:** Cherlyn D. Seckinger, Business and Financial Policy Division, [HR–51], U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8246.

**SUPPLEMENTARY INFORMATION:** In this notice, the DOE announces that, pursuant to 10 CFR 600, the Deputy Assistant Secretary for Procurement and Assistance Management has made a determination of the need for a deviation to the DOE Financial Assistance Rules. The determination document, dated August 26, 1996 provides for a deviation for 18 grants under the Improving Vehicular Transportation, and Reducing Energy Consumption and Pollution from Manufacturing Processes program.

The deviation has been approved to achieve program objectives of uniformity of treatment among proposed awardees and between DOE and NSF in the administration of the resulting grants. By agreement with NSF, DOE released a Program Notice (96–05) under 10 CFR 605 for the subject program which has resulted in 35 applicants being selected for award. Awards will be of three types: totally DOE funded, totally NSF funded, and jointly funded. DOE will award all the grants. The proposed detailed research projects range in term from 12 to 39 months. Standard NSF grants are made for durations of 6 months to three years and are fully funded at the time of award. DOE multi-year grants are typically funded incrementally on an annual basis. Without the deviation, recipients funded totally by NSF funds could have budget periods longer than those which will be jointly funded by DOE and NSF or solely by DOE. Since DOE will award the grants and will oversee their administration, a consistent approach for handling award requirements for reporting, budgeting, and continuation/renewal purposes is needed to assure uniformity in administration of the program.

The deviation waives the limitation of 600.26(b) that coextensive budget and project periods only be used when the period of performance for a DOE award will be twelve months or less. Multi-year awards are generally funded on an annual basis. In such awards, funding for each budget period within a project period is contingent on DOE approval of a continuation application submitted in accordance with a schedule specified by DOE. This deviation will allow both DOE and NSF funded awards under the program to have coextensive budget and project periods. This action is necessary to achieve program objectives [see 10 CFR 600.4(b)(1)] in order to ensure consistency in award administration.

Issued in Washington, DC, August 26, 1996.

Richard H. Hopf,

*Deputy Assistant Secretary for Procurement and Assistance Management.*

[FR Doc. 96–22490 Filed 9–3–96; 8:45 am]

**BILLING CODE 6450–01–P**

## Energy Information Administration

### Agency Information Collection Under Review by the Office of Management and Budget

**AGENCY:** Energy Information Administration, Department of Energy.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under section 3507(a)(1)(D)of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507 (d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title of the collection of information; (2) summary of the collection of

information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

**DATES:** Comments must be filed by October 4, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

**ADDRESSES:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

**FOR FURTHER INFORMATION:** Requests for additional information should be directed to Herbert Miller, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. ERA–766R, ''Recordkeeping Requirements of DOE's Allocation and Price Rules;
2. Economic Regulatory Administration, OMB No. 1903–0073, Extension, Mandatory;
3. ERA–766R requires firms in all segments of the oil industry to maintain only those records essential to the orderly and timely completion of the oil pricing enforcement program. Firms not having such records would be exempt from the recordkeeping requirements of 10 CFR 210.1;
4. Firms in the oil industry
5. 912 hours (40 hrs. × 1 response per year × 228 respondents)

Statutory Authority: 44 U.S.C. 3506(a)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., August 28, 1996.

Yvonne M. Bishop,

*Director, Office of Statistical Standards Energy Information Administration.*

[FR Doc. 96–22492 Filed 9–3–96; 8:45 am]

BILLING CODE 6450–01–P

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## Federal Energy Regulatory Commission

**[Docket No. TM97–1–24–000]**

### Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 28, 1996.

Take notice that on August 23, 1996, Equitrans, L.P. (Equitrans), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective October 1, 1996.

Seventh Revised Sheet No. 5
Seventh Revised Sheet No. 6
Sixth Revised Sheet No. 8

Pursuant to Order No. 472, the Commission authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 1996 ACA unit surcharge approved by the Commission is $.0020 per Mcf. Equitrans has converted this Mcf rate to a dekatherm (Dth) rate of $.0019 per Dth.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this 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 Section 385.211 and 385.214 of the Commission's Rules and Regulations. 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 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. 96–22461 Filed 9–3–96; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. RP96–16–000]**

### Natural Gas Pipeline Company of America; Notice of Technical Conference

August 28, 1996.

In the Commission's order issued on November 22, 1995, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened.

Take notice that the technical conference to address the issues will be held on Thursday, September 5, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–22459 Filed 9–3–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP96–347–000]**

### Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 28, 1996.

Take notice that on August 23, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective November 1, 1996:

Third Revised Sheet No. 263
Second Revised Sheet No. 263A

Northern states that its filing contains Northern's proposal for a permanent Carlton Resolution in response to the Commission's August 6 Order Establishing Guidelines in Docket No. RP93–206–000. Northern further states that the proposal is consistent with the Commission Guidelines and believes its proposal is the most efficient method of resolving the Carlton sourcing issue on its system.

Northern states that copies of the filing were served upon the company's customers 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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed as provided in Section 154.210 of

the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–22460 Filed 9–3–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP96–733–000]**

## Texas Eastern Transmission Corporation; Notice of Application

August 28, 1996.

Take notice that on August 21, 1996, Texas Eastern Transmission Corporation (''Texas Eastern''), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in the above docket an application with the Federal Energy Regulatory Commission (''Commission'') pursuant to Section 7(b) of the Natural Gas Act for authorization permitting the abandonment of Texas Eastern's Rate Schedule X–8, an emergency exchange of natural gas between Texas Eastern and Arkla (formerly Arkansas Louisiana Gas Company) (''Arkla''), and for authorization to abandon certain pipeline interconnect facilities between Texas Eastern and Arkla (''Interconnection Facilities'').

Texas Eastern requests expedited consideration and approval of the authorizations requested herein in order to remove the Interconnection Facilities on or before October 1, 1996, in connection with a runway expansion project in Little Rock, Arkansas which is currently being undertaken by the Little Rock National Airport (formerly Adams Field Municipal Airport).

The FPC issued an order in Docket No. G–1500 on November 29, 1950, authorizing Texas Eastern to operate and maintain the Interconnection Facilities and to exchange gas on an emergency basis with Arkla pursuant to an emergency exchange agreement dated November 20, 1950 (''Exchange Agreement''). The Exchange Agreement is included as Rate Schedule X–8 in Texas Eastern's Ferc Gas Tariff Original Volume No. 2. Pursuant to the Exchange Agreement, both parties agreed to the exchange of gas and use of the Interconnection Facilities by either party without charge during temporary periods of emergency.

Texas Eastern and Arkla have agreed to abandon the Exchange Agreement as evidenced by the termination agreement dated August 16, 1996, (''Termination Agreement'') attached to the application, and provides that the Exchange Agreement will terminate effective as of August 31, 1996.

More specifically, Texas Eastern proposes to abandon by removal the following Interconnection Facilities:

Facilities South of Arkansas River:

(1) Approximately 501 feet of 12-inch diameter pipeline.

(2) Miscellaneous valves, fittings, and appurtenant facilities.

Facilities North of Arkansas River:

(3) Approximately 1,013 feet of 12-inch diameter pipeline.

(4) Approximately 807 feet of 24-inch diameter pipeline.

(5) Miscellaneous valves, fittings, and appurtenant facilities.

Physical abandonment of the Interconnection Facilities will be performed on Texas Eastern's existing right of way. Those facilities located South of the Arkansas River which are proposed to be abandoned are within the work area included in the environmental scope of the airport's expansion.

On August 27, 1996, Texas Eastern filed a supplement to its application withdrawing its request to abandon those Interconnect Facilities located north of the Arkansas River and a revised Exhibit Y to facilitate expeditious consideration of the remaining authorizations requested on or before October 1, 1996.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. 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 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 Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–22457 Filed 9–3–96; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. OR96–17–000]**

## Ultramar Inc., Complainant v. SFPP, L.P., Respondent; Notice of Complaint

August 28, 1996.

Take notice that on August 21, 1996, pursuant to sections 9, 13(1), and 15(1) of the Interstate Commerce Act of 1887 (49 U.S.C. §§ 9, 13(1), 15(1)), Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), and the Commission's Procedural Rules Applicable to Oil Pipeline Procedures (18 CFR 343.1(c)), Ultramar Inc. (Ultramar) tendered for filing a complaint against charges collected by SFPP, L.P. (SFPP) for the pipeline transportation of petroleum products. Ultramar complains against the charge collected for transportation of refined products over SFPP's pipeline in California from Sepulveda Junction to Watson Station (Sepulveda Line).

Ultramar complains that the foregoing charges (1) are not covered by tariffs filed with the Commission, (2) are not justified by the cost of service, (3) discriminate against shippers which use the Sepulveda Line, and (4) result in overcharges in excess of filed tariff rates.

Ultramar respectfully requests that the Commission action upon this Complaint, by (1) examine the charges collected by SFPP for transportation through the Sepulveda Line, (2) order refunds to Ultramar to the extent that the Commission finds that the rates were unlawful, (3) determine and prescribe just, reasonable, and non-discriminatory rates for the Sepulveda Line, and (4) award Ultramar reasonable attorney's fees and costs.

Any person desiring to be heard or to protest said complaint should file a

motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before September 27, 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. Answers to this complaint shall be due on or before September 27, 1996.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96–22458 Filed 9–3–96; 8:45 am]

**BILLING CODE 6717–01–M**

## Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of July 17 through July 21, 1995

During the week of July 17 through July 21, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: August 19, 1996.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

### Request for Exception

*Big Little Stores, Inc., 7/19/95, VEF–0005*

Big Little Stores, Inc., filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Therefore, the DOE denied the Big Little Stores' Application for Exception.

### Implementation for Special Refund Procedures

*Western Asphalt Service, Inc., et al., 7/17/95 LEF–0047 et al.*

The DOE issued a Decision and Order implementing procedures for the distribution of $29,376,255.50 (plus accrued interest) obtained from Western Asphalt Service, Inc., Gray Trucking Company, William Valentine & Sons, Inc., Dorchester Master Limited Partnership, Howell Corporation, Placid Oil Company, Eton Trading Corporation. These funds were remitted by each firm to the DOE to settle possible pricing violations with respect to sales of crude oil. The DOE determined that these monies will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges. Under that policy, 20% will be reserved for injured purchasers of refined products, 40% will be distributed to the federal government, and 40% to the states.

### Personnel Security Hearing

*Albuquerque Operations Office, 7/21/95, VSO–0023, VSZ–0003, VSZ–0004*

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. As preliminary matters, a motion to dismiss the proceeding for lack of authority and a motion to strike certain documentary evidence were denied. The Hearing found that although the individual has used marijuana a limited number of times over a 20-year period, his subsequent rehabilitation from that behavior mitigated the DOE's security concerns. The Hearing Officer also found, however, that the individual had misrepresented his marijuana use to the DOE by omitting significant information from forms and at interviews, and that the DOE's security concerns regarding this behavior were not overcome by any mitigating factors. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

### Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

| | | |
|---|---|---|
| CITY OF CANTON | RF272–97125 | 07/17/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–12 | 07/17/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–21 | 07/17/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–19 | 07/17/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–23 | 07/19/95 |
| CRUDE OIL SUPPLEMENTAL REFUND | RB272–28 | 07/19/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–26 | 07/19/95 |
| CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION | RB272–16 | 07/20/95 |
| DALCO PETROLEUM, INC./GREAT PLAINS GAS | RF248–13 | 07/17/95 |
| DALE TRACY ET AL | RK272–81 | 07/19/95 |
| M.S.A.D. #29 ET AL | RF272–86541 | 07/19/95 |
| MARION COUNTY, KY ET AL | RF272–95475 | 07/19/95 |
| McLOUD SCHOOL DISTRICT, OKLAHOMA ET AL | RF272–95451 | 07/19/95 |
| METROPOLITAN PETROLEUM & FUEL/ZINN COMPANIES, INC | RF349–21 | 07/19/95 |
| MOHASCO CARPET CORPORATION | RC272–308 | 07/17/95 |
| MOHAWK COMMERCIAL CARPET | RC272–309 | |
| MOHASCO CARPET CORPORATION | RC272–310 | |
| SUPERIOR KNITS ET AL | RF272–77524 | 07/20/95 |
| TEXACO INC./ROOSEVELT TEXACO ET AL | RF321–12899 | 07/19/95 |
| TOMS RIVER SCHOOLS ET AL | RF272–86349 | 07/19/95 |

### Dismissals

The following submissions were dismissed:

| Name | Case No. |
|---|---|
| BUCK'S TRUCK STOP, INC. | RF315–10189 |
| CITY OF SANGER | RF272–96104 |
| KALAMA CHEMICAL, INC. | RF272–90203 |
| McREE TEXACO & DRIVE IN GROCERY | RF321–14130 |
| OLD TOWN PLAZA SERVICE STATION | RF304–14463 |
| RICHMOND, FREDERICKSBURG, AND POTOMAC RAILROAD CO. | RF321–14111 |

[FR Doc. 96–22491 Filed 9–3–96; 8:45 am]

BILLING CODE 6450–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00450; FRL–5395–1]**

## Food Safety Advisory Committee; Open Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** As required by section 9 of the Federal Advisory Committee Act (Public Law 92–463), EPA's Office of Pesticide Programs (OPP) is giving notice of the establishment of the Food Safety Advisory Committee (FSAC), and to announce a series of FSAC meetings, the first of which will be September 26, 1996.

**DATES**: The initial meeting will take place September 26, 1996, from 9 a.m. to 5 p.m.. Subsequent meetings will be held on October 22 and 23, November 14 and 15, and, if necessary, December 4, 1996.

**ADDRESSES:** The meetings will be held at: The Green Room (next to Rm. 3204) of the Ariel Rios Federal Office Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** By mail: Margie Fehrenbach, Designated Federal Official, or Carol Peterson, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–7090; e-mail: fehrenbach.margie@epamail.epa.gov or peterson.carol@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

I. Background

The Food Quality Protection Act (FQPA), signed into law on August 3, 1996, (Public Law 104–170) amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) to provide greater protection for U.S. consumers, particularly infants and children. EPA is forming the FSAC to provide a structured environment for exchange of information and ideas on regulatory, policy, and implementation issues. These discussions will assist EPA in the implementation of the new food safety statute and are essential if EPA is to be responsive to the needs of the public and the affected industry.

II. Participation

The FSAC will be composed of a balanced group of participants from the following sectors: pesticide user and commodity groups; environmental/public interest groups, including the general public; federal and state governments; academia; industry; the public health community; and congressional offices.

FSAC meetings will be open to the public. Statements by observers are welcome. Oral statements will be limited to three minutes, and it is preferred that only one person present the statement. In the event that there are more people wanting to speak than time will allow, written statements will be accepted at the time of the meeting. In addition, any person who wishes to file a written statement can do so before or after an FSAC meeting. These statements will become part of the permanent file and will be available to FSAC members for their information.

Materials relating to the Food Safety Advisory Committee will be maintained in a public record. These materials will be available for inspection from 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

III. Meeting Schedule

The first meeting of the FSAC will be held on September 26, 1996, in the Green Room of the Ariel Rios Federal Office Building (next to Room 3204), 1200 Pennsylvania Avenue, NW., Washington, DC 20044. Subsequent meetings have been scheduled for October 22 and 23, November 14 and 15, and, if necessary, December 4, 1996, in the same location. Agendas and background materials will be available two weeks prior to the meeting from Martha Tableman, PhD., telephone: (970) 468–5822, fax: (970) 262–0152, e-mail: mtableman@keystone.org.

List of Subjects

Environmental protection.

Dated: August 27, 1996.

Daniel M. Barolo,
*Director, Office of Pesticide Programs.*

[FR Doc. 96–22506 Filed 9–3–96; 8:45 am]

BILLING CODE 6560–50–F

**[FRL–5603–9]**

## Contractor Access to Confidential Business Information Under the Clean Air Act

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA has authorized the following contractors for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended. (1) Environmental Consulting and Research (EC/R) Incorporated, 3721–D University Drive, Durham, North Carolina 27707, contract number 68D60008, (prime contractor); (2) Environmental Investigations, 2327 Englert Drive, Suite 1, Durham, North Carolina 27713, contract number 68D60008, (subcontractor).

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

**DATES:** Access to confidential data submitted to EPA will occur no sooner than ten days after publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Doris Maxwell, Document Control Officer, Office of Air Quality Planning and Standards (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5312.

**SUPPLEMENTARY INFORMATION:** The EPA is issuing this notice to inform all

submitters of information under section 114 of the CAA that EPA may provide the above mentioned contractors access to these materials on a need-to-know basis. These contractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in economic impact assessment for Federal Air Pollution Control Regulations.

In accordance with 40 CFR 2.301(h), EPA has determined that each contractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contracts. The contractors' personnel will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The contractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All contractor access to CAA CBI will take place at the contractors' facility. Each contractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 1998 under contract 68D40099 and on September 30, 1997 under contract 68D40107.

Dated: August 23, 1996.

Mary D. Nichols,

*Assistant Administrator for Air and Radiation.*

[FR Doc. 96–22382 Filed 9–3–96; 8:45 am]

BILLING CODE 6560–50–P

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**[FRL–5605–2]**

## Guidelines for Implementing the Hardship Grants Program for Rural Communities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability.

**SUMMARY:** The Environmental Protection Agency is making Guidelines for Implementing the Hardship Grants Program for Rural Communities available for public review and comment. Members of the public can obtain a copy of the Guidelines by telephoning (202) 260–2268 and leaving a name and mailing address. Interested parties may also view or download a copy of the Guidelines via Internet, at either the Environmental Protection Agency Homepage under ''What's New'' (http://www.epa.gov/WhatsNew.html), or on the Office of Water Homepage under ''What's New'' (http://www.epa.gov/OW/sec8).

**DATES:** Comments on the Guidelines must be received by October 21, 1996.

**ADDRESSES:** Address comments to Sheila Hoover (4204), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, or via Internet at hoover.sheila@epamail.epa.gov.

**FOR FURTHER INFORMATION CONTACT:** Sheila Hoover (4204), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–2268.

**SUPPLEMENTARY INFORMATION:** These guidelines implement a $50 million grant program contained in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134). The Agency will make grants to states, which in turn can provide assistance to improve wastewater treatment services in poor, rural communities with populations of 3,000 or fewer where such services are currently inadequate. The Hardship Grants Program for Rural Communities will be coordinated with the Clean Water Act State Revolving Fund (SRF) program and in accordance with the SRF program regulations at 40 CFR Part 35, Subpart K and existing Agency grant regulations and procedures, including 40 CFR Part 31.

Dated: August 28, 1996.

Michael B. Cook,

*Director, Office of Wastewater Management.*

[FR Doc. 96–22504 Filed 9–3–96; 8:45 am]

BILLING CODE 6560–50–P

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**[OPP–30418; FRL–5391–9]**

## Certain Companies; Applications to Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments must be submitted byOctober 4, 1996.

**ADDRESSES:** By mail, submit written comments identified by the document control number [OPP–30418] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30418]. No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person: Contact the person named in each registration at the following office location/telephone number:

| Contact Person | Office location/telephone number | Address |
|---|---|---|
| Rita Kumar, | 5th Fl, CS #1 (703–308–8291); e-mail: kumar.rita@epamail.epa.gov. | Environmental Protection Agency<br>Westfield Building North Tower<br>2800 Crystal Drive<br>Arlington, VA 22202 |
| Paul Zubkoff, | 5th Fl, CS #1 (703–308–8694); e-mail: zubkoff.paul@epamail.epa.gov. | -Do- |

**SUPPLEMENTARY INFORMATION:** EPA received applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of the applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 62552–RE. Applicant: Agridyne Technologies, Inc. 2401 S. Foothill Drive, Salt Lake City, UT 84109. Product name: Daza Technical. Biological Insecticide. Active ingredient: Dihydroazadirachtin at 17.5 percent. Proposed classification/Use: None. For manufacturing use only. (Paul Zubkoff)

2. File Symbol: 62552–RG. Applicant: AgriDyne Technologies, Inc. Product name: Daza EC. Biological Insecticide. Active ingredient: Dihydroazadirachtin at 3.0 percent. Proposed classification/Use: None. For indoor and outdoor use on ornamentals, turf, agronomic and horticultural crops. (Paul Zubkoff)

3. File Symbol: 62552–RU. Applicant: AgriDyne Technologies, Inc. Product name: Daza 4.5 WDG. Biological Insecticide. Active ingredient: Dihydroazadirachtin at 4.5 percent. Proposed classification/Use: None. For indoor and outdoor use on ornamentals, turf, agronomic and horticultural crops. (Paul Zubkoff)

4. File Symbol: 68822–R. Applicant: Tuttle Apiary Laboratory, 3030 Lewis River Road, Woodland, WA 98674. Product name: Mite Solution. Insecticide. Active ingredient: Tea tree oil, a natural plant extract, at 5 percent. Proposed classification/Use: None. For mite control in honey bee populations. (Rita Kumar)

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30418] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: August 20, 1996.

Janet L. Andersen,

*Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. 96–22243 Filed 9–3–96; 8:45 am]

BILLING CODE 6560–50–F

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**[OPP–30419; FRL–5392–1]**

## S.C. Johnson and Son; Applications to Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments must be submitted by October 4, 1996.

**ADDRESSES:** By mail, submit written comments identified by the document control number [OPP–30419] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30419]. No ''Confidential Business

Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Richard Keigwin, Product Manager (PM 10), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703) 305–6788; e-mail: keigwin.richard@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA received applications to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 4822–ULI. Applicant: S.C. Johnson and Son, 1525 Howe St., Racine, WI 53403. Product name: Raid TVK. Insecticide. Active ingredient: Lithium perfluorooctane sulfonate at 0.03 percent. Proposed classification/Use: General. For use as a wasp and hornet bait trap.

2. File Symbol: 4822–ULT. Applicant: S.C. Johnson and Son. Product name: Sulfotine. Insecticide. Active ingredient: Lithium perfluorooctane sulfonate at 26 percent. Proposed classification/Use: General. For manufacturing purpose only.

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30419] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: August 15, 1996.

Stephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 96–22242 Filed 9–3–96; 8:45 am]

**BILLING CODE 6560–50–F**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

August 26, 1996.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Persons wishing to comment on this information collection should submit comments by November 4, 1996.

**ADDRESSES:** Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval No.:* None.

*Title:* Policy and Rules Concerning the Interstate, Interexchange Marketplace,

CC Docket No. 96–61 (Integrated Rate Plans).

*Form No.:* N/A.

*Type of Review:* New Collection.

*Respondents:* businesses or other for profit.

*Number of Respondents:* 6.

*Estimated Hour Per Response:* 70 hours.

*Total Annual Burden:* 720 hours.

*Needs and Uses:* Section 254(g) of the 1934 Communications Act, as amended, and our rules extend rate integration to all U.S. territories and possessions. We will require certain carriers to submit no later than February 1, 1997, preliminary plans to achieve rate integration by August 1, 1997, and final plans no later than June 1, 1997. These plans will permit the Commission to review progress toward achieving rate integration.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96–22428 Filed 9–3–96; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### Schedule on Trust Income and Expense

**AGENCY:** Federal Financial Institutions Examination Council.

**ACTION:** Final action.

**SUMMARY:** The Federal Financial Institutions Examination Council (FFIEC) [1] has approved the addition of Schedule E, ''Fiduciary Income Statement,'' to the Annual Report of Trust Assets (form FFIEC 001), effective for the December 31, 1996, report date. The new trust income statement must be completed only by those banks and savings associations with $100 million or more in total trust assets and by all nondeposit trust companies. In general, institutions will report trust fees by type of trust account, three general categories of expense, and the amount of settlements, surcharges, and other losses gross and net of recoveries. If an institution's aggregate losses are $100,000 or more in any year, individual losses of $10,000 or more must be reported by type of account. The information reported by individual institutions in Schedule E will not be publicly available, but aggregate data will be published by the FFIEC. The new trust income schedule is intended to enable the agencies to better target their supervision of trust activities to those areas that pose greater risk to institutions.

**EFFECTIVE DATE:** For the Annual Report of Trust Assets (form FFIEC 001) to be prepared as of December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Board: Donald R. Vinnedge, Manager, Trust Activities Program, (202) 452–2717; William R. Stanley, Supervisory Trust Analyst, Trust Activities Program, (202) 452–2744.

FDIC: John F. Harvey, Trust Review Examiner, Division of Supervision, (202) 898–6762.

OCC: William F. Granovsky, National Bank Examiner, Fiduciary Activities, (202) 874–4447.

OTS: Larry A. Clark, Program Manager, Compliance and Trust, (202) 906–5628.

**SUPPLEMENTARY INFORMATION:**

#### Background

There are approximately 3,000 banks, savings associations, and trust companies that actively engage in trust activities. These institutions administered $11.6 trillion of assets as of December 31, 1994, or nearly three times the commercial banking industry's on-balance sheet assets. The information that the agencies have been collecting from institutions engaging in trust activities has been limited to data reported in the Annual Report of Trust Assets (form FFIEC 001) showing discretionary and nondiscretionary trust assets by various types of accounts.

The off-balance sheet nature of fiduciary activities has presented certain impediments to the agencies in the development and implementation of fiduciary and related supervision policy. The lack of uniform, consistent and industry-wide information on fiduciary income and expenses has precluded effective analysis of fiduciary profitability and risk management for an individual institution, a peer group, and the entire industry. It also has hampered the agencies' ability to measure the risk associated with particular lines of fiduciary business and to evaluate the functional activities causing losses. Thus, the agencies have not been able to ensure that they have targeted their supervision of trust activities to those areas that pose greater risks to institutions.

#### Proposed Schedule on Trust Income and Expense

On June 29, 1995, the FFIEC published a request for comment on a proposed Schedule E, ''Fiduciary Income Statement,'' that would be added to the Annual Report of Trust Assets and prepared on a calendar year basis beginning with the year ending December 31, 1996 (60 FR 34252). The comment period closed on August 29, 1995.

The FFIEC proposed that this schedule be required to be filed by all institutions with $100 million or more in total trust assets as reported on Schedule A, ''Annual Report of Trust Assets,'' on form FFIEC 001. In addition, all nondeposit trust companies, whether or not they report any assets on Schedule A, would be required to file Schedule E. Under this proposal, less than one third of all institutions actively engaging in trust activities were to be required to report trust income and expense on the new schedule, but these institutions accounted for approximately 99 percent of all trust assets.

The proposal called for institutions to provide a breakdown of fiduciary income along six categories that correspond to the existing account classifications on Schedule A, ''Annual Report of Trust Assets,'' and Schedule C, ''Corporate Trusts,'' of the form FFIEC 001. This would permit the agencies to compare income data with information on assets managed and to enhance their understanding of the operations of individual institutions.

Expense information was proposed to be broken out by three categories: (1) Salaries and Employee Benefits, (2) Other Direct Expense, and (3) Allocated Indirect Expense. This would permit the development of efficiency or overhead ratios comparable to those commonly used in the analysis of commercial bank operations.

The proposed schedule included two types of breakdowns of losses resulting from surcharges and settlements (e.g., replenishment of losses incurred by fiduciary customers). For the first breakdown, these losses were to be separately reported for ten categories of fiduciary activities, including eight types of accounts reported on Schedule A, ''Annual Report of Trust Assets,'' and corporate trusts reported on Schedule C of the form FFIEC 001. For the second breakdown, loss data were to be reported for three types of losses: (1) Investment, (2) Administrative, and (3) Operational. If an institution or group of

[1] The FFIEC consists of representatives from the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS) (referred to as the ''agencies''), and the National Credit Union Administration. However, this reporting requirement is not applicable to credit unions. Section 1006(c) of the Federal Financial Institutions Examination Council Act requires the FFIEC to develop uniform reporting standards for federally-supervised financial institutions.

institutions show loss data or trends in loss data for certain categories of fiduciary activities or certain types of losses, this information should help the agencies develop and implement appropriate supervisory policies and examination emphasis.

Since the trust income and expense information proposed for collection generally pertains to only a portion of a reporting institution's total operations, the proposal stated that the data reported in Schedule E by individual institutions would be regarded as confidential by the FFIEC and the agencies. Aggregate information, however, would be published annually in an FFIEC publication entitled ''Trust Assets of Financial Institutions.''

Public Comments

The FFIEC solicited comment on all aspects of the proposed trust income schedule and specifically requested comments on seven issues. The FFIEC received 58 comments on the proposal, 56 from institutions or the parent holding companies of institutions that engage in trust activities and two from bank trade associations.

Comments submitted by the largest institutions dealt primarily with the initial cost of establishing data collection systems in environments where many of them are no longer structured along traditional trust business or reporting lines. Most respondents of all sizes indicated that required income and expense information was available, but that it might need to be reformatted to be used for reporting in the proposed schedule and that the reporting burden in years after the first year would diminish significantly. Several respondents indicated that, while available, expense information might not be meaningful due to the wide variety of indirect expense allocation formulas in use throughout the industry. The settlements, surcharges, and other losses portion of the proposed schedule generated six comments indicating that manual collection procedures would have to be utilized because of the unique nature of this information. The confidentiality of the Schedule E data was a concern of several respondents.

The first issue for which comments were specifically requested—the availability of the information proposed to be collected—elicited comments from 13 respondents. Eleven of these indicated that the information was already available, although three stated that it would have to be obtained manually. Only two respondents indicated that none of the information to be collected in the proposed schedule would be readily available. Four respondents stated that the data on settlements, surcharges, and other losses would cause difficulties because the records they maintain do not use the categories that were proposed in the schedule. In addition, three respondents also believed that the information on expenses, gross losses, and recoveries was not readily available to them and would be difficult to obtain.

Only five respondents supplied information concerning the second issue for which comments were requested—the cost and time required to implement any needed changes in institutions' recordkeeping systems to provide the information requested in proposed Schedule E. Two of these respondents indicated that there would be little or no cost and time involved. One stated that five to six hours would be needed while another reported that 20 hours would be needed to make the needed changes. One respondent only stated that extensive time plus changes to computer systems would be needed to obtain the required information.

Ten respondents commented on the third issue for which comments were requested—the cost and time that would be required to complete the proposed schedule each year after the initial year. Five of these respondents indicated that there would be either minimal or no additional time or cost involved. The other five respondents gave cost estimates for preparing the new schedule along with time commitments ranging from one hour to 48 hours per year.

Seven commenters expressed opinions about the fourth issue for which comment was requested—the feasibility of providing the information in the proposed schedule for the calendar year ending December 31, 1996. Four of these commenters indicated that this would not present any problem for them since the information is already available, with one stating that most banking institutions already produce the requested information in a similar format. Two commenters indicated that the schedule would not present any problem for them, provided that they were given sufficient lead time. They noted that sufficient lead time would perhaps be 12 months. One respondent stated that there would be no problem with supplying the information with the exception of the proposed data on settlements, surcharges, and other losses.

Nine respondents expressed opinions on the fifth issue for which comment was requested—the proposed reporting threshold for depository institutions of $100 million in total trust assets. Of these nine, five indicated that the $100 million threshold was appropriate since it would eliminate the small institutions while including the majority of trust assets. One respondent stated that institutions below this level should be asked to file the schedule on a voluntary basis. Three respondents stated that the threshold level was too low and should be raised. One respondent believed that there should be no threshold level and that all trust institutions should be required to file the schedule.

Only three respondents commented on the sixth issue for which comment was requested—the proposed requirement that all nondeposit trust companies, regardless of size, file the trust income schedule. Each respondent felt that all of the trust companies should be required to supply income and expense information.

Finally, seven respondents replied to the seventh issue for which comment was requested—the adequacy and clarity of the proposed instructions. Each one indicated that the instructions were clearly written, adequate in scope and detail, and easy to follow. No suggestions were made for improvement.

A total of fourteen respondents supplied other comments covering a wide range of topics in addition to those detailed above. One objected to the inclusion of allocated expenses as well as to the amount of detail required for settlements, surcharges, and other losses. Another respondent, however, felt that there should be a more detailed breakdown of expenses. One respondent suggested that a threshold level should be used for the reporting of losses so that small items would be eliminated. Another respondent felt that the proposed single item on total non-fiduciary income, which would be applicable to non-deposit trust companies only, should be eliminated completely since it is often only an estimate. On the other hand, one commenter felt that this item should be expanded to detail all types of non-fiduciary income.

Final Action

After reviewing the comments received and giving further consideration to the issues involved, on December 15, 1995, the FFIEC approved the addition of Schedule E to the Annual Report of Trust Assets (form FFIEC 001), effective for the December 31, 1996, report date. All banks, savings associations, and trust companies engaged in trust activities were directly notified of the FFIEC's decision on December 28, 1995, in Financial

Institutions Letter (FIL) 85–95. Copies of FIL–85–95 may be obtained from the FDIC's Office of Corporate Communications, Public Information Center, 801 17th Street, N.W., Washington, D.C. 20434–0001, (202) 416–6940.

As proposed, the new trust income statement must be completed only by those depository institutions with $100 million or more in total trust assets and by all nondeposit trust companies. Also as proposed, the information reported by individual institutions in Schedule E will not be publicly available, but aggregate data will be included in ''Trust Assets of Financial Institutions,'' which is published annually by the FFIEC.

However, the version of Schedule E adopted by the FFIEC incorporates changes made to the proposal to address commenters' concerns about reporting burden. First, the proposed breakdown of settlements, surcharges, and other losses by type of loss, i.e., Investment, Administrative, and Operational Losses, was eliminated. Second, a threshold of $100,000 was established for reporting the breakdown of losses incurred by type of fiduciary activity. Thus, only if an institution's aggregate losses are greater than $100,000 in any year must individual losses greater than $10,000 be reported by type of fiduciary activity. Finally, in recognition of the limited amount of time between the date of the FFIEC's final action and the beginning of the initial calendar year for which trust income statement data must be compiled, i.e, January 1, 1996, the FFIEC decided that institutions may report reasonable estimates in Schedule E for 1996 if the requested information is not readily available. Institutions were advised of this decision in FIL–85–95.

In approving the trust income reporting requirement, the Examination Council noted that the trust activities of federally-supervised financial institutions have grown substantially in recent years, both in terms of the types and volume of assets administered and the variety and sophistication of investment services offered. Trust assets administered by the industry have grown by 74 percent over the five years from 1989 to 1994, including increases of 12 percent from 1992 to 1993 and 10 percent from 1993 to 1994. At year-end 1994, 2,892 institutions administered total trust assets of $11.6 trillion, with the 886 institutions with $100 million or more in trust assets holding more than 99 percent of this total. Trust activities have also been an important source of fee income for financial institutions with trust powers. For the 50 largest bank holding companies, gross trust fee income of $10.8 billion was nearly 20 percent of noninterest income in 1994, and this dollar amount was 83 percent higher than the $5.9 billion in trust fee income earned in 1989.

## Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the current Annual Report of Trust Assets required from those institutions with trust powers and under the supervision of one of the agencies has been submitted to, and approved by, the U.S. Office of Management and Budget (OMB). (OMB Control Numbers: for the Board, 7100–0031; for the OCC, 1557–0127; for the FDIC, 3064–0024; and for the OTS, 1550–0026.) Each of the agencies is submitting the Annual Report of Trust Assets, revised to include Schedule E, ''Fiduciary Income Statement,'' to OMB for its review.

Schedule E and its accompanying (draft) instructions are illustrated as follows:

Dated: August 29, 1996.

Joe M. Cleaver,

*Executive Secretary, Federal Financial Institutions Examination Council.*

**BILLING CODE 6210–01–P**

# SCHEDULE E - FIDUCIARY INCOME STATEMENT

**Reporting Year 199_** **(Confidential Information)**

Dollar Amounts in Thousands

**1.GROSS FEES, COMMISSIONS AND OTHER FIDUCIARY INCOME**

(a) Employee Benefit Trust Accounts _____
(b) Personal Trust & Estate Accounts _____
(c) Employee Benefit Agencies _____
(d) Other Agency Accounts _____
(e) Corporate Trust & Agency Accounts _____
(f) All Other Fiduciary Income _____
(g) **Total Fiduciary Income** *(Sum of items 1(a) through 1(f))* _____

**2.EXPENSES**

(a) Salaries and Employee Benefits _____
(b) Other Direct Expense _____
(c) Allocated Indirect Expense _____
(d) **Total Expense** *(Sum of items 2(a) through 2(c))* _____

**3.SETTLEMENTS, SURCHARGES & OTHER LOSSES**

(a) Gross Settlements, Surcharges & Other Losses _____ *
(b) Recoveries to Reported Losses _____
(c) Net Settlements, Surcharges & Losses _____

* *(If the amount in item 3(a) is $100 thousand or more, details of this item must be provided in item 7 below)*

**4.NET OPERATING INCOME (LOSS)** *(Item 1(g) minus items 2(d) and 3(c))* _____

**5.CREDIT FOR OWN-INSTITUTION DEPOSITS** _____

**6.NET TRUST INCOME (LOSS)** *(Item 4 plus item 5)* _____

**7. Settlements, Surcharges & Other Losses**
(To be completed if the amount in item 3(a) above is $100 thousand or more - see instructions)

| By Type of Account | Discretionary | Non-Discretionary |
|---|---|---|
| Employee Benefit Trust Accounts | (a) _____ | (e) _____ |
| Personal Trust & Estate Accounts | (b) _____ | (f) _____ |
| Employee Benefit Agencies | (c) _____ | (g) _____ |
| Other Agency Accounts | (d) _____ | (h) _____ |
| Corporate Trust & Agency Accounts (i) _____ | | |
| All Other Activities (j) _____ | | |

*(Total of amounts in items 7(a) through 7(j) must equal item 3(a) above)*

***MEMO ITEM FOR ENTRY BY NON-DEPOSIT TRUST COMPANIES ONLY - SEE INSTRUCTIONS***

**8.NON-FIDUCIARY INCOME** _____

BILLING CODE 6210–01–C

Annual Report of Trust Assets—Form FFIEC 001 Specific Instructions

Schedule E—Fiduciary Income Statement

*Who Must Report:* This Schedule must be completed by each financial institution with more than $100 million in Total Trust Assets as reported on Schedule A (Line 18, Column F). In addition, all non-deposit trust companies, whether or not they report any assets on Schedule A, must also file Schedule E. Institutions which are not required to file Schedule E are encouraged to file it on a voluntary basis.

*Public Availability of Schedule E:* The information on Schedule E is confidential and will not be publicly available. The aggregate information will be included in the annual FFIEC publication, *Trust Assets of Financial Institutions.*

*Instructions:* Institutions filing Schedule E must complete *all* portions of the Schedule. Enter a zero on any line item that does not apply to your institution.

*1. Gross Fees, Commission and Other Fiduciary Income*

1(a through e) Trust and Agency Accounts

Gross fees, commissions and other fiduciary income data is to be reported by line of business. Please refer to the instructions for Schedules A and C for guidance in defining these lines of business. For employee benefit trust accounts, see Schedule A, column A; for personal trust & estate accounts, see Schedule A, columns B and C; for other agency accounts, see Schedule A, column E; and for corporate trust and agency accounts, see Schedule C.

Fees received for IRA, Keogh Plan or other accounts that are not administered by the trust department should be excluded from this Schedule. If these accounts require the bank to have trust powers, then their fees should be reported on this Schedule.

1(f) All Other Fiduciary Income

Report all other direct income derived from other fiduciary sources not included in any of the above categories (e.g. 12b–1 fees and income from providing fiduciary services under agreement with another institution). Include all internal allocations of income to the trust function (such as transfer agent or pension plan administration credits), except for credits for deposits held in own or affiliated institutions, which are to be reported on line 5.

1(g) Total Fiduciary Income

The total of lines 1(a) through 1(f).

(It should be noted that banks with more than $100 million in commercial bank assets are required to itemize ''Income from fiduciary activities'' in the quarterly FFIEC Report of Condition and Income (''Call Report'') on line 5(a) of Schedule RI. Instructions for fiduciary income to be reported on line 5(a) of Call Report Schedule RI differ from those for line 1(g) of this Schedule with respect to allocated income. Consequently, banks should be aware that the amounts reported in these two items will differ by the amount of such allocated income.)

*2. Expenses*

2(a) Salaries and Employee Benefits

Include salaries, bonuses, hourly wages, overtime pay, and incentive pay for officers and employees of the trust department. If officers or employees spend only a portion of their time in the trust department, allocate that proportional share of their salaries and employee benefits. Expenses associated with employee benefit plans (pension, profit-sharing, 401(k), ESOP, etc.), health and life insurance, Social Security and unemployment taxes, tuition reimbursement, and all other so-called fringe benefits, should be included on this line.

(b) Other Direct Expense

In general, direct expenses are immediately identifiable as costs expended for and under the control of the trust function. These include expenses related to the use of trust premises, furniture, fixtures, and equipment, as well as depreciation/amortization, ordinary repairs and maintenance, service or maintenance contracts, utilities, lease or rental payments, insurance coverage, and real estate and other property taxes if they are directly chargeable to the trust function.

2(c) Allocated Indirect Expense

Allocated indirect expenses are those charged to the trust function from other departments of the institution as reflected in the institution's internal management accounting system. These include any allocation for the trust function's proportionate share of corporate expenses that cannot be directly charged to particular departments or functions. If the institution's internal accounting system is not able to provide this information, the institution may use a reasonable alternate method to estimate indirect expenses.

Indirect expenses include audit and examination fees, marketing, charitable contributions, customer parking, holding company overhead, and, in many cases, functions such as personnel, corporate planning, and corporate financial staff. Other indirect expenses include the trust function's proportionate share of building rent or depreciation, utilities, real estate taxes, and insurance.

If no direct expense is shown for occupancy on line 2(b) and the institution's internal accounting system does not provide an allocated amount, an allocated occupancy expense based on proportionate floor space used by the trust function or some other reasonable alternate method should be shown on line 2(c).

2(d) Total Expense

The total of lines 2(a) through 2(c).

*3. Settlements, Surcharges & Other Losses*

See the instructions for line 7 for information about the reporting of settlements, surcharges and other losses.

3(a) Gross Settlements, Surcharges & Other Losses

Report the total losses prior to any adjustments for recoveries. If the amount shown on this line is $100,000 or more, a breakdown of this amount should be shown on line 7 below. The amount shown on this line should then agree to the total of the details shown in that box.

3(b) Recoveries to Reported Losses

Show all recoveries received on reported losses, including recoveries on prior years' losses.

3(c) Net Settlements, Surcharges & Losses

Line 3(a) less 3(b).

*4. Net Operating Income (Loss)*

Line 1(g) minus lines 2(d) and 3. If the result is less than zero, the figure should be shown in parentheses.

*5. Credit For Own-Institution Deposits*

Uninvested cash belonging to fiduciary accounts is available to the commercial banking side of the institution for investment, trust functions are often given credit for the use of these monies. When this credit is given to the trust department or trust company as part of the bank's profit tracking system, it should be reported on line 5. Do not include actual interest earned on fiduciary funds on deposit, as this income would normally belong to the fiduciary account.

*6. Net Trust Income (Loss)*

Report the total amount of trust income or loss, prior to any income taxes, experienced by the trust function for the full year. The number for this line is the result of adding line 5 to the sub-total shown on line 4. If the total on line 6 is less than zero, the resulting figure should be shown in parentheses.

*7. Settlements, Surcharges & Other Losses*

This box should only be completed where total settlements, surcharges and other losses for the reporting year on line 3(a) are $100,000 or more. If they are, report individual gross losses of $10,000 or ore on lines (a) through (j). Report individual gross losses of less than $10,000 on line (j). These amounts should not be shown net of any recoveries or insurance payments. Legal expenses should be included on line 2(b) or 2(c). Do not include contingent liabilities related to outstanding litigation.

Report settlements, surcharges, and other losses arising from errors, misfeasance or malfeasance according to the type of account and capacity. The sum of lines 7(a) through 7(j) should equal the total shown on line 3(a) above.

*Memo Item to be Completed by Non-Deposit Trust Companies Only*

*8. Non-Fiduciary Income*

Stand alone or non-deposit trust companies, whose activities are limited to providing fiduciary services, may have income not directly attributable to the furnishing of fiduciary services. This income should be reported on this line 8 as a memo figure and should not be included in the data shown on lines 1 through 6.

[FR Doc. 96–22518 Filed 9–3–96; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL MARITIME COMMISSION

### Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Notice of Filing an Application for Certificate (Performance)

Notice is hereby given that the following have filed an application for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Royal Venture Cruise Line, Inc., 2727 Ulmerton Road, Clearwater, Florida 34622

Vessel: SUN VENTURE

Dated: August 29, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96–22497 Filed 9–3–96; 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 part 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, DC 20573.

AGS International Forwarders, Inc., 1092 W. Baltimore Pike, West Grove, PA 19390. Officers: Andreas G. Steinmetz, President, Silke Steinmetz, Secretary

American Pacific Cargo Inc., 875 Mahler Road, Suite 202, Burlingame, CA 94010. Officer: Sam Wong, President

Dated: August 29, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96–22498 Filed 9–3–96; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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 September 27, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Hibernia Corporation*, New Orleans, Louisiana; to merge with Texarkana National Bancshares, Inc., Texarkana, Texas, and thereby indirectly acquire Texarkana National Bank, Texarkana, Texas.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Hometown Financial Group, Inc.*, Flanagan, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Flanagan State Bank, Flanagan, Illinois.

*2. Northern Trust Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of Metroplex Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire Metroplex Delaware Financial Corporation, Dallas, Texas, and Bent Tree National Bank, Dallas, Texas.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Community First Bankshares, Inc.*, Fargo, North Dakota; to merge with Mountain Parks Financial Corp., Denver, Colorado, and thereby indirectly acquire Mountain Parks Bank, Denver, Colorado.

*2. Jorgenson Holding Company*, Kenmare, North Dakota; to acquire 100 percent of the voting shares of First National Bancshares, Inc., Williston, North Dakota, and thereby indirectly acquire First National Bank & Trust Company of Williston, Williston, North Dakota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Central Financial Corporation*, Hutchinson, Kansas, and Mesquite Financial Corporation, Mequite, Nevada; to acquire 52.25 percent of the voting shares of Mesquite Financial Corporation, Mesquite, Nevada, and thereby indirectly acquire Mesquite State Bank (in organization), Mesquite, Nevada.

E. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. MainBancorp, Inc.*, Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Maincorp Intermediate Holding Company, Inc., Wilmington, Delaware, and thereby indirectly acquire ROSB Bancorp, Inc., Red Oak, Texas, and MainBank, Red Oak, Texas.

In connection with this application, Maincorp Intermediate Holding Company, Inc., Wilmington, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of ROSB Bancorp, Inc., Red Oak, Texas, and thereby indirectly acquire MainBank, Red Oak, Texas.

Board of Governors of the Federal Reserve System, August 28, 1996.

William W. Wiles

*Secretary of the Board*

[FR Doc. 96–22469 Filed 9-3-96; 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 September 17, 1996.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

*1. Sun Bancorp, Inc.*, Selinsgrove, Pennsylvania; to engage *de novo* through its subsidiary, Anthony Court Associates, L.P., Bloomsburg, Pennsylvania, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. I.S.B. Financial Corp.*, Oak Forest, Illinois; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

*1. Farmers Capital Bank Corporation*, Frankfort, Kentucky; to engage *de novo* through its subsidiary, FCB Services, Frankfort, Kentucky, in providing data processing services to unaffiliated banks, including, but not limited to, general ledger, deposit systems, and loan systems, pursuant to § 225.25(b)(7) of the Board's Regulation Y. The geographic scope for these activities is Kentucky.

*2. Mountain Bancshares, Inc.*, Yellville, Arkansas; to engage *de novo* through its subsidiary, The Bank of Yellville Financial Services, Yellville, Arkansas, in tax planning and preparation to be provided to individuals, businesses, corporations and nonprofit organizations, pursuant to § 225.25(b)(21) of the Board's Regulation Y. The geographic scope for these activities is Marion County, Arkansas and contiguous counties.

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Citizens Development Company*, Billings Montana; to engage *de novo* in data processing services, pursuant to § 225.25(b)(7) of the Board's Regulation Y. The geographic scope of this activity is Iroquois, South Dakota.

E. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. Plains Capital Corporation*, Lubbock, Texas; to engage *de novo* through its subsidiary, Plains Service Corporation, Lubbock, Texas, in data processing, pursuant to § 225.25(b)(7) of the Board's Regulation Y. The geographic scope for this activity is Texas and New Mexico.

Board of Governors of the Federal Reserve System, August 28, 1996.

William W. Wiles

*Secretary of the Board*

[FR Doc. 96–22470 Filed 9-3-96; 8:45 am]

**BILLING CODE 6210-01-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 96N–0266]**

### Agency Information Collection Activities: Proposed New Collection; Comment Request

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed survey of operating room nurse managers at health care facilities. The purpose of the survey is to estimate the proportion of the population at risk from the use of adhesive-backed tape to mark surgical instruments.

**DATES:** Submit written comments on the collection of information by November 4, 1996.

**ADDRESSES:** Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Charity B. Smith, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1686.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (the PRA), 44 U.S.C. 3501–3520, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Surgical Instrument Marking Tape Survey

The mandate of FDA's Center for Devices and Radiological Health under the authority of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301–395) and regulations contained in Title 21 of the Code of Federal Regulations includes the approval and adequate labeling of medical devices. Section 903(b)(2)(c) of the act (21 U.S.C. 393(b)(2)(c)) authorizes FDA to conduct research relating to medical devices.

The regulatory status of adhesive-backed, colored tape on medical devices is under review by FDA. The tape is frequently applied to medical devices, particularly surgical instruments, to facilitate sorting. It may be considered an accessory to medical devices used in surgical treatment as defined by 21 CFR 878.4800.

There are two case reports in the literature in which adverse events are attributed to the use of adhesive-backed, colored tape to mark surgical instruments (*Journal of Oral Maxillofacial Surgery*, 41:687–688, 1983; and *British Journal of Surgery*, 74:696, 1987). Two additional adverse event reports have been submitted to FDA.

The purpose of the survey is to estimate the proportion of the population at risk from this practice, and to determine if use of operating room nurse managers as proxies for sampling health care facilities for this purpose is effective. In addition, data will be collected to identify tape durability, extent of use, and whether there are any practices or procedures for marking surgical instruments and/or any human factors that could be altered to better protect the public health. Labeling information will also be collected.

The proposed randomized survey will be a one-time data collection effort. Completion of the survey is voluntary, and anonymity of individuals and institutions will be protected. Survey results will be available to participants upon request.

The only respondent burden will derive from the time needed to respond to survey questions. This will occur on a one-time basis. The length of the screening portion (questions 1 to 7) is estimated at 5 minutes, and the full survey length is estimated at an additional 25 minutes. Burden estimates are based on the need to have 308 surveys returned to achieve a statistically significant sampling.

FDA estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

| Burden Element | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| Screening Questions Only (30%) | 92 | 1 | 92 | 0.083 | 7.63 |
| Complete Survey (70%) | 216 | 1 | 216 | 0.50 | 108 |
| TOTAL | 308 | - | - | - | 115.63 |

There are no capital costs or operating and maintenance costs associated with this survey.

Dated: August 23, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96–22441 Filed 9–3–96; 8:45 am]

**BILLING CODE 4160–01–F**

## Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting 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.

**MEETING:** The following advisory committee meeting is announced:

### Antiviral Drugs Advisory Committee

*Date, time, and place.* September 26, 1996, 1 p.m. and September 27, 1996, 8:30 a.m., Holiday Inn—Gaithersburg, Goshen Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

*Type of meeting and contact person.* Open committee discussion, September 26, 1996, 1 p.m. to 3 p.m.; open public hearing, 3 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; open committee discussion, September 27, 1996, 8:30 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 4:30 p.m.; Rhonda W. Stover, Center for

Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Antiviral Drugs Advisory Committee, code 12531. Please call the hotline for information concerning any possible changes.

*General functions of the committee.* The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), AIDS-related complex (ARC), and other viral, fungal, and mycobacterial infections.

*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 September 20, 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.* On September 26, 1996, the committee will discuss data relevant to the approved drug, saquinavir (Invirase™, Hoffmann-La Roche), for use in combination with nucleoside analogues for the treatment of human immunodeficiency virus (HIV) infection. On September 27, 1996, the committee will discuss data relevant to new drug application 20–705, delavirdine (Rescriptor®, Pharmacia and Upjohn Co.) for use in the treatment of HIV infection.

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, 12420 Parklawn Dr., rm. 1–23, 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 (a)(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: August 27, 1996.

Michael A. Friedman,

*Deputy Commissioner for Operations.*

[FR Doc. 96–22485 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## Bioresearch; Public Workshop

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public workshop.

**SUMMARY:** The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Nashville District Office, and the Center for Drug Evaluation and Research) is announcing a free public workshop on FDA regulatory requirements for the bioresearch industry. The workshop is designed to assist the industry in complying with regulations for clinical investigators, institutional review boards, and sponsor-monitors.

**DATES:** The public workshop will be held on Tuesday, September 24, 1996, from 8:45 a.m. to 4:45 p.m.

**ADDRESSES:** The public workshop will be held at the University of Alabama—Birmingham, University Hospital, 620 South 19th St., Spain Wallace Bldg., Margaret Cameron Spain Auditorium, rm. S100, Birmingham, AL.

**FOR FURTHER INFORMATION CONTACT:** William H. Oates, FDA's Nashville District Office, 296 Plus Park Blvd., Nashville, TN 37217, 615–781–5374 ext. 118, FAX 615–781–5391.

Those persons interested in attending this meeting should FAX their registration, including name(s), firm name, address, telephone and FAX numbers, and any specific questions to William H. Oates (address above) by September 13, 1996. There is no registration fee for this workshop. Space is limited, therefore, interested parties are encouraged to register early.

**SUPPLEMENTARY INFORMATION:** FDA's survey of the bioresearch industry shows that many of these firms are either unaware of applicable regulations and guidelines or not in compliance with applicable requirements. This workshop is designed to assist the bioresearch industry in complying with applicable regulations.

Dated: August 23, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96–22442 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## Food And Drug Administration

### Open Meeting for Representatives of Health Professional Organizations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting for representatives of health professional organizations. The meeting will be chaired by Sharon Smith Holston, Deputy Commissioner for External Affairs, FDA. This meeting will provide participants an opportunity to hear a discussion on the prevention of errors in the use of medications and other medical products.

**DATES:** The meeting will be held on Monday, September 30, 1996, from 1:30 p.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at the Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD. Interested persons may register with Betty Palsgrove at 301–443–1652. Registration also may be transmitted by FAX to 1–800–344–3332 or 301–443–2446.

**FOR FURTHER INFORMATION CONTACT:** Peter H. Rheinstein, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to provide an opportunity for representatives of health professional organizations and other interested persons to be briefed by senior FDA staff and to provide an opportunity for informal discussion and comment on the prevention of errors in the use of medications and other medical products.

This public meeting is free of charge; however, space is limited. Registration for the meeting will be accepted in the order received, and should be sent to the contact person listed above. Registration should include the name and title of the person attending and the name of the organization being represented, if any.

Dated: August 23, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96–22444 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–01–F

## Food and Drug Administration

### Investigational Biological Product Trials; Procedure to Monitor Clinical Hold Process; Meeting of Review Committee and Request for Submissions

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a meeting of its clinical hold review committee, which reviews the clinical hold orders that the Center for Biologics Evaluation and Research (CBER) has placed on certain investigational biological product trials. FDA is inviting any interested biological product company to use this confidential mechanism to submit to the committee for its review the name and number of any investigational biological product trial placed on clinical hold during the past 12 months that the company wants the committee to review.

**DATES:** The meeting will be held in November 1996. Biological product companies may submit review requests for the November meeting by October 1, 1996.

**ADDRESSES:** Submit clinical hold review requests to Amanda Bryce Norton, FDA Chief Mediator and Ombudsman, Office of the Commissioner (HF–7), Food and Drug Administration, 5600 Fishers Lane, rm. 14–105, Rockville, MD 20857, 301–827–3390.

**FOR FURTHER INFORMATION CONTACT:** Joy A. Cavagnaro, Center for Biologics Evaluation and Research (HFM–4), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0379.

**SUPPLEMENTARY INFORMATION:** FDA regulations in part 312 (21 CFR part 312) provide procedures that govern the use of investigational new drugs and biologics in human subjects. If FDA determines that a proposed or ongoing study may pose significant risks for human subjects or is otherwise seriously deficient, as discussed in the investigational new drug regulations, it may order a clinical hold on the study. The clinical hold is one of FDA's primary mechanisms for protecting subjects who are involved in investigational new drug or biologic trials. Section 312.42 describes the grounds for ordering a clinical hold.

A clinical hold is an order that FDA issues to a sponsor to delay a proposed investigation or to suspend an ongoing investigation. The clinical hold may be ordered on one or more of the investigations covered by an investigational new drug application (IND). When a proposed study is placed on clinical hold, subjects may not be given the investigational drug or biologic as part of that study. When an ongoing study is placed on clinical hold, no new subjects may be recruited to the study and placed on the investigational drug or biologic, and patients already in the study should stop receiving therapy involving the investigational drug or biologic unless FDA specifically permits it.

When FDA concludes that there is a deficiency in a proposed or ongoing clinical trial that may be grounds for ordering a clinical hold, ordinarily FDA will attempt to resolve the matter through informal discussions with the sponsor. If that attempt is unsuccessful, a clinical hold may be ordered by or on behalf of the director of the division that is responsible for the review of the IND.

FDA regulations in § 312.48 provide dispute resolution mechanisms through which sponsors may request reconsideration of clinical hold orders. The regulations encourage the sponsor to attempt to resolve disputes directly with the review staff responsible for the review of the IND. If necessary, the sponsor may request a meeting with the review staff and management to discuss the clinical hold.

CBER began a process to evaluate the consistency and fairness of practices in ordering clinical holds by instituting a review committee to review clinical holds (see 61 FR 1033, January 11, 1996). CBER held its first clinical hold review committee meeting on May 17, 1995, and plans to conduct further quality assurance oversight of the IND process. The committee last met in May 1996. The review procedure of the committee is designed to afford an opportunity for a sponsor who does not wish to seek formal reconsideration of a pending clinical hold to have that clinical hold considered ''anonymously.'' The committee consists of senior managers of CBER, a senior official from the Center for Drug Evaluation and Research, and the FDA Chief Mediator and Ombudsman.

Clinical holds to be reviewed will be chosen randomly. In addition, the committee will review some of the clinical holds proposed for review by biological product sponsors. In general, a biological product sponsor should consider requesting review when it disagrees with FDA's scientific or procedural basis for the decision.

Requests for committee review of a clinical hold should be submitted to the FDA Chief Mediator and Ombudsman, who is responsible for selecting clinical

holds for review. The committee and CBER staff, with the exception of the FDA Chief Mediator and Ombudsman, are never advised, either in the review process or thereafter, which of the clinical holds were randomly chosen and which were submitted by sponsors. The committee will evaluate the selected clinical holds for scientific content and consistency with FDA regulations and CBER policy.

The meetings of the review committee are closed to the public because committee discussions deal with confidential commercial information. Summaries of the committee deliberations, excluding confidential commercial information, 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. If the status of a clinical hold changes following the committee's review, the appropriate division will notify the sponsor.

FDA invites biological product companies to submit to the FDA Chief Mediator and Ombudsman the name and IND number of any investigational biological product trial that was placed on clinical hold during the past 12 months that they want the committee to review at its November 1996 meeting. Submissions should be made by October 1, 1996, to Amanda Bryce Norton, FDA Chief Mediator and Ombudsman (address above).

Dated: August 23, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96–22443 Filed 9–3–96; 8:45 am]

**BILLING CODE 4160–01–F**

## Health Care Financing Administration

**[R–106]**

### 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:* Criteria for Medicare Coverage of Heart Transplants; *Form No.:* HCFA–R–106; *Use:* Medicare participating hospitals must file an application to be approved for coverage and payment of heart transplants performed on Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 5; *Total Annual Responses:* 5; *Total Annual Hours Requested:* 500.

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: August 26, 1996.

Edwin J. Glatzel,

*Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.*

[FR Doc. 96–22456 Filed 9–03–96; 8:45 am]

**BILLING CODE 4120–3–P**

## Health Resources and Services Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Programs—Forms (OMB No. 0915–0044)—Extension and Revision—The HPSL Program provides long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, and pharmacy. The NSL Program provides long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma in nursing, an associate degree, a baccalaureate degree, or a graduate degree in nursing. Participating HPSL and NSL schools are responsible for determining eligiblity of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. The Deferment form (HRSA Form 519) provides the schools with documentation of a borrower's eligibility for deferment. The Annual Operating Report (AOR—HRSA Form 501) provides the Federal Government with information from participating schools relating to HPSL & NSL program operations and financial activities. The AOR is submitted electronically.

The estimated annual reponse burden is as follows:

| Form | Number of respondents | Responses per respondent | Hours per respondent | Total annual hour burden |
|---|---|---|---|---|
| Deferment-519 | 10,375 | 1 | 10 min. | 1,729 |
| AOR–501 | 1,178 | 1 | 4 hrs. | 4,712 |
| Total | 11,553 | | | 6,441 |

Three additional forms were previously approved under the OMB number cited above. These forms have been discontinued for the following reasons:

*HRSA–514, HPSL & NSL Application to Participate:* This form was used by schools to apply to participate in the programs. Because there have been no program appropriations for several years, and the schools are operating the program only with revolving loan funds, the application form is no longer used.

*HRSA 518, Request for Postponement of Installment Payment, and HRSA 520, Request for Partial Cancellation of Loan:* These forms, which were used by borrowers to request cancellation or postponement of their student loan payments in return for service as a Registered Nurse, are no longer needed. The NSL cancellation provision for service as a Registered Nurse has been repealed for loans made on or after September 29, 1979. There are now no students eligible for these benefits.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 20, 1996.

J. Henry Montes,

*Associate Administrator for Policy Coordination.*

[FR Doc. 96–22434 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–15–P

## Special Projects of National Significance; Adolescent-focused HIV Service Delivery and Care Demonstration Models

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of limited competition.

**SUMMARY:** The Health Resources and Services Administration (HRSA) announces a limited competition to support the completion and dissemination of innovative programs to advance knowledge and skills in the delivery of health and support services for adolescents at high risk for infection or who are living with HIV disease. The purpose of the Special Projects of National Significance (SPNS) Program is to demonstrate innovative and replicable service delivery models of HIV care, to conduct rigorous evaluations on the models proposed, and to disseminate the project findings and lessons learned. Awards will be made under the program authority of Section 2691 of the Public Health Service Act, as amended by the Ryan White CARE Act Amendments of 1996, Public Law 104–146, dated May 20, 1996.

HRSA is limiting competition among those ten (10) currently funded Special Projects of National Significance (SPNS) Program Adolescent-focused HIV Service Delivery and Care Demonstration Model grants that were initially funded in fiscal years (FY) 1992 and 1993 for three years; including: Bay Area Young Positives, San Francisco, CA; Children's Hospital of Boston, Boston HAPPENS Program, Boston, MA; Children's Hospital of Los Angeles, Division Of Adolescent Medicine, Los Angeles, CA; Greater Bridgeport Adolescent Pregnancy Project, TOPS Program, Bridgeport, CT; Health Initiatives for Youth, Youth Empowerment Services Project, San Francisco, CA; Indiana State Department of Health/Indiana Youth Access Project, Indianapolis, IN; University of Alabama at Birmingham, Division of Adolescent Medicine, Birmingham, AL; University of Minnesota Youth & AIDS Project, Minneapolis, MN; Walden House, Inc., Adolescent Planetree Program, San Francisco, CA; and YouthCare, Adolescent Health Promotion Program, Seattle, WA.

Experience has taught the SPNS Program that a minimum five year project period is required to maximize the opportunity to fully and comprehensively initiate, evaluate and disseminate the models of HIV care developed by SPNS Program grantees. In their first three years of funding, these ten (10) adolescent-focused SPNS Program grantees have successfully identified a set of core characteristics relating to the provision of services for young people.

**GRANTS/AMOUNTS:** This program announcement is a contingency action being taken to assure that should funds become available in fiscal year (FY) 1997 for this purpose, grants can be awarded in a timely fashion consistent with the needs of the program. It is anticipated that a maximum of ten (10) projects will be approved and funded for fiscal year (FY) 1997. All budget periods for funded projects will begin on December 1, 1996. Project periods will be for two years.

**FOR FURTHER INFORMATION CONTACT:** Additional information may be obtained from Mr. Russell E. Brady, Project Officer, SPNS Branch, Office of Science and Epidemiology, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7A–08, Rockville, MD 20857. The telephone number is (301) 443–3496 or (301) 443–9976 and the FAX number is (301) 594–2511.

**OTHER GRANT INFORMATION:**

*Certification Regarding Environmental Tobacco Smoke:* The Public Health Service strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

(OMB Catalog of Federal Domestic Assistance: The number for the Special Projects of National Significance is 93.928.)

Dated: August 27, 1996.

Ciro V. Sumaya,

*Administrator.*

[FR Doc. 96–22431 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–15–P

## Program Announcement for a Cooperative Agreement with a Professional Trade Association Representing Health Maintenance Organizations

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for a fiscal year (FY) 1996 Cooperative Agreement with a professional trade association representing health maintenance organizations. This activity will be supported under the authority of Title III, Section 301, of the Public Health Service Act. Approximately $125,000 is available to fund one competitive cooperative agreement in FY 1996. The project period will be three years.

### Background

Several years ago the Health Resources and Services Administration (HRSA) in the Department of Health and Human Services (the Department) became aware of the low numbers of minority health administrators in health maintenance organizations and other managed care systems in the United States. In response to this concern, HRSA supported the development of a Health Management Training Institute for Minorities in Health Maintenance Organizations which has been demonstrated in the Baltimore-Washington area. Since July 1993, 28

Fellows have graduated from this management training program. Of these Fellows, less than one-third are of Hispanic or Asian American origin. Therefore, to increase the diversity of potential managers and administrators in the managed health care field, the Department proposes to expand minority management training to the southwest region of the United States.

Purpose

The principal objectives of the cooperative agreement are to support: (1) the continuation of the Minority Training Program in the Baltimore-Washington area; (2) the planning and implementation of a model managerial, fellowship training program in the southwest region of the United States, and (3) the development and field testing of a two to three week training module designed to strengthen the business communication and computer skills of Fellows entering management and administration positions in the coordinated health care field. The training module should be field tested with a managerial training program located in the Baltimore-Washington area.

The recipient will achieve these objectives using a two-phase approach. During year one, or the first phase of the project, the recipient will develop detailed strategies for implementing at least two approaches of the Minority Training Program in the southwest region of the United States. The plan must include, but not be limited to strategies for: recruiting health plans to host Fellows; recruiting and selecting Fellows; selecting preceptors and matching them with Fellows; selecting the faculty; coordinating activities with other health-related organizations and health professions schools; and obtaining funding to sustain the program when federal support ceases. The business communication and computer training module shall also be developed, implemented, and field tested during the first year of the project. The training module shall include strategies for acquiring a set of core competencies in computer usage and communication that are required for successful employment in management and administration positions in the managed health care field.

The second phase of the project will occur during years two and three of the project. The recipient will implement the minority management training program in the southwest region of the United States during the second phase of the project.

During phases one and two, the cooperative agreement shall be designed to include activities such as:

1. Continuation of the Minority Training program in the Baltimore-Washington area.

2. Continuation of an Advisory Board to monitor implementation of the training program.

3. Monitoring of the knowledge, skills and abilities/attitudes required of minority health managers working in the managed care field.

4. Assessment and refinement of the pedagogical methods used to implement the educational objectives of the management training program, e.g., didactic lectures, role playing, on-the-job training with an experienced mentor, etc.

5. Recruitment and matriculation of at least 12 Fellows for years two and three of the project according to the plans developed during the first year of the 3-year project period.

6. Assessment of health plans used for experiential learning rotations in the southwest region of the United States.

7. Development of working relationships with accredited health administration programs and health professions schools in the southwest region of the United States.

8. Development of relationships with health plans willing to hire Fellows upon completion of the training program.

9. Evaluation of the implemented training program with the intent of determining how to upgrade and refine the program, and appraising the overall impact of the program, including the extent to which the program succeeded in placing Fellows in management and administration positions in the managed health care field.

10. Efforts to obtain substantial private funding to support a Baltimore/Washington-based project, as well as the project in the southwest region of the United States.

Eligibility

An entity eligible to apply for funding under this Cooperative Agreement must:

1. Be a recognized professional association representing health maintenance organizations and other managed care plans, and

2. Be headquartered in the Washington, D.C. metropolitan area.

The Washington, D.C. area is specified because of the substantial involvement of Federal officials in developing the training program, proximity to Federal expertise, and scarce Federal resources for travel.

Substantial Federal Programmatic Involvement

The Cooperative Agreement mechanism is being used for this project to allow for substantial Federal programmatic involvement with the planning, development, administration, and evaluation of the minority management training program. Substantial Federal programmatic involvement will occur through Federal membership on the Advisory Board representing the Health Resources and Services Administration, including the Office of Minority Health and the Bureau of Health Professions. The Federal government will provide additional assistance and advice in the following areas:

1. Identification of emerging health management practice issues in managed care settings.

2. Identification of special needs of minority population using coordinated health care systems, and how this might be reflected in the management training program.

3. Identification of appropriate consultation for implementation of the training program.

4. Refinement of the educational objectives of the training program, including the business communication and computer skills training module.

5. Refinement of the educational methods to most appropriately convey the knowledge, skills, and attitudes contained in the educational objectives.

6. Development of appropriate linkages with academic institutions and professional associations in the southwest region of the United States.

7. Participation in the selection process for faculty, preceptors, and Fellows.

8. Participation in the review and selection of contracts and agreements developed in implementing the project.

9. Participation in all appropriate meetings, committees, sub-committees and working groups related to the project.

National Health Objectives for the Year 2000

The HRSA urges applicants to submit work plans that address specific objectives of *Healthy People 2000*. 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. 017–001000473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between HRSA education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The HRSA strongly encourages all grant recipients to provide a smoke-free workplace; to promote the non-use of all tobacco products; and to promote Public Law 103–227, the Pro-Children Act of 1994, which 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.

Review Criteria

The following criteria will be used when reviewing the applications:

1. The degree to which the proposal contains clearly stated, realistic, and measurable objectives;
2. The extent to which the proposal includes a methodology compatible with scope of project objectives, including collaborative agreements with relevant institutions and professional associations;
3. The administrative and management capability of the applicant to carry out the Cooperative Agreement, including the demonstrated ability to expand the project to the southwest of the United States;
4. The extent to which the budget justifications are complete, appropriate, and cost-effective; and
5. The extent to which the applicant can demonstrate the ability to obtain non-federal funding to continue the management training beyond the project period.

Application Request

Eligible entities interested in receiving materials regarding this program should notify HRSA. Materials will be sent only to those entities making a request. Requests for proposal instructions and questions regarding grants policy and business management issues should be directed to: Ms. Sandra Bryant, Health Resources and Services Administration, Bureau of Health Professions, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857 FAX: (301) 443–6343.

Completed applications should be forwarded to the Grants Management Officer at the above address.

If additional programmatic information is needed, please contact: Ms. Gwendolyn B. Clark, Office of Minority Health, Health Resources and Services Administration, Parklawn Building, Room 14–48, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–2964 FAX: (301) 443–7853.

The standard application form PHS 6025–1, Competing Training Grant Application and General Instructions have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060. (Insert deadline date that reflects 20 days from date of publication in the Federal Register.)

Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Sent* on or before the established deadline date and received in time for orderly processing. (Applicants should 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.)

Late applications not accepted for processing will be returned to the applicant. In addition, as indicated in the application kit, applications which exceed the page limitation, or do not follow format instructions, will not be accepted for processing and will be returned to the applicant.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: August 28, 1996.

Ciro V. Sumaya,

*Administrator.*

[FR Doc. 96–22435 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–15–P

## Public Forum on Liver Allocation and Patient Listing Criteria for Liver, Kidney, and Kidney/Pancreas Transplantation

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Notice of public meeting and opportunity to provide written comments and oral testimony.

**SUMMARY:** On September 25–26, 1996, a public forum will be held as an adjunct to the United Network for Organ Sharing (UNOS) public comment process. This forum will provide an opportunity for presentation of public and professional testimony with regard to the proposed modifications to the current UNOS policy on allocation of livers and patient listing criteria for liver, kidney, and kidney/pancreas transplantation. UNOS is under contract with the Health Resources and Services Administration, Bureau of Health Resources Development's Division of Transplantation to perform the requirements of the Organ Procurement and Transplantation Network (OPTN).

Participants may present written comments and brief oral testimony on these proposals to a forum hearing panel. Selection of participants will be determined on the basis of achieving an appropriate balance of patient, public, and professional testimony within the available time. All individuals and organizations interested in presenting testimony who are not selected to participate in the forum may still provide written testimony which will be considered by the hearing panel.

Interested participants should contact Douglas A. Heiney, Director, Department of Membership Services and Policy Development, United Network for Organ Sharing (UNOS) and indicate on which of the following topic areas they will provide comment: (1) Proposed amended policy on allocation of livers; (2) standard minimum patient listing criteria for liver transplantation; and/or (3) standardized patient listing criteria for kidney transplantation and combined kidney-pancreas transplantation.

*Purpose:* The meeting will provide a forum for presentation and discussion of proposed policy changes to the allocation of livers and patient listing criteria for transplantation.

*Contact:* For more information, contact Douglas A. Heiney, Director, Department of Membership Services and Policy Development, UNOS, 1100 Boulders Parkway, Suite 500, P.O. Box 13770, Richmond, VA 23225–8770. Telephone: (804) 330–8500 Fax: (804) 330–8517.

*Date and Time:* September 25, 1996—10 a.m. to 4:00 p.m. September 26, 1996—10 a.m. to 2:30 p.m.

*Place:* Airport Hilton Hotel, 10330 Natural Bridge Road, St. Louis, MO 63134 (314) 426–5500.

Dated: August 27, 1996.

Ciro V. Sumaya,

*Administrator.*

[FR Doc. 96–22432 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–15–P

## Division of Nursing's Third Minority Congress; ''Caring for the Emerging Majority: A Blueprint in Action''

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Request for team proposals.

**SUMMARY:** The Health Resources and Services Administration (HRSA), Bureau of Health Professions (BHPr), Division of Nursing (DN), announces plans for a Third Minority Congress and requests team proposals that will be the basis for selection of attendees at the Congress. The Third Congress, ''Caring for the Emerging Majority: A Blueprint in Action,'' will bring together approximately 100 minority nurses and community leaders from across the country to further the development of an agenda for meeting the health care needs of the emerging majority. This is a national invitational meeting. Attendees will be invited participants selected from teams submitting the most promising proposals to advance this agenda. Teams will receive advice from experts in the field and receive assistance with writing a strong proposal which may be submitted to other funding sources for funding consideration. DN is soliciting proposals from teams composed of minority nurse leaders and others who have entered into partnerships with key community leaders committed to enhancing the health care of minority and underserved populations. These proposals will be reviewed and evaluated by a DN Selection Committee. Team members from selected proposals will be invited to attend the Congress. Each proposal must address one of the three themes of the Congress (see Supplementary Information section).

**DATES:** Proposals must be submitted to the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, Room 9–36, Rockville, Maryland 20857, on or before October 18, 1996. FAXED proposals will not be accepted. The Congress will be held in Denver, Colorado on May 28 to 30, 1997.

**ADDRESSES:** The review of proposals and actual selection of teams to be invited to attend the Congress will occur on November 6, 1996 at the Parklawn Building, Division of Nursing, 5600 Fishers Lane, Room 9–36, Rockville, Maryland 20857.

**FOR FURTHER INFORMATION CONTACT:** Captain Audrey M. Koertvelyessy, Nurse Consultant, Division of Nursing, at telephone number (301) 443–6333; or E-mail address at akoertve@hrsa.ssw.dhhs.gov.

**SUPPLEMENTARY INFORMATION:** One of the national strategic directions identified by the Division of Nursing is to enhance racial and ethnic diversity and cultural competence in the nursing workforce. Two Minority Congresses held in 1992 and 1993 identified a series of important recommendations in the areas of policy, legislation, practice, research, and education. These recommendations revolved around key issues of concern which affect the health of the emerging majority and underserved populations in the country. The Third Minority Congress will build on the two previous Congresses.

In preparation for the Third Minority Congress, a national planning committee of minority nurse leaders was assembled to identify critical issues and areas of concern in implementing a national agenda, and to plan the design for the Third Minority Congress. The themes of the Third Minority Congress are to increase the recruitment, retention, and graduation of minority students in schools of nursing; to increase the numbers of well prepared minority nurse leaders; and to develop the cultural competency of all nurses to care for the emerging majority populations in the Nation.

The participants selected to attend the Congress will consist of teams composed of minority nurse leaders and identified key community leaders. Community leaders should be identified as key stakeholders committed to enhancing the health care of minority and underserved populations. Teams may be composed of 3–5 members with five serving as the maximum number per team. Each team roster should include at least one minority nurse who is in the early phase of her/his career development as a leader. Other team members should be those individuals (this includes both nurses and non-nurses) who can contribute to the successful implementation of the proposed action plan contained in the proposal. A rationale for each member's presence on the team should be provided in the narrative. A diverse team membership that is appropriate to accomplishing the goals of the proposal is strongly encouraged. All team members from each team selected must be able to attend the entire Congress.

Each proposal should address an issue or problem and describe its relationship to one of the three main themes of the Congress. The proposal may be in a preliminary state when submitted to the Division of Nursing for review since it is expected that the Congress workshops will assist teams in refining their proposals. The originality of the approach as described in the proposal will be considered in the final evaluation and selection to attend the Congress.

The team proposals should be limited to 3–5 written pages in length. Each proposal should contain the following: Title of the proposal; identification with the name, title, address, phone, Internet and FAX number of the primary contact person on the team; identification of each team member and rationale for being on the team; description of issue or problem to be addressed; objectives; outcome measures; methodology; and an evaluation plan.

A Selection Committee within the Division of Nursing will review and evaluate each proposal received. Criteria used to evaluate each proposal and the weights assigned to each element are as follows:

| | Points |
|---|---|
| Presence of at least one minority nurse team member at beginning of career | 5 |
| Diverse team membership appropriate to meeting goals described | 15 |
| Objectives and methodology appropriate to the stated problem/issue described | 25 |
| The proposal shows a relationship to one of the three main themes of the Congress | 5 |
| Proposal problem/issue is described | 20 |
| Outcome measures of success are described | 15 |
| Originality of proposal problem/issue | 15 |
| | 100 |

The Selection Committee will meet to evaluate the proposals on November 6, 1996. Selected teams will be notified by November 29, 1996.

Travel and per diem expenses to attend the Congress in May 1997 will be provided for selected teams. The team proposals will contribute to the national agenda, which when implemented, will further the national goal of caring for the emerging majority populations in the Nation.

Dated: August 27, 1996.

Ciro V. Sumaya,

*Administrator.*

[FR Doc. 96–22433 Filed 9–3–96; 8:45 am]

BILLING CODE 4160–15–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

### Notice of Availability of the Technical/Agency Draft Recovery Plan for Rock Gnome Lichen (Gymnoderma lineare), a Plant Species, for Review and Comment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of document availability and public comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a technical/agency draft recovery plan for *Gymnoderma lineare* (rock gnome lichen). This rare lichen grows in the mountains of North Carolina and Tennessee, on rocks in areas of high humidity, either at high elevations, where it is frequently bathed in fog, or in deep gorges at lower elevations. Only 33 populations survive, with most of these covering an area smaller than two square meters. The species is threatened by collection, logging, and habitat disturbance due to heavy use by hikers and climbers. It is also indirectly threatened by exotic insect pests and possibly air pollution, which are contributing to the demise of the Fraser fir forests at higher elevations in the Southern Appalachians. The Service solicits review and comments from the public on this draft plan.

**DATES:** Comments on the technical/agency draft recovery plan must be received on or before November 4, 1996, to receive consideration by the Service.

**ADDRESSES:** Persons wishing to review the technical/agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (Telephone 704/258–3939). Written comments and materials regarding the plan should be addressed to the State Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nora Murdock at the address and telephone number shown above (Ext. 231).

**SUPPLEMENTARY INFORMATION:**

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and cost to implement the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to the approval of each new or revised recovery plan. The Service and other federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is *Gymnoderma lineare* (rock gnome lichen). The areas of emphasis for recovery actions for this plant are the southern Appalachian Mountains of North Carolina and Tennessee. Initial attention will be focused on high-elevation cliffs and rock outcrops, and lower elevation river gorges in Tennessee (Sevier County) and North Carolina (Mitchell, Jackson, Yancey, Swain, Transylvania, Buncombe, Avery, Ashe, Rutherford, and Haywood Counties). Research on threats, habitat protection, reintroduction, and the preservation of genetic material are the major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 28, 1996.

Brian P. Cole,

*State Supervisor.*

[FR Doc. 96–22476 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–55–M

## U.S. Fish and Wildlife Service

### Klamath Fishery Management Council Meeting

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 1), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

**DATES:** The Klamath Fishery Management Council will meet from 8:00 a.m. to 5:00 p.m. on Wednesday, September 25, 1996, and from 8:00 a.m. to 12:00 p.m. on Thursday, September 26, 1996.

**PLACE:** The meeting will be held at the Victorian Inn, 1709 Main St, Highway 299 West, Weaverville, California.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ronald A. Iverson, Project leader, U.S. Fish and Wildlife Service, P.O. Box 1006, (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

**SUPPLEMENTARY INFORMATION:** For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

Dated: August 27, 1996.

Thomas Dwyer,

*Acting Regional Director.*

[FR Doc. 96–22472 Filed 9–03–96; 8:45 am]

BILLING CODE 4310–55–P

## Bureau of Indian Affairs

### Office of Tribal Services' Proposed Funding Distribution Methodologies

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Proposed Transfer of Funds to Tribal Priority Allocations.

**SUMMARY:** In compliance with House Report Language 103–551, notice is hereby given that in Fiscal Year (FY) 1997, the Bureau of Indian Affairs (BIA), Office of Tribal Services, proposes to permanently transfer Contract Support Funds, Housing Improvement Program Funds, and Social Services Welfare Assistance Funds to each eligible Indian tribe's Tribal Priority Allocations (TPA) budget based on the methodology selected for each program. Currently, funds are allotted annually to and

distributed by the twelve BIA area offices and the Office of Self-Governance (OSG) for further distribution to tribes and BIA agencies based on the level of current year appropriations using the procedures and guidelines established by the BIA for payment of these funds. Under the new proposal, an initial amount of funds will be identified for each eligible tribe, including Self-Governance Tribes, which will recur annually.

**DATES:** Written comments regarding the above proposed actions must be received by Close of Business in the Office of Tribal Services on or before October 21, 1996 in order to be considered in the final decisions on the distribution methodologies for the above programs. Tribal leaders will be notified by letter of the methodology selected for all three programs.

**FOR FURTHER INFORMATION CONTACT:** The Office of Tribal Services, Bureau of Indian Affairs, MS–4603–MIB, 1849 C Street, N.W., Washington, D.C. 20240, telephone number (202) 208–3463.

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to provide Indian tribes an opportunity to submit written comments on the above proposed actions.

Based on information received from the Congress and through tribal consultation, the Bureau is seeking input from Indian Country on proposed distribution methodologies for all three programs. Two alternative proposals for each of these programs are listed for consideration and all tribes are encouraged to comment on the methodologies as described and identify which alternative they prefer for each program within 45 days from the date this notice is published in the Federal Register. In order for the BIA to select the most fair and equitable methodology that would best serve all tribes under all three programs, broad-based tribal support from the majority of areas will be required. Widespread support in one or two areas for one alternative could constitute a national majority of tribes; however, that alternative will not automatically be implemented unless it also receives majority support in other areas as well. The following methods are being considered by the BIA for determining each tribe's share of the Contract Support, Housing Improvement Program, and Social Services Welfare Assistance program funds for allocation to the TPA budget category.

1. The BIA's Division of Social Services proposes to transfer welfare assistance funds to each Indian tribe currently benefitting from a welfare assistance program or eligible to participate in a welfare assistance program.

Alternative No. 1

The Division of Social Services proposes to use an average of the most recent funding history covering the period of 1993–1995. Those tribes without a three-year funding history must be eligible for operation of a BIA social services program and use 25 CFR 20 as their standard in order to determine funding needs for their programs. They must submit verifiable data of actual expenditures and projected expenditures for an entire year to the Area Director by September 15, 1996 for the Area Director's certification. If the data is not submitted, the Area Director will formulate an average yearly funding for that tribe based upon caseload and funding projections and certify the results. The data certified by the Area Director will be included in the nationwide totals for welfare assistance.

Alternative No. 2

The Division of Social Services proposes to allocate to each eligible tribe a base amount of $20,000 plus a percentage of the remaining funds based on the total population within the BIA Total Category in the 1993 Bureau of Indian Affairs' Indian Service Population and Labor Force Estimates Report. A tribe's percentage share would represent a comparison of the tribe's data to the national totals. For example, tribe X receives a total of $1,302,617 for its share of welfare assistance funds. This consists of a $20,000 base and $1,282,617 in additional funds, based on the following formula:

$$\frac{\text{20,000 (total for one tribe) divided by}}{\text{1,183,967 (total nationwide for all tribes)}} = .0169 = 1.69\%$$

which translates into: 75,894,501 (total funds after $20,000 deducted per tribe) multiplied by .0169=$1,282,617 in additional funds which results in:

| | |
|---|---|
| $20,000 | (base amount for tribe X) plus |
| $1,282,617 | (additional funding) |
| $1,302,617 | total funding for tribe X |

If any eligible tribe, including an OSG tribe, was not included in the 1993 BIA Labor Force Report and chooses to obtain additional funding beyond the $20,000 tribal base, it must submit verifiable data that tribal members in the BIA Total Category exist in its service population to the Area Director by September 15, 1996 for certification. If the data is not submitted, the Area Director will formulate an average yearly funding for that tribe based upon caseload and funding projections and certify the results. The data certified by the Area Director will be included in the nationwide totals for welfare assistance. If the 1995 BIA Indian Service Population and Labor Force Estimate Report is published in final form, this document will be used to calculate the appropriate tribal share.

2. The BIA's Division of Self-Determination Services proposes to transfer Contract Support Funds (CSF) to the TPA budget system in FY 1997. This proposal concerns the payment of CSF for tribes and tribal organizations contracting under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638), as amended, and is limited to ongoing or continuing contracts and would not affect the Indian Self-Determination Fund which will continue to be maintained at the Central Office and distributed to meet indirect cost needs for new contracts. Under each of the alternatives explained below, the BIA will provide a pro rata distribution of the available funds to the eligible tribes.

Alternative No. 1

In determining the amount of the one-time transfer of CSF to the tribal base, the Division of Self-Determination Services proposes to use each tribe's most current indirect cost rate in effect during the period between 1994–1996, as negotiated with the Office of the Inspector General.

Alternative No. 2

The Division proposes to use an average of the most recent three-year indirect cost rates, as negotiated with the Office of the Inspector General.

It is proposed that tribes contracting under the Act without indirect cost rates would also have CSF added to their recurring TPA base at the time the transfer is executed. The BIA will add a standard percentage (approximately 20 percent) based on the national average indirect cost rate. The amount derived from this percentage will be added to the program amount being contracted.

3. The BIA's Division of Housing Services proposes to transfer Housing Improvement Program (HIP) funds to the TPA budget of each federally recognized Indian tribe. The HIP is not intended to meet the overall housing needs in Indian Country but is meant to provide standard housing opportunities through repairs of existing homes and, in a limited number of cases, replacement homes for eligible applicants.

Alternative No. 1

The Division of Housing Services proposes to allocate to each eligible tribe a base amount of $20,000 plus a percentage of the remaining funds based on the total populations within the following four categories in the 1993 Bureau of Indian Affairs' Indian Service Population and Labor Force Estimates Report: (1) Over 65 years of age, (2) Unable to Work, (3) Total Not Employed of the Potential Labor Force, and (4) Total number of Labor Force earning $7,000 or less per year. A tribe's percentage share would represent a comparison of the tribe's data to the national totals. For example, tribe X receives a total of $25,000 for its share of housing funds. This consists of a $20,000 base and $5,000 additional funds based on the following formula:

$$\frac{\text{400 (total for one tribe in four categories) divided by}}{\text{400,000 (total nationwide for all tribes in four categories)}} = .001 = 0.10\%$$

which translates into: 5,000,000 (total funds after $20,000 deducted per tribe) multiplied by .001 = $5,000 in additional funds, which results in: $20,000 (base amount for tribe X) plus $5,000 (additional funding) $25,000 total funding for tribe X

If any eligible tribe, including an OSG tribe, was not included in the 1993 BIA Labor Force Report and chooses to obtain additional funding beyond the $20,000 tribal base, it must submit verifiable data that tribal members in the four categories exist in its service population to the Area Director by September 15, 1996 for certification. If the data is not submitted, the Area Director will formulate a total for the four categories based upon Service Population estimates and certify the results. The data certified by the Area Director will be included in the nationwide totals for HIP. If the 1995 BIA Indian Service Population and Labor Force Estimate Report is published in final form, this document will be used to calculate the appropriate share.

Alternative No. 2

The Division proposes to use the same methodology as the first alternative, but allocate a base of $10,000 rather than $20,000. If the 1995 BIA Indian Service Population and Labor Force Estimate Report is published in final form, this document will be used to calculate the appropriate share.

Dated: August 23, 1996.

Ada E. Deer,

*Assistant Secretary—Indian Affairs.*

[FR Doc. 96–22481 Filed 9–03–96; 8:45 am]

BILLING CODE 4310–02–P

## Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Amendment to Approved Tribal-State Compact.

**SUMMARY:** Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment II to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on June 21, 1996.

**DATES:** This action is effective September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: August 21, 1996.

Ada E. Deer,

*Assistant Secretary—Indian Affairs.*

[FR Doc. 96–22439 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–02–P

## Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Approval for Amendment II to Tribal-State Compact.

**SUMMARY:** Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment II to the Tribal-State Compact For Regulation of Class III Gaming Between the Confederated Tribes of Siletz Indians Tribe and the State of Oregon, which was executed on June 21, 1996.

**DATES:** This action is effective September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: August 21, 1996.

Ada E. Deer,

*Assistant Secretary—Indian Affairs.*

[FR Doc. 96–22440 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–02–P

## Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Amendment to Approved Tribal-State Compact.

**SUMMARY:** Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment II to the Tribal-State Compact for Regulation of Class III Gaming Between the Coquille Indian Tribe and the State of Oregon, which was executed on June 21, 1996.

**DATES:** This action is effective September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: August 21, 1996.

Michael J. Anderson,

*Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 96–22438 Filed 9–3–96; 8:45 am]

BILLING CODE 4310–02–P

## Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Amendment to Approved Tribal-State Compact.

**SUMMARY:** Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment III

to the Tribal-State Compact For Regulation of Class III Gaming Between the Cow Creek Band of Umpqua Tribe of Indians and the State of Oregon, which was executed on June 21, 1996.

**DATES:** This action is effective September 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: August 13, 1996.

Michael J. Anderson,

*Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 96–22437 Filed 9–3–96; 8:45 am]

**BILLING CODE 4310–02–P**

## Bureau of Land Management

**[AZ–054–06–1990–00; 1535]**

## Arizona, Notice of Change of Mailing Address and Telephone Number

**AGENCY:** Bureau of Land Management, Interior.

**SUMMARY:** This notice sets forth the new mailing address and phone number for the Bureau of Land Management, Lake Havasu Field Office, Lake Havasu City, Arizona. The new mailing address and phone number for the Lake Havasu Field Office is 2610 Sweetwater Avenue, Lake Havasu City, AZ 86406 (520) 505–1200.

**DATES:** Effective August 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, AZ 86406 (520) 505–1200.

Dated: August 20, 1996.

Robert M. Henderson,

*Acting Field Manager.*

[FR Doc. 96–22500 Filed 9–03–96; 8:45 am]

**BILLING CODE 4310–32–P**

## National Park Service

## Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Gambell, AK, in the Control of the Alaska State Office, Bureau of Land Management, Anchorage, AK

**AGENCY:** National Park Service

**ACTION:** Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the control of the Alaska State Office, Bureau of Land Management, Anchorage, AK. These human remains and associated funerary objects are currently in the possession of the University of Alaska Museum.

A detailed assessment of the human remains and associated funerary objects was made by Bureau of Land Management professional staff and University of Alaska Museum professional staff in consultation with representatives of the Native Village of Gambell.

Between 1972–1973, human remains representing 53 individuals were recovered by Hans-Georg Bandi during legally authorized excavations near Sekloghyaget (or ''Old Gambell'') site, a nineteenth century habitation section of Gambell, AK, the Troutman Lake site, a 19th century grave site near Gambell, AK, and a 19th century habitation site near modern Gambell, AK. No known individuals were identified. The 142 associated funerary objects include abraders, a blubber scraper, buttons, foreshafts, ground slate tools, a ground slate point, faunal remains, walrus tusks and tusk fragments, chert flakes, pottery sherds, unworked stone, and a winged object.

The three sites listed above have been identified as 19th century habitation and cemetery areas at or near the Native Village of Gambell through historical documentation, cultural items found at the sites, and oral history.

In 1939, human remains representing four individuals were recovered by Louis Giddings at the Ayveghyaget site, a precontact habitation site near Gambell, AK. No known individuals were identified. Between 1972–1973, human remains representing three individuals were recovered by Hans-Georg Bandi during legally authorized excavations from the vicinity of the Ayveghyaget site. No known individuals were identified. Three associated funerary objects recovered include ground slate, worked ivory and faunal remains.

In 1939, human remains representing three individuals were recovered by Louis Giddings from the Kitngipalak site, a precontact habitation site near Gambell, AK. No known individuals were identified. Between 1972–1973, human remains representing 133 individuals were recovered by Hans-Georg Bandi during legally unauthorized excavations from the Kitngipalak site. No known individuals were identified. The 328 associated funerary objects include ground slate tools, chert flakes, worked ivory, faunal remains, a whetstone, abraders and ulu blades.

In 1967, human remains representing 24 individuals were recovered by Hans-Georg Bandi during legally authorized excavations from the vicinity of the Ayveghyaget and Mayaghaaq sites, precontact habitation sites near Gambell, AK. No known individuals were identified. The two associated funerary objects are faunal remains.

In 1968, human remains representing one individual were removed from the Pagughileq site, a precontact habitation site on BLM land, and donated to the University of Alaska Museum by a State of Alaska employee in 1985. No known individual was identified. No associated funerary objects are present.

Between 1972–1973, human remains representing 36 individuals were recovered by Hans-Georg Bandi during legally authorized excavations from the vicinity of the Mayaghaaq site, a precontact habitation site near Gambell, AK. No known individuals were identified. The 57 associated funerary objects include ivory harpoon heads, faunal remains, ground slate fragments, ulu blades, and ivory fragments.

Between 1972–1973, human remains representing seventeen individuals were recovered by Hans-Georg Bandi during legally authorized excavations from the Dovlaqhyaget site, a precontact habitation site near Gambell, AK. No known individuals were identified. The 24 associated funerary objects include worked bone and ivory, faunal remains, ground slate points and a winged object.

In 1950, human remains representing eighteen individuals were donated to the University of Alaska Museum by a private individual after being illegally removed from BLM lands in the vicinity of Gambell, AK. No known individuals were identified. No associated funerary objects are present.

In 1962, human remains representing two individuals were recovered from BLM lands during legally authorized excavations in the vicinity of Gambell, AK by Otto Geist. No known individuals were identified. No associated funerary objects are present.

The precontact sites and sites in the vicinity of Gambell, AK listed above have been identified as occupied during the Okvik, Old Bering Sea, and Punuk periods based on site organization, habitation structures, cultural material, and Carbon0914 assays. The Carbon0914 assays and ethnohistorical data indicate these occupations represent a continuity of cultural occupation of St. Lawrence Island from approximately 300 AD to the historically documented epidemic and famine of 1879 AD. The associated funerary objects from the ten sites located at or near Gambell are

stylistically and functionally consistent with the Gambell cultural development sequence. Additionally, the present-day Native residents of Gambell are the documented descendants of the survivors of the 1879 epidemic and famine. Oral history evidence provided by representatives of the Native Village of Gambell indicates on-going recognition of the above Gambell grave sites as traditional burial grounds.

Based on the above mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 294 individuals of Native American ancestry. Officials of the Bureau of Land Management have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 556 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Native Village of Gambell.

This notice has been sent to officials of the Native Village of Gambell. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Robert E. King, Alaska State NAGPRA Coordinator, Bureau of Land Management, 222 W. 7th Avenue, 1B13, Anchorage, AK 99513–7599; telephone: (907) 271–5510, before [*thirty days after publication in the* Federal Register]. Repatriation of the human remains and associated funerary objects to the Native Village of Gambell may begin after that date if no additional claimants come forward.

Dated: August 29, 1996.

Francis P. McManamon,

*Departmental Consulting Archeologist, Chief, Archeology and Ethnography Program.*

[FR Doc. 96–22495 Filed 9–3–96; 8:45 am]

BILLING CODE 4310097009F

## INTERNATIONAL TRADE COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** September 11, 1996 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street S.W., Washington, DC 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–750 (Preliminary)—(Vector Supercomputers from Japan)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: August 30, 1996.

Donna R. Koehnke,

*Secretary.*

[FR Doc. 96–22637 Filed 8–30–96; 1:16pm]

BILLING CODE 7020–02–U

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122 of CERCLA, 42 U.S.C. § 9622, notice is hereby given that on August 26, 1996, a proposed Partial Consent Decree in *United States* v. *Metallics, Inc.*, Civil Action No. 96–C–0275–S, was lodged, with the United States District Court for the Western District of Wisconsin. This consent decree represents a settlement of claims of the United States and the State of Wisconsin against the Town of Onalaska, Wisconsin for reimbursement of response costs and injunctive relief in connection with the Onalaska Municipal Landfill site (''Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*

Under this settlement between the United States, the State of Wisconsin, and the Town of Onalaska, the Town will pay the United States $482,550 in partial reimbursement of response costs incurred by the Environmental Protection Agency at the Site, perform operation and maintenance activities at the site throughout the contemplated thirty-year remedial action, provide access to the site and to properties adjacent to the site, and impose conservation easements on such properties consistent with their location adjacent to a wildlife refuge, and institute appropriate institutional controls.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Metallics, Inc.*, D.J. Ref. 90–11–3–605B.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Wisconsin, 120 North Henry Street, Room 420, Madison, Wisconsin 53703, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $11.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker Smith,

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 96–22467 Filed 9–3–96; 8:45 am]

BILLING CODE 4410–01–M

### Drug Enforcement Administration

**[Docket No. 95–41]**

### Johnson Matthey, Inc.; Termination of Proceedings

On May 8, 1995, the Deputy Administrator of the Drug Enforcement Administration (DEA) issued a final order granting the September 14, 1992, application of Johnson Matthey, Inc. (Johnson Matthey) to register as a bulk manufacturer of methylphenidate, subject to certain conditions. (Johnson Matthey I) 60 FR 26050 (May 16, 1995). On January 2, 1996, the United States Court of Appeals for the District of Columbia Circuit denied a petition for review of that final order. MD Pharmaceutical, Inc. v. Drug Enforcement Administration, Docket No. 95–1267, 1996 U.S. App. Lexis 1229 (D.C. Cir. 1996).

In the meantime, on February 24, 1995, Johnson Matthey filed an application for calendar year 1995 for registration as a bulk manufacturer of various Schedule I and II controlled substances, including methylphenidate, notice of which was filed in the Federal

Register. 60 FR 20751 (April 27, 1995). However, on July 27, 1995, Johnson Matthey withdrew its application, except as to methylphenidate. See 60 FR 53804 (October 17, 1995). Therefore, the only aspects of Johnson Matthey's February 1995 application pending is the request to manufacture methylphenidate. By letter dated May 10, 1995, MD Pharmaceutical, Inc. (MD) filed comments, objecting to Johnson Matthey's application with respect to methylphenidate, and by letter dated May 26, 1995, Ciba-Geigy Corporation (Ciba) requested a hearing, giving rise to the instant case.

Also by letter dated May 26, 1995, Mallinckrodt Chemical, Inc. (Mallinckrodt), stated that it took no position on Johnson Matthey's application to manufacture methylphenidate, but that it ''wish[ed] to participate fully in a hearing if one is scheduled.'' The matter was docketed and assigned to Administrative Law Judge Mary Ellen Bittner. Extensive prehearing communications followed, with the Government filing its prehearing memorandum on July 28, 1995, and Johnson Matthey, Ciba, Mallinckrodt, and MD filing their prehearing memoranda on July 31, 1995. Again, the parties engaged in extensive prehearing filings surrounding the issue of whether to hold in abeyance a hearing in this matter pending the decision of the Court of Appeals in Johnson Matthey I.

Subsequently, on October 17, 1995, the DEA published a notice in the Federal Register, stating, among other things, that ''[d]ue to the pending administrative proceeding concerning methylphenidate, Johnson Matthey will continue on a day-to-day registration to bulk manufacture methylphenidate pending resolution of Docket No. 95–41.'' 60 FR 53804 (1995). On November 13, 1995, Johnson Matthey filed an application to be registered as a bulk manufacturer of various controlled substances, including methylphenidate, for calendar year 1996. See Notice of Application, 61 FR 8303 (March 4, 1996).

Following the circuit court's decision in Johnson Matthey I, on February 23, 1996, Johnson Matthey filed a motion to dismiss, or in the alternative to terminate, the current proceeding. On March 14, 1996, the Government filed a Motion for Summary Disposition, seeking dismissal of this proceeding on various grounds. On March 18, 1996, MD filed an Objection to Johnson Matthey's Motion to Dismiss, and Ciba filed a Memorandum in Response to Motion of Johnson Matthey, Inc., to Dismiss and Government's Motion for Summary Disposition. Also, on March 19, 1996, Mallinckrodt filed a Response to Johnson Matthey's Motion to Dismiss, and on April 8, 1996, MD filed an Opposition to the Government's Motion for Summary Disposition.

By order dated May 15, 1996, Judge Bittner (1) denied the Government's motion for summary disposition, (2) denied Johnson Matthey's motion to dismiss, (3) found, however, that there was no longer a basis for holding a hearing in this proceeding, and (4) terminated the proceeding. She afforded the parties an opportunity to file an appeal from her ruling, and on June 3, 1996, the Government filed exceptions to her ruling, but agreed with her termination of the proceedings. No other appeals were filed.

The Deputy Administrator finds that as of May 8, 1995, Johnson Matthey had a Certificate of Registration as a bulk manufacturer of methylphenidate. See Johnson Matthey I. As noted by Judge Bittner, both the Administrative Procedure Act and DEA's regulations provide that a timely application for reregistration operates to continue an existing registration until there is a determination on that application. 5 U.S.C. § 558(c)[1] and 21 C.F.R. 1301.47.[2] Therefore, the Deputy Administrator agrees with Judge Bittner's findings that (1) the November 1995 application for reregistration operates to continue Johnson Matthey's registration granted by final order on May 8, 1995, with respect to methylphenidate, (2) Johnson Matthey's reregistration cannot be denied until DEA takes further action,[3] and (3) the November 1995 application is not before Judge Bittner (nor the Deputy Administrator) as a result of Ciba's hearing request relevant to the February 1995 application. See 60 FR 32099 (June 30, 1995) (amending 21 C.F.R. 1301.43, effective July 20, 1995, by eliminating third-party manufacturers' hearing opportunities, pursuant to their own request). The Deputy Administrator also finds that the termination of these proceedings will not impact upon the continuation of Johnson Matthey's day-to-day registration to manufacture methylphenidate, given the lack of a resolution of its pending November 1995 application.

The Deputy Administrator agrees with Judge Bittner's termination of the hearing procedure raised by Ciba's request in response to Johnson Matthey's registration application of February 1995. As Judge Bittner noted, ''if a hearing were held in this proceeding, whatever recommendation [she] would make with respect to Johnson Matthey's [February] 1995 application would be of no consequence.'' If Judge Bittner recommended granting the February 1995 application, she would be recommending Johnson Matthey be given a right already flowing from the May 1995 final order and the November 1995 reregistration application. If, however, Judge Bittner recommended the application be denied, and if the Deputy Administrator concurred with that recommendation, a show cause proceeding would need to be instigated. See 21 U.S.C. § 824(c), quoted at footnote 3 supra. Therefore, since the hearing will have no impact upon Johnson Matthey's registration at this point in the registration process, the Deputy Administrator concurs with Judge Bittner's decision to terminate this proceeding. See, e.g., National Classification Comm. & Natl. Motor Freight Traffic Assn., Inc. v. United States, 779 F.2d 687, 693 (D.C. Cir. 1985) (noting that ''a hearing is required only when it would serve some purpose'').

Judge Bittner made findings necessary to resolve the Government's Motion for Summary Disposition and Johnson Matthey's Motion to Dismiss. The Deputy Administrator has reviewed those findings, Judge Bittner's resolution of the two motions, and the Government's exceptions thereto. However, the Deputy Administrator concludes that it is unnecessary to address those matters here, since they do not impact upon the propriety of the termination decision. Therefore, the Deputy Administrator makes no findings concerning those issues.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 C.F.R. 0.100(b) and 0.104,

[1] 5 U.S.C. § 558(c) states: ''When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.''

[2] 21 C.F.R. 1301.47 provides: ''In the event that an applicant for reregistration (who is doing business under a registration previously granted and not revoked or suspended) has applied for reregistration at least 45 days before the date on which the existing registration is due to expire, and the Administrator has issued no order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continue in effect until the date on which the Administrator so issues his order.''

[3] 21 U.S.C. § 824(c) provides, in relevant part, that ''[b]efore taking action pursuant * * * to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied. * * *''

hereby orders that the request for a hearing concerning Johnson Matthey's February 1995 registration application, and the proceedings following and relevant to that request be, and they hereby are, terminated.

This order is effective October 4, 1996.

Dated: August 27, 1996.

Stephen H. Greene,

*Deputy Administrator*

[FR Doc. 96–22496 Filed 9–3–96; 8:45 am]

**BILLING CODE 4410–09–M**

## Immigration and Naturalization Service

### Agency Information Collection Activities: Extension of Existing Collection; Comment Request

**ACTION:** Notice of Information Collection Under Review; Nonimmigrant Checkout Letter.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on May 29, 1996, at 61 FR 26932–26933, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the Federal Register. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The proposed collection is listed below:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection.* Nonimmigrant Checkout Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–146. Detention and Deportation, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This collection of information is used in making inquiries of persons in the United States or abroad concerning the whereabouts of aliens, and also requests departure information by the Immigration and Naturalization Service, when initial investigation to locate the alien or verify his or her departure is unsuccessful.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 respondents at 10 minutes (.166) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,320 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: August 28, 1996.

Robert B. Briggs,

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 96–22468 Filed 9–3–96; 8:45 am]

**BILLING CODE 4410–18–M**

## DEPARTMENT OF LABOR

## Employment and Training Administration

### Unemployment Compensation for Ex-Servicemembers (UCX) Handbook; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision and extension of the Unemployment Compensation for Ex-Servicemembers (UCX) Handbook.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before November 4, 1996.

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility, and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Written comments on this notice may be mailed or delivered to Charles E. Longus, Jr., Unemployment Insurance Service, U.S. Department of Labor, Room S–4231, Frances Perkins Building, 200 Constitution Ave., N.W., Washington, DC 20210, telephone (202) 219–5340 ext 16 (this is not a toll-free number), fax number (202) 219–8506.

**SUPPLEMENTARY INFORMATION:**

I. Background

The UCX law (5 U.S.C. 8521–8523) requires State employment security agencies to administer the UCX program in accordance with the same terms and conditions of the paying State's unemployment insurance law which apply to unemployed claimants who worked in the private sector. Each State agency must be able to obtain certain military service information from each claimant filing claims for UCX benefits to enable them to determine his/her eligibility for benefits. The State agencies record or obtain required UCX information on forms developed by the Department of Labor, ETA 841, ETA 842 and ETA 843. The use of each of these forms is essential to the UCX claims process.

Information pertaining to the UCX claimant can only be obtained from the individuals's military discharge papers, the appropriate branch of military service or the Department of Veterans Affairs (formerly the Veterans Administration). If the claimant does not have this information available, the most feasible and effective way to obtain this information is by use of the forms prescribed by the Department of Labor for State agency use. Without this information, we could not adequately determine the eligibility of ex-servicemembers and would not be able to properly administer the program.

II. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) of an extension to an existing collection of information previously approved and assigned OMB control No. 1205–0176. A current inventory of 255,000 UCX claims were filed in FY 1994 and a proposed inventory of 138,573 UCX claims will be reported for FY 1995 reflecting a significant decrease of 116,427 from the previous fiscal year resulting in a reduction of −3,009 hours toward ETA's Information Collection Budget.

Fifty-three (53) SESAs fill out these forms. Form ETA 841 is completed by SESAs whenever an ex-servicemember files: (1) A ''first claim'' (UCX) for unemployment compensation, whereby an assignment of Federal military service is recorded; or (2) a request for determination of entitlement to UCX benefits, whether or not such request results in a ''first claim.'' Form ETA 842 is very rarely used under current legislation so our estimate is zero burden. ETA 843 is used by SESAs only when it is necessary to obtain additional clarifying information from the military pertaining to the UCX claimant or to obtain a copy of DD Form 214 that was not issued to the claimant when separated from military service. Accordingly, the ETA 843 is used for only 5% of the UCX ''first claims.'' This is then sent to any one of the four branches of military service (Army, Navy, Marines, Air Force), the Coast Guard, or the National Oceanic Atmospheric Administration (they are considered branches of military service for UCX purposes but are not under the jurisdiction of the Department of Defense).

*Type of Review*: Revision.

*Agency*: Employment and Training Administration.

*Title*: Unemployment Compensation for Ex-Servicemembers (UCX) Handbook.

*OMB Number*: 1205–0176.

*Recordkeeping*: The Department of Labor (DOL) does not maintain a system of records for the UCX program. UCX records are maintained by the SESAs acting as agents for the Federal Government in the administration of the UCX program. The DOL procedures permit the SESAs, upon request, to dispose of UCX records according to State law provisions, 3 years after final action (including appeals or court action) on the claim, or such records may be transferred in less than 3-year period if microphotographed in accordance with appropriate microphotography standards.

*Affected Public*: State governments (State employment security agencies).

*Cite/Reference/Form/etc:* Forms ETA 841, ETA 842 and ETA 843

*Total Respondents:* 138,573

*Frequency*: As needed

*Total Responses:* 138,573

*Average Time per Response:* 1.5 min.

*Estimated Total Burden Hours:* 3,579 hrs. or chart for multiple forms/information collections.

| Cite/reference | Total respondents | Frequency | Total responses | Average time per response (min.) | Burden (hrs.) |
|---|---|---|---|---|---|
| ETA 841 | 138,573 | As needed | 138,573 | 1.5 | 3,464 |
| ETA 842 | 0 | As needed | 0 | 0 | 0 |
| ETA 843 | 6,929 | As needed | 6,929 | 1.0 | 115 |
| Totals | | | 145,502 | | 3,579 |

*Total Burden Cost (capital/startup)*: 0.

*Total Burden Cost (operating/maintaining)*: $3,201,036.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 28, 1996.

Mary Ann Wyrsch,

*Director, Unemployment Insurance Service.*

[FR Doc. 96–22511 Filed 9–3–96; 8:45 am]

BILLING CODE 4510–30–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 96–103]**

## NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Structure and Evolution of the Universe Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting change.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 61 FR 40663, Notice Number 96–090, August 5, 1996.

**PREVIOUSLY ANNOUNCED DATES AND ADDRESSES OF MEETING:** Monday, September 9, 1996, 8:30 a.m. to 5:00 p.m., and Tuesday, September 10, 1996, 8:30 a.m. to 4:30 p.m.; NASA Headquarters, Conference Room MIC 6–A/B West, 300 E Street, SW, Washington, DC 20546.

**CHANGES IN THE MEETING:** The meeting will be closed to the public on Monday, September 9, 1996, 8:30 a.m. to 9:00 a.m. and on Tuesday, September 10, 1996, 12:00 p.m. to 1:00 p.m. in accordance with 5 U.S.C. 552b(c)(6), to allow for a discussion on procedures and conflicts of interest of scientific priorities by the members.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan N. Bunner, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0364. The remainder of the meeting will be open to the public up to the capacity of the room.

Dated: August 27, 1996.

Alan M. Ladwig,

*Associate Administrator for Policy and Plans, National Aeronautics and Space Administration.*

[FR Doc. 96–22445 Filed 9–3–96; 8:45 am]

**BILLING CODE 7510–01–M**

## NATIONAL BANKRUPTCY REVIEW COMMISSION

### Meeting

**AGENCY:** National Bankruptcy Review Commission.

**ACTION:** Notice of public meeting.

**TIME AND DATE:** Monday, September 16, 1996; 2:00 P.M. to 4:00 P.M.; Wednesday, September 18, 1996; 8:30 A.M. to 4:45 P.M.; and Thursday, September 19, 1996; 8:30 A.M. to 4:00 P.M.

**PLACE:** On Monday, September 16, 1996, the Government Working Group of the Commission will hold a Planning Meeting at the State Capitol Building—Room 303, Santa Fe, New Mexico. On Wednesday and Thursday, September 18–19, 1996, the Commission will hold its Meeting at the State Capitol Building—Room 307, Santa Fe, New Mexico. The State Capitol Building is located at the intersection of Old Santa Fe Trail and Paseo de Peralta in Santa Fe, New Mexico.

**STATUS:** All meetings will be open to the public.

**MATTERS TO BE CONSIDERED:** General administrative matters for the Commission, including substantive agenda; Commission working groups will consider the following substantive matters: government as creditor or debtor; small businesses, single asset real estate cases and partnerships: a special case?; improving jurisdiction and procedure; consumer bankruptcy; Chapter 11: uses and consequences; and service to the estate: ethical and economic choices. An open forum for public participation will be held on Wednesday, September 18, 1996 from 8:45 A.M. to 10:00 A.M. and on Thursday, September 19, 1996, from 2:30 P.M. to 4:00 P.M.

**CONTACT PERSONS FOR FURTHER INFORMATION:** Contact Susan Jensen-Conklin or Carmelita Pratt at the National Bankruptcy Review Commission, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite G–350, Washington, D.C. 20544; Telephone Number: (202) 273–1813.

Susan Jensen-Conklin,

*Deputy Counsel.*

[FR Doc. 96–22464 Filed 9–3–96; 8:45 am]

**BILLING CODE 6820–36–P**

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of September 2, 9, 16, and 23, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

Week of September 2

*Wednesday, September 4*

9:30 a.m.
Briefing by DOE on Status of HLW Program (Public Meeting)

11:00 a.m.
Affirmation Session (Public Meeting)
a. SECY–96–100—Final Amendments to 10 CFR Parts 20 and 35 on Criteria for the Release of Individuals Administered Radioactive Material (tentative)
b. SECY–96–118—Amendments to 10 CFR Parts 50, 52, and 100, and Issuance of a New Appendix S to Part 50 (tentative)

*Thursday, September 5*

3:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

Week of September 9—Tentative

There are no meetings scheduled for the Week of September 9.

Week of September 16—Tentative

There are no meetings scheduled for the Week of September 16.

Week of September 23—Tentative

There are no meetings scheduled for the Week of September 23.

The schedule for Commission meetings is subject to change on short notice.

To verify the status of Meetings call (recording)—(301) 415–1292.

**CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers. If you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or dkw@nrc.gov.

Dated: August 30, 1996.

William M. Hill, Jr.,

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 96–22692 Filed 8–30–96; 2:02 pm]

**BILLING CODE 7590–01–M**

## NUREG: Issuance, Availability

The Nuclear Regulatory Commission (NRC) has issued two final reports on estimating boiling water reactor (BWR) decommissioning costs. They are NUREG/CR–6174, ''Revised Analyses of the Decommissioning for the Reference Boiling Water Reactor Power Station,'' and NUREG/CR–6270, ''Estimating Boiling Water Reactor Decommissioning Costs.'' The reports discuss and provide methods for estimating decommissioning costs for BWRs. They also provide background information to support rulemaking activities to modify funding assurance requirements for nuclear power reactor licensees.

Copies of NUREG/CR–6174 and NUREG/CR–6270 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Copies are available for inspection and copying for a fee in the NRC Public Document Room, 2120 L

Street, NW. (Lower Level), Washington, DC. The computer software for NUREG/CR–6270 can be purchased from the Energy Science and Technology Software Center, P.O. Box 1020, Oak Ridge, TN 37831–1020, Phone: (423) 576–2606.

For further information contact George J. Mencinsky, U.S. Nuclear Regulatory Commission, Mail Stop T–9 F31, Washington, DC 20555, Phone: (301) 415–6206.

Dated at Rockville, Maryland, this 23rd day of August, 1996.

For the Nuclear Regulatory Commission.

Bill M. Morris,

*Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 96–22509 Filed 9–3–96; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, September 12, 1996, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: August 27, 1996.

Phyllis G. Foley,

*Chair, Federal Prevailing Rate Advisory Committee.*

[FR Doc. 96–22499 Filed 9–3–96; 8:45 am]

BILLING CODE 6325–01–M

## PHYSICIAN PAYMENT REVIEW COMMISSION

### Commission Meeting

**AGENCY:** Physician Payment Review Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Commission will hold its next public meeting on Thursday, September 19, 1996 and Friday, September 20, 1996, at the Washington Marriott, 1221 22nd Street NW, Washington, DC, in the third floor conference center. The meetings are tentatively scheduled to begin at 9:00 a.m. each day. The Commission expects to discuss such issues as its comments on the Secretary's report on Volume Performance Standards, workforce trends, managing Medicare fee for service, Medigap portability, PSOs, federal premium contributions, and to hear updates on revising practice expense relative values in the Medicare Fee Schedule, antitrust issues, the 5-year review of Medicare work relative values, HCFA regulations on physician financial incentives, and the Medicare SELECT evaluation. Panels on Medicare managed care, the response of academic medical centers, and structuring choice in the Medicare program are scheduled. The agenda is tentative at this time; a final agenda will be available on Friday, September 13, 1996 and will be mailed at that time.

**ADDRESS:** 2120 L Street, N.W., Suite 200; Washington, D.C. 20037. The telephone number is 202/653–7220.

**FOR FURTHER INFORMATION CONTACT:** Annette Hennessey, Executive Assistant, at 202/653–7220.

**SUPPLEMENTARY INFORMATION:** If you are not on the Commission mailing list and wish to receive an agenda, please call 202/653–7220 after September 13, 1996.

Lauren LeRoy,

*Executive Director.*

[FR Doc. 96–22502 Filed 9–3–96; 8:45 am]

BILLING CODE 6820–SE–M

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–22180; File No. 812–10052]**

### Schwab Annuity Portfolios, et al.

August 27, 1996.

**AGENCY:** Securities and Exchange Commission (the ''SEC'' or ''Commission'').

**ACTION:** Notice of Application for Exemptions under the Investment Company Act of 1940 (the ''1940 Act'').

**APPLICANT:** Schwab Annuity Portfolios (the ''Trust'').

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act from the provisions of 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:** Applicant seeks an order to the extent necessary to permit shares of the Trust and shares of any other investment company (the ''Future Funds,'' collectively, with the Trust, the ''Funds'') that is designed to fund variable insurance products, and for which Charles Schwab Investment Management, Inc. (the ''Investment Manager'') or an affiliate may serve as investment adviser, manager, principal underwriter or sponsor, to be sold to and held by: (a) variable annuity and variable life insurance separate accounts (the ''Separate Accounts'') of both affiliated and unaffiliated life insurance companies (the ''Participating Insurance Companies''); and (b) qualified pension and retirement plans outside of the separate account context (the ''Plans'').

**FILING DATE:** The application was filed on March 21, 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 on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on September 23, 1996, and 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 interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, Frances Cole, Esq., Charles Schwab Investment Management, Inc., 101 Montgomery Street, San Francisco, CA 94104.

**FOR FURTHER INFORMATION CONTACT:** Mark Amorosi, Attorney, or Patrice M. Pitts, Special Counsel, 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 SEC.

Applicant's Representations

1. The Trust, an open-end management investment company organized as a Massachusetts business trust on January 21, 1994, currently consists of one series: the Schwab Money Market Portfolio (the ''Series'').

2. The Investment Manager, registered investment adviser under the Investment Advisers Act of 1940, serves as the investment adviser and administrator to each Fund. The Investment Manager is a wholly-owned subsidiary of the Charles Schwab Corporation, a parent of investment services companies incorporated in California.

3. The Trust currently offers shares of the Series only to Transamerica Separate Account VA–5, a separate account of Transamerica Occidental Life Insurance Company and to Separate Account VA–5 NLNY, a separate account of First Transamerica Life Insurance Company (collectively referred to as ''Transamerica''), to fund the benefits of Schwab Investment Advantage™, a variable annuity contract issued by Transamerica. It is intended, however, that shares of the Funds will be offered to separate accounts of other insurance companies, including insurance companies that are not affiliated with Transamerica. The Funds also may be used as investment vehicles for qualified pension and retirement plans outside of the separate account context.

4. Upon the granting of the order requested in the application, the Funds intend to offer to Separate Accounts of Participating Insurance Companies shares of the Series and of future investment series to serve as the investment vehicle for various types of variable insurance products, including, but not limited to, variable annuity contracts, single premium variable life insurance policies, and flexible premium variable life insurance contracts (collectively, the ''Contracts''). The Funds also may offer shares of the Series and of future investment series directly to Plans outside of the separate account context.

5. Participating Insurance Companies will establish their own Separate Accounts and design their own variable contracts. The role of the Funds under this arrangement, insofar as the federal securities laws are applicable, will consist of offering shares to the Separate Accounts and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

6. Tax law permits the Funds to increase their asset base through the sale of shares of the Funds to Plans. Plans may choose the Funds as the sole investment option under the Plan or as one of several investment options. Which investment choices are available to a Plan participant will depend upon the Plan. Shares of the Funds sold to Plans will be held by the trustees of the Plans, as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA'').

Applicant's 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 6e–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 is available to the investment adviser, principal underwriter, and sponsor or depositor of the Separate Account. The exemptions granted by Rule 6e–2(b)(15) are available 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.'' The use of a common management investment company as the underlying 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 variable life insurance separate accounts of unaffiliated insurance companies is referred to as ''shared funding.'' The relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. Therefore, Rule 6e–2(b)(15) precludes mixed funding as well as shared funding.

2. Applicant states 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.

3. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as 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 relief provided by Rule 6e–3(T) also is available to the investment adviser, principal underwriter, and sponsor or depositor of the Separate Account. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where the UIT's underlying fund offers its shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled 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.'' Thus, Rule 6e–3(T) permits mixed funding, but does not permit shared funding.

4. Applicant states that because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if shares of the Funds also are to be sold to Plans.

5. Applicant states 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 Plans. Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards 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 life insurance contracts 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 assets 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 the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. § 1.817–5(f)(3)(iii).

6. Applicant states that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury Regulations. Applicant asserts that, given the then current tax law, 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).

7. Applicant therefore requests relief 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, to the extent necessary to permit shares of the Funds to be offered and sold in connection with both mixed and shared funding.

8. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as 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 exemptions 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) permits 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) permits 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.

9. Applicant states that the partial relief from Section 9(a) provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), 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 the Section. Applicant states that those 1940 Act rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicant notes that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicant asserts, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states 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).

10. 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 shares 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.

11. 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. More specifically, Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that an insurance company may disregard voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between an underlying fund and its investment adviser, when required to do so by an insurance regulatory authority. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that an insurance company may disregard voting instructions of its contract owners if the contract owners initiate any change in the 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.

12. Applicant states that Rule 6e–2 recognizes that variable life insurance contracts have important elements unique to insurance contracts, and are subject to extensive state regulation. Applicant maintains, therefore, that in adopting Rule 6e–2, the Commission expressly recognized that exemptions from pass-through voting requirements are necessary ''to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer.'' Applicant notes that, in this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts, and submits that the corresponding provisions of Rule 6e–3(T) (which apply to flexible premium insurance contracts and which permit mixed funding) undoubtedly were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e–2. Applicant further submits that these considerations are no less important or necessary when an insurance company funds its separate accounts in connection with mixed and shared funding, and that such mixed and shared funding does not compromise the goals of the insurance regulatory authorities or of the Commission.

13. Applicant further represents that the Funds' sale of shares to the Plans does not affect the relief requested in this regard. As noted previously, shares of the Funds sold to Plans would be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) provides that the trustee(s) must have exclusive authority and discretion to manage and control the Plan, with two exceptions: (a) When the Plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (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, Applicant notes that, unlike the case with Separate Accounts of Participating Insurance Companies, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Plans.

14. Applicant states that no increased conflicts of interest would be presented if the requested relief were granted. Applicant asserts 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, or all, states. Applicant notes that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one 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 insurance companies are domiciled. Applicant submits that this possibility is no different from and no greater than what exists where a single insurer and its affiliates offer their insurance products in several states.

15. Applicant further submits that affiliation does not reduce the potential, if any exists, for differences in 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 these differences may produce. If a particular state insurance regulator's decision conflicts with that of a majority of other state regulators, the affected insurer may be required to withdraw its Separate Account's investment in the relevant Fund.

16. Applicant also argues that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by Contract owners. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified 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.

17. Applicant states 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. Applicant therefore argues that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicant represents that the Funds will not be managed to favor or disfavor any particular insurance company or type of Contract.

18. Applicant notes that no one investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance, and investment goals. An investment company supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers.

19. Applicant also notes 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 management investment company. Therefore, Applicant has concluded that neither the Code, the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if Plans, variable annuity Separate Accounts and variable life insurance Separate Accounts all invest in the same management investment company.

20. Applicant states 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 value. The Plan then will make distributions in accordance with the terms of the Plan. A Participating Insurance Company will surrender values from the Separate Account into the general account to make distributions in accordance with the terms of the variable contract.

21. Applicant also states that it is possible to provide an equitable means of giving voting rights to Contract owners and to Plans. Applicant represents that the Funds will inform each shareholder, including each Separate Account and Plan, of its respective share of ownership in the respective Funds. Each Participating Insurance Company will then solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T).

22. Applicant submits 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 compared to a participant under a Plan. Regardless of the rights and benefits of participants and Contract owners under the respective Plans and Contracts, the Plans and the Separate Accounts have rights only with respect to their shares of the Funds. Such shares 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.

23. Applicant states that there are no conflicts between Contract owners and participants under the Plans with respect to the state insurance commissioners' veto powers over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually are unable to simply redeem their Separate Accounts out of one fund and invest those monies in another fund. Complex and time consuming transactions must be undertaken to accomplish such redemptions and transfers. By contrast, trustees of Plans or the participants in participant-directed 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 is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, Applicant represents that even should there arise issues where the interest of Contract owners and the interests of Plans conflict, the issues can be resolved almost immediately in that trustees of the Plans can, independently, redeem shares out of the Funds.

24. Applicant states that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicant, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment management (particularly with respect to stock and money market investments); and the lack of name recognition by the public of certain insurers as investment professionals. Applicant argues that 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 the Funds' investment adviser, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicant states that making the Funds available as common investment media for variable insurance contracts would benefit contract owners by: (a) Eliminating a significant portion of the costs of establishing and administering separate funds; (b) increasing the amount of assets available for investment by the Funds, thereby promoting economies of scale, permitting increased safety of investments through greater diversification, and making the addition of new portfolios more feasible; and (c) encouraging more insurance companies to offer variable contracts, resulting in

increased competition with respect to both the design and the pricing of variable contracts, which can be expected to result in greater product variation and lower charges. Applicant believes that there is no significant legal impediment to permitting mixed and shared funding.

Applicant's Conditions

Applicant has consented to the following conditions if the order requested in the application is granted:

1. A majority of the Board of Trustees or Directors of each Fund (each, a ''Board'') shall consist of persons who are not ''interested persons'' of the Funds, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of the death, disqualification, of bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict among the interests of the Contract owners of all of the Separate Accounts investing in the respective Funds. 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 ruling, no-action or interpretative 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 any series of the Funds are managed; (e) a difference in voting instructions given by owners of variable annuity contracts and owners of variable life insurance contracts; or (f) a decision by a Participating Insurance Company to disregard the voting instructions of Contract owners.

3. The Participating Insurance Companies, the Investment Manager (or any affiliated adviser), and any Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (the ''Participants'') will report any potential or existing conflicts to the respective responsible Board. Participants 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 the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Contract owner voting instructions are disregarded. The responsibility to report such information and conflicts to and to assist the Board will be a contractual obligation of all Participating Insurance Companies and Plans investing in the Funds under their agreements governing participation in the Funds and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Contract owners, and, if applicable, Plan participants.

4. If it is determined by a majority of the Board, or by a majority of its disinterested trustees or directors, that an irreconcilable material conflicts exists, the relevant Participating Insurance Company and Plan shall, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), take any steps necessary to remedy or eliminate the irreconcilable material conflict, including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from the affected Funds and reinvesting such assets in a different investment medium including another series of the relevant Fund, or submitting the question as to 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 contract owners 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 variable contract owners the option of making such a charge; (b) withdrawing the assets allocable to some or all of the Plans from the affected Fund or any series of the Fund and reinvesting such assets in a different investment medium, including another series of the Fund; 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 disregard Contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the election of the relevant 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.

5. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Plans under the agreements governing their participation in the Funds. The responsibility to take such remedial action shall be carried out with a view only to the intents of Contract owners and Participants in the Plan.

6. For purposes of Condition Four, a majority of the disinterested members of the applicable Board shall determine whether any proposed action adequately remedies any material irreconcilable conflict, but in no event will the relevant Fund or the Investment Manager (or any affiliated adviser) be required to establish a new funding medium for any Contract. Further, no Participating Insurance Company shall be required by Condition Four to establish a new funding medium for any Contract if any offer to do so has been declined by a vote of a majority of the Contract owners materially affected by the material irreconcilable conflict.

7. A Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly and in writing to all Participants.

8. 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 the Funds held in their Separate Accounts in a manner consistent with voting instructions timely received from Contract owners. Each Participating Insurance Company will vote shares of a Fund held in the Participating Insurance Company's Separate Account(s) for which no voting instructions from the Contract owners are timely received, as well as shares of the Fund which the Participating Insurance Company itself owns, in the same proportion as those shares of the Fund for which voting instructions from Contract owners are timely received. Participating Insurance Companies will be responsible for assuring that each of their Separate Accounts that participates in the Funds calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate

voting privileges in a manner consistent with all other Separate Accounts will be a contractual obligation of all Participating Insurance Companies under the agreements governing their participation in the Funds.

9. All reports received by the Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying Participants 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. Such minutes or other records shall be made available to the Commission upon request.

10. Each Fund shall disclose in its prospectus that: (a) The Fund is intended to be a funding vehicle for all types of variable annuity and variable life insurance contracts offered by various insurance companies and certain qualified pension and retirement plans; (b) material irreconcilable conflicts may arise; and (c) the Fund's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict. Each Fund will notify all Participating Insurance Companies that Separate Account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

11. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders, 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 not 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, each 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.

12. If, and to the extent that, Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the 1940 Act 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 Applicant, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

13. No less than annually, the Participants shall submit to each Fund's Board such reports, materials, or data as the Board reasonably may request so that the directors or trustees, as appropriate, of the Fund may carry out fully the obligations imposed upon them by the conditions contained in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies and Plans to provide these reports, materials, and data to a Fund's Board, when the appropriate Board so reasonably requests, shall be a contractual obligation of all Participating Insurance Companies and Plans under the agreements governing their participation in the Funds.

14. If a Plan becomes an owner of 10% or more of the assets of a Fund, such Plan will execute a fund participation agreement with the applicable Fund including the conditions set forth herein to the extent applicable. A Plan will execute an application with each of the Funds containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Fund.

Conclusion

For the reasons stated above, Applicant asserts that the requested exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2 and 6e–3(T) thereunder are appropriate in the public interest and 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. 96–22454 Filed 9–3–96; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

### Enterprise Fund, L.P.; Notice of Issuance of a Small Business Investment Company License

**[License No. 07/07–0098]**

On September 19, 1995, an application was filed by Enterprise Fund, L.P., Clayton, Missouri 63105–3753, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107–102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 07/07–0098 on May 14, 1996, to Enterprise Fund, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 26, 1996.

Don A. Christensen,

*Associate Administrator for Investment.*

[FR Doc. 96–22463 Filed 9–3–96; 8:45 am]

BILLING CODE 8025–01–M

**[License No. 09/09–0406]**

### FNF Ventures, Inc.; Notice of Issuance of a Small Business Investment Company License

On December 14, 1995, an application was filed by FNF Ventures, Inc., Fidelity National Ventures, Inc., 17911 Von Karman, Suite 500, Irvine, California 92714–6253, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09–0406 on August 20, 1996, to FNF Ventures, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 26, 1996

Don A. Christensen,

*Associate Administrator for Investment.*

[FR Doc. 96–22466 Filed 9–3–96; 8:45 am]

BILLING CODE 8025–01–P

**[License No. 02/02–0568]**

### Toronto Dominion Capital (U.S.A.), Inc.; Notice of Issuance of a Small Business Investment Company License

On January 19, 1996, an application was filed by Toronto Dominion Capital

(U.S.A.), Inc., The Toronto Dominion Bank, 31 West 52nd Street, 20th Floor, New York, New York 10019–6101, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0568 on August 1, 1996, to Toronto Dominion Capital (U.S.A.), Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 26, 1996.

Don A. Christensen,

*Associate Administrator for Investment.*

[FR Doc. 96–22465 Filed 9–3–96; 8:45 am]

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974; Report of New System of Records

**AGENCY:** Social Security Administration (SSA).

**ACTION:** New system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974 (5 U.S.C. 552a(e)(4) and (11)), we are notifying the public of our intent to establish a new system of records. The proposed system is entitled ''Plans for Achieving Self-Support (PASS) Management Information System, SSA/OPBP, 05–009.'' Supplemental Security Income (SSI) recipients can engage in gainful employment or receive income in other ways that contribute toward their regaining the ability to participate normally in the work force. Individuals can report their earnings from work activity or other job-related income by means of a PASS, which becomes part of their SSI claim documentation.

The system will maintain information about plans to establish financial self-sufficiency submitted by certain recipients of SSI under title XVI of the Social Security Act. SSA management will use the information in the system to keep track of SSI claims involving PASS and perform quality assurance and program reviews and other studies regarding PASS.

We are also proposing to establish certain routine use disclosures of the information to be maintained in the system. The routine uses are discussed below.

We invite public comment on this publication.

**DATES:** We filed a report of the proposed system of records with the Senate Committee on Governmental Affairs, the House Committee on Government Reform and Oversight, and the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, on August 20, 1996. We have requested a waiver of the OMB 40-day advance notice period for this system of records. If OMB grants the waiver, the system of records is effective upon publication in the Federal Register; if OMB does not grant the waiver, we will implement the system on October 4, 1996. In any event, we will not disclose any information under a routine use until 30 days after publication. We may defer implementation of this system of records or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

**ADDRESSES:** Interested individuals may comment on this proposal by writing to the SSA Privacy Officer. The mailing address is 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410–965–1736. Comments may be faxed to 410–966–0869. All comments received will be available for public inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter J. Benson, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410–965–1736.

**SUPPLEMENTARY INFORMATION:**

I. Description of the Proposed System of Records

Sections 1612(b)(4)(A), 1612(b)(4)(B), and 1613(a)(4) of the Social Security Act authorize the Commissioner of Social Security, when determining eligibility for, or the amount of, supplemental security income (SSI) benefits, to exclude such income or resources as determined to be necessary for the fulfillment of Plans for Achieving Self-Support (PASS) approved by the Commissioner.

We are proposing to establish a more effective and efficient case control and management information system than we now have for PASS program evaluation purposes. The system would maintain information about individuals who have submitted a PASS.

The proposed system will consist of computerized files and some paper records retrievable by the Social Security number (SSN) and name of the individual who has submitted a PASS. Based on past experience, we expect to process approximately 5,500 new PASS per year. We will collect and maintain only the information that is essential for program evaluation and case control purposes.

II. Collection and Maintenance of Data in the System

Most of the information in this system of records will already be in existing SSA Privacy Act systems of records, in the Claims Folder system (09–60–0089) or the Supplemental Security Income Record system (09–60–0103). Some new information will be obtained from SSI recipients or from other persons, or will be generated by SSA. Holding this information together will facilitate review and oversight of SSI claims involving PASS by SSA management.

III. Proposed Routine Use Disclosures of Data in the System

We are proposing to establish the following routine use disclosures of information which will be maintained in the system:

1. To third-party contacts when the party to be contacted has, or is expected to have, information relating to the individual's PASS, when:

(a) The individual is unable to provide the information being sought. An individual is considered to be unable to provide certain types of information when:

(1) He or she is incapable or of questionable mental capability;

(2) He or she cannot read or write;

(3) He or she cannot afford the cost of obtaining the information;

(4) He or she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator;

(5) A language barrier exists; or

(6) The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual in connection with his or her PASS; or SSA is reviewing the information as a result of suspected abuse or fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

Although most of the information that will be maintained in this system will already be in SSA's files, SSA will occasionally need to obtain additional information from SSI recipients or other sources. When an SSI recipient has difficulty communicating with SSA or obtaining needed information because

of a physical handicap, a language barrier, or other reason, SSA helps the individual as needed. There can also be other situations in which SSA requests information from a source other than the subject individual. To request needed information from such other sources, SSA must disclose minimal information about the individual to them, for example, information identifying the individual and the fact that the subject individual is, or was, a recipient of SSI payments.

2. To a Congressional office in response to an inquiry from that office made at the request of the subject of the record.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before SSA. The Member of Congress then writes SSA, and SSA must be able to give sufficient information to be responsive to the inquiry.

3. To the Department of the Treasury, Internal Revenue Service, for the purpose of auditing SSA's compliance with the safeguard provisions of the Internal Revenue Code of 1986, as amended.

Wage and self-employment income information in SSA's files, obtained through the Federal tax reporting process, is considered to be ''tax return'' information, subject to the confidentiality provisions of section 6103 of the Internal Revenue Code, 26 U.S.C. 6193, administered by the Internal Revenue Service (IRS). SSA must give IRS information to allow IRS to carry out its necessary auditing functions under that statute to determine whether SSA is maintaining and disclosing tax return information in accordance with that statute.

4. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

Individuals sometimes request the help of the President in resolving some issue relating to matters before SSA. The Office of the President then writes SSA, and SSA must be able to give sufficient information to be responsive to the inquiry.

5. Information may be disclosed to a contractor or another Federal agency, as necessary for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an SSA function relating to this system of records.

SSA occasionally contracts out certain of its functions when this would contribute to effective and efficient operations. SSA must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

6. Nontax return information that is not restricted from disclosure by Federal law may be disclosed to the General Services Administration or the National Archives and Records Administration (NARA) for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906.

The General Services Administration (GSA) and NARA are responsible for archiving old records no longer actively used but which may be appropriate for preservation; they are responsible in general for the physical maintenance of the Federal government's records. SSA must be able to turn records over to these agencies in order to determine the proper disposition of such records.

7. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when:

(a) SSA or any component thereof, or

(b) any SSA employee in his or her official capacity, or

(c) any SSA employee in his or her individual capacity when DOJ (or SSA when it is authorized to do so) has agreed to represent the employee, or

(d) the United States or any agency thereof (when SSA determines that the litigation is likely to affect the operations of SSA or any of its components) is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court, or other tribunal, or party before such court or tribunal is relevant and necessary to the litigation, provided, however, that in each case SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information that is subject to the disclosure provisions of the Internal Revenue Code (IRC, 26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

Whenever SSA is involved in litigation, or occasionally when another party is involved in litigation and SSA's policies or operations could be affected by the outcome of the litigation, SSA would be able to disclose information to the court or the parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by the use of the information in the particular litigation is compatible with a purpose for which SSA collects the information.

## IV. Compatibility of the Proposed Routine Uses

We are proposing the routine use statements discussed above in accordance with the Privacy Act (5 U.S.C. 552a(a)(7), (b)(3), (e)(4) and (e)(11) and our disclosure regulation (20 CFR part 401).

The Privacy Act permits us to disclose information about individuals without their consent for a routine use, i.e., when the information will be used for a purpose that is compatible with the purpose for which we collected the information.

Our disclosure regulation allows us to disclose information under a routine use when the disclosure will be used to administer one of our programs or a similar program of another government agency, or when disclosure is required by law. See 20 CFR 401.205 and 401.310.

In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of SSA's programs (for example, disclosures to obtain other information needed for a purpose related to PASS from sources other than the SSI recipient, disclosures to contractors assisting SSA with an administrative function, disclosure in connection with litigation relating to (or affecting) a program administered by SSA) or disclosure is required by law (for example, to IRS, GSA and NARA). Uses of information in connection with matters affecting SSA's programs are self-evidently ''compatible.'' Where disclosure is required by law, the statute establishes that the mandated use of information described in that statute is one of the statutorily prescribed uses for which that information is collected and maintained by SSA.

## V. Safeguards

We will employ a number of security measures to minimize the risk of unauthorized access to or disclosure of personal data in the proposed system. These measures include the use of passwords and access codes to enter the computer system which will maintain the data, and storage of the computerized records and paper records, in secured areas which are accessible only to employees who require the information in performing their official duties. SSA employees

who have access to the data will be informed of the criminal penalties of the Privacy Act for unauthorized access to or disclosure of information maintained in the system.

VI. Effect of the Proposed System of Records on Individual Rights

While some new information will be collected or generated by SSA for this system, most of the information maintained in the system will be obtained from other SSA systems of records. Routine use disclosures of information in this system will be even more limited than those permitted from the other systems or records furnishing information to this system. SSA will use the data internally to track cases involving PASS, and perform quality assurance and program integrity reviews and other management studies. SSA will apply the safeguards described above to information in this system and will comply with the provisions of the Privacy Act, the Social Security Act and other laws pertaining to the maintenance, use and disclosure of such information. Any action, resulting from SSA's use of information maintained in this system of records and affecting an individual's Supplemental Security Income benefits, will be taken in accordance with the Social Security Act and regulations and procedures established to implement that statute. Consequently, we do not anticipate that this system of records or the routine uses established for the disclosure of information maintained in this system of records would have any unwarranted adverse effect on the privacy rights or other rights of individuals covered by the system.

Dated: August 20, 1996.

Shirley S. Chater,

*Commissioner of Social Security.*

**05–009**

**SYSTEM NAME:**

Plans for Achieving Self-Support (PASS) Management Information System, SSA/OPBP.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Social Security Administration, Office of Program Benefits Policy, 760 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235

In addition, PASS documents may be temporarily transferred to other locations within the Social Security Administration (SSA). Contact the system manager to inquire about these addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system maintains information on disabled and blind individuals who are Supplemental Security Income recipients and who have submitted plans for achieving self-support under sections 1612(b)(4)(A), 1612(b)(4)(B), and 1613(a)(4) of the Social Security Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains the beneficiary's name; Social Security number (SSN); disability diagnosis; occupational objective; information as to whether the individual's plan was developed by a third party and, if so, the identity of the third party; if the PASS was disapproved, terminated or suspended, the basis for that action; information relating to his or her earnings and employment at the beginning and end of the PASS; the nature and costs of those goods and services which the individual has purchased or proposes to purchase under his or her plan; information about goods and services actually purchased with respect to an approved plan; and information about plans that were not approved (e.g., the basis for denial of approval of a plan).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Secs. 1602, 1612(b)(4)(A), 1612(b)(4)(B), and 1613(a)(4) of the Social Security Act.

**PURPOSE(S):**

SSA uses the information in the system for program evaluation purposes and to determine the number and types of individuals that are successfully returning to work as a result of the PASS.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made for routine uses as indicated below:

1. To third-party contacts when the party to be contacted has, or is expected to have, information relating to the individual's PASS, when:

(a) The individual is unable to provide the information being sought. An individual is considered to be unable to provide certain types of information when:

(1) He or she is incapable or of questionable mental capability;

(2) He or she cannot read or write;

(3) He or she cannot afford the cost of obtaining the information;

(4) He or she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator;

(5) A language barrier exists; or

(6) The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual in connection with his or her PASS; or SSA is reviewing the information as a result of suspected abuse or fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

2. To a Congressional office in response to an inquiry from that office made at the request of the subject of the record.

3. To the Department of the Treasury, Internal Revenue Service, for the purpose of auditing SSA's compliance with the safeguard provisions of the Internal Revenue Code of 1986, as amended.

4. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

5. Information may be disclosed to a contractor or another Federal agency, as necessary for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an SSA function relating to this system of records.

6. Nontax return information that is not restricted from disclosure by Federal law may be disclosed to the General Services Administration or the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906.

7. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when:

(a) SSA or any component thereof, or

(b) Any SSA employee in his or her official capacity, or

(c) Any SSA employee in his or her individual capacity when DOJ (or SSA when it is authorized to do so) has agreed to represent the employee, or

(d) The United States or any agency thereof (when SSA determines that the litigation is likely to affect the operations of SSA or any of its components) is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records to DOJ, the court or other tribunal, or party before such court or tribunal, is relevant and necessary to the litigation, provided, however, that in

each case SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information that is subject to the disclosure provisions of the Internal Revenue Code (IRC, 26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are stored in magnetic media (e.g., computer hard drives) and on paper. Paper printouts of these data are made when required for study. The system also contains photocopies of benefit application forms, keyed application forms, and other claims documentation, when relevant to the PASS system.

**RETRIEVABILITY:**

Records are retrieved from the system by the name or SSN of the individual who submitted the PASS.

**SAFEGUARDS:**

Safeguards for automated data have been established in accordance with the Systems Security Program Handbook. This includes maintaining computer disk packs or other magnetic fields with personal identifiers in secured storage areas accessible only to authorized personnel. SSA employees having access to the computerized records and employees of any contractor who may be utilized to develop and maintain the software for the automated system will be notified of criminal sanctions for unauthorized disclosure of information about individuals. Also, contracts, if any, will contain language that delineates the conditions under which contractors will have access to data in the system and the safeguards that must be employed to protect the data.

Paper documents are stored either in lockable file cabinets within locked rooms or in otherwise secured areas. Access to these records are restricted to those employees who require them to perform their assigned duties.

**RETENTION AND DISPOSAL:**

Computerized records are maintained for a period of six years and three months after the end of the fiscal year in which final adjudication was made. Paper records produced for purposes of studies will be destroyed upon completion of the study. Photocopies of forms and documentation will be destroyed upon approval or denial of the PASS. Original copies of the forms and documentation are maintained in the Claims Folder System, (SSA/OSR 09–60–0089). Means of disposal are appropriate to the storage medium (e.g., erasure of disks, shredding of paper records, or transfer to another system of records).

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Commissioner, Office of Program Benefits Policy, 760 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235

**NOTIFICATION PROCEDURE:**

An individual can find out if this system of records contains information about him/her by writing to the system manager at the address shown above and providing his or her name, address, and SSN. (Furnishing the SSN is voluntary. However, searching for the individual's data will be easier and faster if it is furnished.)

An individual can also find out if this system of records contains information about him/her by contacting any Social Security office.

When requesting notification of records in person, an individual should provide his/her name, Social Security claim number (the SSN plus alphabetic symbols), address, and proper identification. If the Social Security number is not known, the requester's date and place of birth and mother's birth name may be provided instead.

An individual requesting notification of records in person need not furnish any special documents of identity. Documents normally carried on one's person are sufficient (e.g., driver's license, voter registration card, or credit cards). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth, and address in order to establish identity, plus any additional information which SSA may request.

**RECORD ACCESS PROCEDURES:**

Same as notification procedures described above. Individuals requesting access to their records should also reasonably describe the records they are seeking.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedures described above. Individuals contesting the contents of a record in the system should also reasonably describe the record, specify the information being contested, and state the corrective action sought with supporting justification showing how the record is untimely, incomplete, inaccurate, or irrelevant.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from other SSA systems of records (i.e., Claims Folder System (SSA/OSR 09–60–0089) and Supplemental Security Income Record (SSA/OSR 09–60–0103), from information provided by the beneficiary, and from investigations conducted by SSA employees relating to beneficiaries' PASS activities.

**SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 96–22489 Filed 9–3–96; 8:45 am]

BILLING CODE 4190–29–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Intelligent Transportation Society of America; Public Meeting

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Sunday, October 13, 1996. The agenda includes the following: (1) Call to order and instructions; (2) Statement of anti-trust compliance; (3) Approval of July 24, 1996, meeting minutes; (4) Federal Reports—Modal Administrations; (5) ITS AMERICA President's Report; (6) Sunset-Sunrise Task Force Report; (7) U.S. DOT's ATMS Research and Technology Business Plan Review; (8) Dedicated Short-Range Communications (DSRC) Report; (9) Joint Meteorological Task Force Update; (10) Research Agenda Task Force Update; (11) CVO Guiding Principles; (12) Standards Needs Timeline; (13) ARTS Conference Report; (14) AVCS Committee Workshop; (15) World Congress and Annual Meeting Update; (16) Other Business; (17) Adjourn.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

**DATES:** The Coordinating Council of ITS AMERICA will meet on Sunday,

October 13, 1996, from 1:00 p.m. to 5:00 p.m. (Eastern Standard time)

**ADDRESSES:** Omni-Rosen Hotel, 9840 International Drive, Orlando, Florida, phone: (407) 354–9840; Fax (407) 351–2659.

**FOR FURTHER INFORMATION CONTACT:** Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW., Suite 800, Washington, D.C. 20024. Persons needing further information or to request to speak at this meeting should contact Kenneth Faunteroy at ITS AMERICA by telephone at (202) 484–4130, or by FAX at (202) 484–3483. The DOT contact is Mary Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except for legal holidays.
(23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 28, 1996.

Jeffery Lindley,

*Deputy Director, ITS Joint Program Office.*

[FR Doc. 96–22418 Filed 9–3–96; 8:45 am]

**BILLING CODE 4910–22–P**

## Intelligent Transportation Society of America; Public Meeting

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Tuesday, October 15, 1996. The session begins with an Administrative Business session (non-Federal Board members only). The General Program Session (open to all members and observers) is as follows: (1) Review of ITS America Antitrust Policy and Conflict of Interest Statements; (2) Welcome; (3) Review and Approval of Previous Meeting's Minutes; (4) Report of the Executive Committee; (5) Coordinating Council Report; (6) State Chapters Council Report; (7) Report of the U.S. Federal ITS Initiatives; (8) Friends of ITS Report; (9) President's Report; (10) Report of the World Congresses (i.e. Orlando and Berlin); (11) Other Business; (12) Adjournment until the next Board meeting in January 1997 at the Sheraton Washington Hotel in Washington, D.C., in conjunction with the Annual Transportation Research Board (TRB) meeting.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

**DATES:** The Board of Directors of ITS AMERICA will meet on Tuesday, October 15, 1996, from 1:00 p.m.–5:00 p.m.

**ADDRESSES:** Omni-Rosen Hotel, 9840 International Drive, Orlando, Florida, phone: (407) 354–9840; Fax (407) 351–2659.

**FOR FURTHER INFORMATION CONTACT:** Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, D.C. 20024. Persons needing further information or who request to speak at this meeting should contact Kenneth Faunteroy at ITS AMERICA by telephone at (202) 484–4130 or by FAX at (202) 484–3483. The DOT contact is Mary C. Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.
(23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 28, 1996.

Jeffery Lindley,

*Deputy Director, ITS Joint Program Office.*

[FR Doc. 96–22420 Filed 9–3–96; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 5305A–SEP

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5305A Salary Reduction and other Elective–SEP, Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

**DATES:** Written comments should be received on or before November 4, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Salary Reduction and Other Elective Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

*OMB Number:* 1545–0499.

*Form Number:* Form 5305A–SEP.

*Abstract:* Form 5305–SEP is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS, but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions made to the SEP.

*Current Actions:* There are no changes being made to this form.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 100,000.

*Estimated Time Per Respondent:* 2 hr., 39 min.

*Estimated Total Annual Burden Hours:* 265,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 28, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96–22515 Filed 9–3–96; 8:45 am]

**BILLING CODE 4830–01–U**

## Proposed Collection; Comment Request for Form 5305A–SEP

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5305A–SEP, Salary Reduction and Other Elective Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

**DATES:** Written comments should be received on or before November 4, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Salary Reduction and Other Elective Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

*OMB Number:* 1545–1012.

*Form Number:* Form 5305A–SEP.

*Abstract:* Form 5305–SEP is used by an employer to make an agreement to provide benefits to all employees under a salary reduction Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS, but is to be retained in the employer's records as proof of establishing such a plan, thereby justifying a deduction for contributions to the SEP.

*Current Actions:* There are no changes being made to this form.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 100,000

*Estimated Time Per Respondent:* 2 hr., 39 min.

*Estimated Total Annual Burden Hours:* 265,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 28, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96–22516 Filed 9–3–96; 8:45 am]

**BILLING CODE 4830–01–U**

## Proposed Collection; Comment Request for Form 8308

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8308, Report of a Sale or Exchange of Certain Partnership Interests.

**DATES:** Written comments should be received on or before November 4, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of a Sale or Exchange of Certain Partnership Interests.

*OMB Number:* 1545–0941.

*Form Number:* Form 8308.

*Abstract:* Form 8308 is an information return that gives the IRS the names of the parties involved in an exchange of a partnership interest under Internal Revenue Code section 751(a). It is also used by the partnership as a statement to the transferor and transferee. It alerts the transferor that a portion of the gain on the sale of a partnership interest may be ordinary income.

*Current Actions:* There are no changes being made to this form.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals, and farms.

*Estimated Number of Respondents:* 200,000.

*Estimated Time Per Respondent:* 7 hr., 40 min.

*Estimated Total Annual Burden Hours:* 1,534,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 28, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96–22517 Filed 9–3–96; 8:45 am]

BILLING CODE 4830–01–U

## Joint Board for the Enrollment of Actuaries; Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Office of The Wyatt Company, The Board Room, 303 West Madison Street, Chicago, IL, on September 30, 1996, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exception to the open meeting requirement set forth in title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: August 23, 1996.

Patrick W. McDonough,

*Acting Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.*

[FR Doc. 96–22513 Filed 9–3–96; 8:45 am]

BILLING CODE 4830–01–U

## Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Act, I hereby appoint the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Marlene Gross, Deputy Chief Counsel;
2. Neal S. Wolin, Deputy General Counsel;
3. Michael Danilack, III, Associate Chief Counsel (International);
4. William A. Goss, Southeast Regional Counsel;
5. John B. Cummings, Assistant Chief Counsel (Disclosure Litigation);
6. Catherine L. Lau, Deputy Regional Counsel, Western Region.

This publication is required by 5 U.S.C. 4314(c)(4).

Stuart L. Brown,

*Chief Counsel, Internal Revenue Service.*

[FR Doc. 96–22514 Filed 9–3–96; 8:45 am]

BILLING CODE 4830–01–U

federal register

Wednesday
September 4, 1996

# Part II

# Environmental Protection Agency

## Filing of Electronic Reports via Electronic Data Interchange; Notice

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5601–4]**

## Notice of Agency's General Policy for Accepting Filing of Environmental Reports via Electronic Data Interchange (EDI)

**AGENCY:** Environmental Protection Agency.

**ACTION:** Interim final notice.

**SUMMARY:** Agency regulations require that specified parties submit environmental reports under various statutory and regulatory provisions. These reports are to be submitted via forms and procedures specified by the Administrator. Today's notice of policy announces the Environmental Protection Agency's (EPA's) general approach for accepting electronic filing of environmental reports via Electronic Data Interchange (EDI). As specific EPA programs adopt EDI for their reports, details about specific reporting requirements will be announced, supplementing today's notice.

This action supports the President's overall regulatory reinvention goals of reducing the burdens of compliance and streamline regulatory reporting, as stated in the President's March, 1996, Reinventing Environmental Regulation Report. Also, EDI directly supports the Administrator's ''One-Stop Reporting'' initiative, the reengineering of regulatory reporting under the Common Sense Initiative (CSI), and the Administrator's goal of reducing baseline reporting burden by twenty-five percent. The use of EDI under this policy will make the tools of automation and business process reengineering available wherever the goal is to streamline and simplify the regulatory reporting processes. In addition, transmission of reports via EDI facilitates the availability of more timely and accurate environmental information to the public, in support of the Agency's efforts to improve public access to data and information.

The scope of this policy includes any Agency regulatory, compliance, or informational (e.g., voluntary reporting programs) reporting via EDI, and excludes any procurement-related reporting, as well any reporting via other electronic means that may be adopted in the future. In addition to EDI, the Agency is currently evaluating alternative means of electronic reporting for those reporting facilities that may not be equipped to engage in EDI.

This policy is based on EPA's experience with pilot tests of EDI for compliance reports and reflects substantial involvement, as well as ongoing dialogue, with our state and industry partners. While the policy does not explicitly address state-delegated reporting, EPA urges uniform EDI implementation across State-delegated programs and believes it is in the interest of all the participants to conform to the approach set forth in today's policy. The Agency will continue to consult and work with States to address the implementation of EDI under delegated programs in the Final Notice. We are therefore very interested in receiving comments on our EDI policy from States and from submitters subject to State-delegated reporting.

**DATES:** This action is effective on September 4, 1996.

**ADDRESSES:** The Agency is soliciting public comments on today's notice. EPA is particularly interested in comments on the PIN Management System outlined in today's notice, on common business practices for maintaining electronic files associated with the conduct of EDI (e.g., transmission logs), and on the Generic Terms and Conditions Agreement Model. The Agency also invites the regulated community, contractors, and vendors to provide comments on viable electronic alternatives to EDI and viable methods of handling other forms of electronic commerce.

Comments should be addressed to EPA EDI Implementation Policy Comment Clerk, Water Docket MC–4101; United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Commenters are requested to submit an original and 3 copies of their written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments. Commenters who want receipt of the their comments acknowledged should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand by December 30, 1996. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow–docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments and data will also be accepted on disks in WordPerfect 5.1 format or ASCII file format. All comments and data in electronic form must be identified by the Federal Register Notice title and date. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Comments on *electronic alternatives* to EDI should also be directed to: U.S. Environmental Protection Agency, RTP (MD–34), ATTN: Julie Dyrdek, Research Triangle Park, North Carolina 27711 OR sent by FAX to (919) 541–5091; OR by Internet to Dyrdek. Julie@EPAMail.EPA.GOV.

**FOR FURTHER INFORMATION CONTACT:** For questions about this policy notice or EPA EDI environmental reporting in general, contact Evi Huffer, U.S. Environmental Protection Agency, OPPE (2137), ATTN: EDI Team, 401 M Street, S.W., Washington, D.C. 20460 or call (202) 260–4825 and leave a brief message. This telephone number has been setup to respond to inquiries concerning today's notice.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

*Generally*

The primary purpose of today's notice is to announce the Agency's general policies concerning the receipt of electronic submissions of EPA environmental reports from the reporting community via Electronic Data Interchange (EDI). Unless specified in a separate program-specific notice, members of the reporting community are not required to use EDI to submit reports. However, EPA is making EDI available because there are specific, well-documented advantages to using EDI in lieu of paper forms. To get the full benefits of these advantages, this policy is designed to promote consistency across EPA program offices implementing EDI.

For environmental reports covered by this policy, today's notice presents an overall framework for accepting electronic reports filed via EDI. This notice does not announce EPA's intent at this time to accept any specific report via EDI.[1] As specific EPA programs adopt EDI for the filing of a specific report, the Agency will publish a separate notice in the Federal Register announcing our intent to accept filing of that report via EDI. Such subsequent program-specific notices shall supplement today's notice, following

[1] EPA currently accepts electronic filing via EDI for the Reformulated Gasoline and Anti-Dumping Reports under 40 CFR Part 80 and, starting in August, 1996, for the Discharge Monitoring Report under the National Pollution Discharge Elimination System.

the general approach outlined in this notice of policy, and providing detailed information for electronically filing those specific reports.

*EDI and Its Benefits*

EDI is the transmission, in a standard syntax, of unambiguous information between computers that may belong to organizations completely external to each other. It has been widely used by the private sector for commercial transactions. As an ''open systems'' approach to data exchange, EDI is largely independent of technology environments, providing a transparent bridge between incompatible hardware and software platforms.

EDI is the dominant form of electronic commerce across almost all business sectors—from aerospace to wood products—both nationally and internationally. EDI also predominates in the Federal government, most visibly at the Department of Defense. At least in the U.S., EDI is based on standard formats and protocols developed and maintained under the auspices of the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) ×12. Supporting these standards are a wide array of commercial software packages and communications networks, and a growing reservoir of industry EDI expertise available both to us and our regulated community.

The benefits of EDI include:

For EPA and Delegated States—

- dollars saved in data processing costs;
- significant enhancement of data quality;
- potential for dramatic improvements in speed/ease of data access; and
- opportunities to change business practices (such as integrating data collections across programs, States, and agencies; automating routine program management functions);

For our Industry Partners—

- dollars saved in reporting costs;
- much greater control of data quality in submissions;
- new opportunities to improve internal management of environmental data;
- dramatic improvements in access to EPA and State environmental databases; and
- productivity-enhancing possibilities (such as more uniform reporting requirements and procedures across States and programs; more streamlined data submissions reflecting the integration of reporting requirements;

For the Public—

- The availability of much more timely and accurate environmental information, in support of the Agency's efforts to improve the public's access to data and information in the public domain.

In summary, EDI can both reduce the costs of reported data and information, and enhance its value. EPA expects many regulated entities will recognize the benefits of EDI and choose to implement it as their preferred method for electronic submission of environmental reports.

*History of EPA's EDI Initiative*

The EPA first endorsed EDI for electronic reporting of environmental data in its Policy on Electronic Reporting (Federal Register Notice No. FRL–3815–4, vol. 55, no. 146, July 30, 1990). This policy was intended to promote electronic reporting and a uniform Agency approach that would be compatible with current industry and federal government practices. The policy recommends a standards-based approach, and encourages the use of ANSI ASC X12 standards for EDI.

EPA's 1990 policy anticipated a broader federal policy establishing EDI as the uniform approach to electronic reporting for Federal agencies, published the following year as Federal Information Processing Standard (FIPS PUB) 161, effective September 30, 1991. The stated objectives of FIPS PUB 161 are: to have Federal agencies achieve the benefits of EDI; to minimize the cost of EDI implementation by preventing duplication of effort; and to ensure that electronic reporting is implemented in a manner consistent across Agencies and compatible with current practices in the regulated community.

Since 1990, EPA has been working to fulfill the goals of these two policy statements by demonstrating the technical feasibility of EDI for reporting environmental data, primarily through a series of pilot projects involving partnerships between EPA and the States, industry, and foreign governments. In keeping with the spirit of collaborative partnerships that EDI embodies, EPA has conducted these pilots: (1) working closely with our industry partners in the ASC X12 community, as a member of the appropriate committees and subcommittees; (2) seeking voluntary industry collaboration, whenever possible, working through such industry groups as the Chemical Industry Data Exchange (CIDX) and the Petroleum Industry Data Exchange (PIDX); (3) working with EDI software vendors to adapt their existing products to EPA applications—fostering a marketplace solution that will support the use of EDI for environmental data operations; and (4) avoiding any proprietary formats and standards for electronic reporting.

Some of EPA's programs have now reached the stage where the technical issues surrounding implementation of EDI have largely been resolved. For such programs, the issues that stand between pilot and full EDI implementation center on the legal effects of using the electronic medium for regulatory and other environmental reporting. Hence EPA's need for the policy set out in today's notice that defines the functional requirements and specifications for legally admissible electronic submission of environmental reports. Our hope is that today's notice of policy will allow the Agency to go forward with the actual implementation of EDI.

EPA began work on this policy in April 1994, forming an Agency-wide workgroup, the Electronic Data Interchange Implementation Workgroup (EDIIW), which involved all interested EPA programs, including regional offices. EDIIW was formed to address issues in three areas: (1) Electronic signature/certification—determining which technologies will satisfy legal requirements for signature/certification under EPA's statues and regulations; (2) terms and conditions of electronic submission—setting out the general requirements for admissible electronic submissions of environmental reports from the reporting community, and addressing such questions as determining time of submission, resolving disputes with the Submitter, assigning responsibility for errors, and so on; and (3) regulatory/statutory obstacles to electronic submissions—identifying provisions that, for example, refer directly or indirectly to paper, and taking steps to eliminate these to the greatest extent possible.

Consistent with the 1990 policy, EDIIW's goal has been to develop an implementation approach that is as uniform as possible across Agency programs and as consistent as possible with the practices of other Federal Agencies and the private sector. In developing this policy, EDIIW has drawn upon the Agency's government/industry collaborative pilot project experience, as well as the practical expertise of other government agencies and industry. To the extent possible, the workgroup has sought to confine the resulting policy to functional requirements so as not to tie Agency policy to particular hardware/software/network platforms or products. In addition, the effort has focused on assessing existing technologies and practices, and applying them as appropriate, rather than attempting to

develop approaches that are wholly new.

*How the EPA EDI Reporting Program Will Work*

Today's policy sets forth the basic approach for implementing EDI for environmental reporting. As EPA implements specific reporting initiatives (e.g, when a program is ready to move forward with actual EDI implementation for a particular report), a notice will be published in the Federal Register announcing the Agency's intent to accept a specific environmental report electronically. The program-specific notice will reference or incorporate today's notice, and outline the program-specific requirements for electronic filing of that report. Following publication of a program-specific notice, EPA will accept reports filed via EDI in lieu of paper reports so long as the electronic reports are consistent with the program-specific notice and the Submitter has signed a formal document that sets forth the ''Terms and Conditions'' for submitting reports via EDI and abides by the provisions set forth in that document.

The Agency Generic Terms and Conditions Agreement (TCA) Model, the text of which appears in Section II below, sets forth the basic responsibilities of the Submitters. A program-specific notice of intent to accept specific reports via EDI will specify a TCA that is correspondingly program-specific, following the approach of today's TCA Mode.

EPA will accept electronic reporting of environmental reports covered under today's notice *only if* the Submitter signs the applicable program-specific Terms and Conditions Agreement. EPA offices publishing program-specific TCAs will state their intent to be bound by the TCA once the Submitter signs the Terms and Conditions Memorandum and, where applicable, EPA issues a PIN. By signing the TCA, the reporting party will be subject to the procedural requirements discussed in this and subsequent program-specific Federal Register notices.

In addition, program-specific notices will incorporate by reference associated program-specific technical EDI Implementation Guidelines. The program-specific Implementation Guidelines will define the application of specific ANSI ASC X12 transaction sets for the individual environmental reports in question.

These Implementation Guidelines may also address other technical issues as dictated by the needs of the specific program and its Submitters. In any event, they shall be understood as program-specific amendments to the generic EPA technical guidance document titled ''EPA Electronic Data Interchange Implementation Guideline''. This generic guideline sets forth EPA's general goals in using EDI and the related business issues; outlines the Agency's general approach to developing, maintaining, and using EDI standards; and discusses such issues as choice of systems architecture, value added network (VAN) and translator products. Copies of this document are currently available for the public's review. [Copies of both the generic and—as they become available—program-specific guidelines will be sent to Submitters and other interested parties, and may be obtained from a Bulletin Board System listed in **SUPPLEMENTARY INFORMATION** or by contacting the person(s) listed in **FOR FURTHER INFORMATION CONTACT**.

Finally, it is EPA's policy to promote public access to environmental data and information. Where a program is able to make a database available to the public online, electronic reporting to EPA via EDI will greatly enhance public access to submissions for the reasons already noted. In any case, programs implementing EDI under this policy must insure that the public has at least the same or better access to electronically submitted reports as they currently have to reports submitted on paper.

*The Personal Identification Number (PIN) System*

Where EPA requires certification to insure the integrity and authenticity of electronically submitted Documents, EPA will generally require the Submitter to use a personal identification number (PIN) assigned by EPA. The minimum requirement is a single PIN approach for each Submitter; however, specific program needs may require the use of an additional PIN. These PIN requirements are elaborated on in what follows as well as in the applicable TCAs.

Each PIN will consist of a sequence of alpha-numeric characters. The Submitter must ensure that this PIN is included in each Document that such party transmits to EPA.

When the PIN is received as part of an electronic message, the PIN will be deemed to indicate authenticity. Further, responsibility and accountability for the PIN is directly linked to the individual assigned that PIN. Regardless of how a corporation delegates authority, a PIN is assigned to an individual, and that individual within the scope of the agreement is responsible for the accuracy and authenticity of the information electronically received by EPA.

Management of PINs. During this interim policy period, PIN's for program-specific reports will be assigned and managed by individual EPA Program Offices. While EPA recognizes the advantages of centralized management of electronic signature devices (PINs or other digital alternatives), we feel that it is impractical to provide for such a system at this time. The electronic commerce marketplace is still very much in transition, and the roles that other government agencies (both at the State and Federal levels), as well as third-party commercial service providers will play in electronic certification are yet to be fully determined. EPA will continue to monitor developments in the electronic commerce marketplace and requests comments from the public on management of electronic signature devices. The Final Policy Notice will address the Agency's streamlined management of electronic signature devices.

Assignment of PINs. In conjunction with the Terms and Condition Agreement, the responsible corporate officer of the Submitter must identify authorized representatives (i.e., corporate employees who are authorized to submit reports). EPA will then assign an individual PIN or dual PIN, depending on program-specific needs, to each authorized representative so identified, mailing the PINs directly to such representatives via U.S. Postal Service or recognized carrier.

Once PINs are assigned, EPA does not intend to routinely change them. However, the Agency will issue a new PIN at the written request, on company letterhead, of a responsible corporate officer of the Submitter.

In addition, EPA will change PINs where Submitters undergo personnel changes that affect the identity of their authorized representatives, or where there is evidence of compromise, as detailed in the following section, Security of PINs. In such cases, the Submitter is responsible for immediately notifying EPA (in writing and on company letterhead and signed by an authorized corporate officer) of termination of employment, or reassignment, of any authorized representative, and of any new or newly assigned employee(s) who will act as authorized representative(s). Depending on the reporting cycle, EPA will then cancel such authorized representative's individual PIN before the next reporting cycle to which the PIN applies, or no later than fourteen (14) business days of

receiving such notice, whichever comes first.

Security of PINs. The Submitters must institute and maintain security procedures to protect their PINs from unauthorized disclosure, and EPA will do the same within the context of Agency systems. The Submitter is responsible for notifying EPA immediately if it has reason to believe the security of any PIN(s) has been compromised and must revoke such PIN(s) and request a change. If EPA has reason to believe that PIN security has been compromised, the Agency will initiate PIN revocation and/or changes.

*Record Retention Requirements*

Certain records must be created and maintained for the specific purposes of transmitting reports to EPA via EDI. However, in addressing such records, this notice should not be understood to in any way affect any other record-keeping requirements in existing regulations, or to apply to the question of satisfying such requirements by maintaining electronic files in lieu of paper files for audit purposes.

Concerning EDI transmission of reports to EPA then, in general, Submitters must retain sufficient records to demonstrate the authenticity, completeness, accuracy, and integrity of those transmissions. It is EPA's view that this requirement is inherent in the standard business practices associated with EDI. That is, EPA considers, and the Submitter agrees in the TCA, that by electing to submit reports to EPA via EDI the Submitter commits to adopting business practices consistent with EDI, to include maintaining an auditable system of records associated with the creation and transmission of electronic files.

EPA considers auditability to be defined, at least conceptually, by the Data Interchange Standards Association's (DISA) 'Model EDI Audit Program', and expects Submitters to maintain records that conform to the substance of that model. Submitters should always bear in mind that the creation and management of adequate and proper documentation of all EDI transactions is essential to ensuring that they can serve as the official record of the reports submitted to EPA for administrative, programmatic, and legal purposes. For EPA reports covered under today's notice, the required records must be sufficient to serve as the official record of those reports.

Central to these required records is a Transmission Log, which must be retained by all parties using EDI for reporting purposes. The Transmission Log includes the date, time, destination address and telephone number, and a copy of the file transmitted; it also documents who had access to the Submitter's system during the creation of the files and during their transmission. Following the guidance of the DISA Audit Model, EPA views these Transmission Log elements to constitute the minimum records required to provide an auditable system for creating and transmitting reports via EDI. Therefore, EPA expects each Submitter to create an official Transmission Log of all transactions and maintain it without any modification. Each Submitter shall designate one or more qualified individuals with appropriate authority to certify the accuracy and completeness of the Transmission Log and this designation shall be retained as part of the records. Each Submitter shall also maintain records concerning the assignment and revocation of PINs, as discussed elsewhere in this notice.

These two items (the Transmission Log and PIN records) constitute the minimum records required for EDI transactions under this notice. Submitters should determine what additional records to retain to ensure their record of EDI transmissions is adequate to resolve any discrepancies between the Submitter's record and EPA's record. Submitters must maintain such records, together with the Transmission Log and PIN records for the applicable retention period specified in the regulations. This period is frequently three (3) years or more, and should be specified in the program-specific notice, guidance, and/or TCA.

Correspondingly, at a minimum, EPA will maintain a secure copy of all EDI transmissions, both in-bound and out-bound, in addition to the Transmission Log and PIN assignment records. EPA will also maintain a record that documents our procedures and processes for managing EDI transmissions. EPA will maintain its documentation for the time period set by the Agency's records disposition schedules.

Individual EPA Program Offices may mandate additional recordkeeping requirements for Submitters or themselves based on their audit needs. Individual Program Offices will also determine whether and under what conditions the EDI transmission records can serve as the Submitter's auditable record. In addition, of course, the Submitter must maintain whatever other records the applicable statute or regulation require, including, e.g., the files, databases, laboratory reports, calculations, etc. that might be involved in preparing the document for submission. Submitters should refer to the applicable statute or regulation, as well as to the program-specific notice, guidance, and/or TCA for recordkeeping requirements.

*Paperwork Reduction Act*

In general, while EPA information collection requirements are subject to approval by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.*, EPA considers the activities associated with accepting electronic filing of environmental reports via EDI, detailed in today's notice of policy, not subject to approval by OMB under the PRA. In addition, Electronic submission of reports in the manner of EDI do not require the inclusion of the OMB control number to satisfy PRA display requirements, provided that the public receives adequate notice of OMB clearance through other means. While the PRA requires display of OMB numbers on a legally valid form, in the case of EDI, adequate notice will be provided by including a citation of the OMB number in a PRA section of all program-specific Federal Register notices announcing the availability of EDI, and also including a citation in the program-specific Terms and Conditions Agreement.

*Receipt of Documents*

Date of Receipt. EPA will consider an electronically filed report received when it can be fully processed by the translator at the EPA's receipt computer, i.e. when the document is retrievable from the electronic mailbox by EPA and syntactically correct (to applicable EDI standards), able to be successfully translated by EPA. No document shall satisfy any reporting requirement until it is received. Upon receipt of any report, EPA will promptly send a functional acknowledgment in return within ''X'' business days.[2] A positive functional acknowledgment indicating no syntactical errors will constitute conclusive evidence that EPA has properly received a report and will establish the ''Received Date''.

Retransmission. If the Submitter does not receive this functional acknowledgment promptly[3] after its transmission to the EPA, then the Submitter must re-send the document and follow any recovery procedures

[2] The number of business days shall depend on specific program needs and will be specified in the program-specific Notice or related documents (e.g., Implementation Guidelines, TCA).

[3] ''Promptly'' shall be determined by each program-specific EDI application and defined in the program-specific notice or related documents (e.g., Implementation Guideline, TCA).

stated in the applicable EPA EDI Implementation Guidelines.

The Submitter must retransmit any document within ''X'' days[4] of receiving a re-transmission request by EPA. Likewise, EPA will re-send any transmission originated by EPA at the Submitter's request.

Inability to Transmit. Circumstances, both foreseeable and unforeseeable, may prevent a reporting party from conducting EDI. Nevertheless, no Submitter will be excused from the requirement to file reports with the Agency by the appropriate regulatory deadline. If a party is unable to electronically file a required report by such deadline, it must submit a paper report on forms required by the applicable regulation.

*Legal Status of Electronic Submissions*

EPA regulatory programs will, where practicable and not in conflict with applicable law, initiate EDI for their reporting requirements by creating program-specific Implementation Guidelines, which—taken together with program-specific Federal Register notices (including Terms and Conditions Agreements) that are consistent with this Notice—will outline the specific procedures required for electronic submission. For such programs, EPA will consider the electronic reports that are filed in a manner consistent with the procedures thus outlined to fulfill the requirements of an equivalent paper submission as required under the applicable existing Agency regulations pertaining to form/format, submission procedure and signature requirements for reports.

Specifically, concerning the requirement that reports must be signed and certified as correct by the Submitter or its authorized representative, EPA will consider a properly filed electronic report—filed in a manner consistent with the procedures outlined in applicable program-specific Implementation Guidelines and Federal Register notices—to meet the legal signature/certification requirements of equivalent paper submissions. For practical purposes, EPA will consider the use of the PIN, which is required to be included in each and every submitted document, to constitute certification of correctness—by the owner or responsible corporate officer of the Submitter—within the meaning of signature/certification for that report.

EPA considers, and the Submitter agrees in the TCA, that use of the PIN(s) is required on each and every report and that use of the PIN constitutes a certification, under penalty of perjury (or other program-specific requirement), that the information submitted is true and accurate. However, it should be stressed that the PIN will have this status only to the extent that the electronic filing satisfies all the requirement procedures.

As technology evolves, EPA may embrace other, or alternative, electronic manifestations of signature/certification. However, based on current technology, and considering issues of costs and the level of certainty required for authentication, PIN-based certification provides the most suitable approach available to EPA and our regulated community.

II. Text of EPA Generic Terms and Conditions Agreements Model

*Scope*

Use of this generic Terms and Conditions Agreement (TCA) model applies when EPA requires certification and/or authentication by the Submitter of a report. Where neither certification or authentication is required but use of a TCA is desired by EPA, the Agency may modify this TCA to eliminate unnecessary paragraphs. The model TCA is designed to promote consistency in implementing EDI by Program Offices within the Agency.

*Model*

*EPA Generic Terms and Conditions Agreement (TCA) Model for Submission of Environmental Reports via Electronic Data Interchange (EDI)*

THIS ELECTRONIC DATA INTERCHANGE TERMS AND CONDITIONS AGREEMENT (the ''Agreement''), by and between the United States Environmental Protection Agency (''EPA''), 401 M St., SW, Washington, D.C., a federal governmental agency, and reporting party (''Submitter'') who has signed and returned the Terms and Conditions Agreement (TCA) Memorandum, included in today's notice referenced above, is effective on the date on which EPA issues the initial PIN(s), in response to receipt and acceptance of Submitter's signed TCA Memorandum.[5] (When a program is not using a PIN system, some other determinant for the effective date will be specified in the program-specific notice.)

1. *RECITALS*. The intent of this agreement is to create legally binding obligations upon the parties using EDI and to ensure that (a) use of any electronic functional equivalent of documents referenced or exchanged under this agreement shall be deemed an acceptable practice in the ordinary course of Submitter-to-EPA environmental reporting and (b) such electronic records shall be admissible as evidence on the same basis as paper documents. The parties intend to be legally bound by them.

2. *VALIDITY AND ENFORCEABILITY*

2.1 This Agreement has been executed by the parties to evidence their mutual intent to create binding regulatory reporting documents using electronic transmission and receipt of such records.

2.2 Any records properly communicated pursuant to this Agreement shall be considered to be a ''writing'' or ''in writing''; and any such records which contain or to which there is affixed, a Signature, as defined by para. 6 of this Agreement, (''Signed Documents'') shall be deemed for all purposes (a) to have been ''signed'' and (b) to constitute an ''original'' when printed from electronic files or records established and maintained in the normal course of business.

2.3 The conduct of the parties pursuant to this Agreement, including the use of Signed Records properly communicated pursuant to the Agreement, shall, for all legal purposes, evidence a course of dealing and a course of performance accepted by the parties in furtherance of this Agreement.

2.4 The Submitter agrees not to contest the validity or enforceability of Signed Documents under the provisions of any applicable law relating to whether certain agreements are to be in writing or signed by the party to be bound thereby. Signed Documents, if introduced as evidence on paper in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of the Signed Documents under the Federal Rules of Evidence as inadmissible or in violation of either the business records exception of the rule on hearsay, or the best evidence rule, or on the basis that the Signed Documents were not originated or maintained in documentary (paper) form.

3. *RECEIPT*. A Document shall be deemed to have been properly received by EPA when it is accessible to EPA, can be fully processed by the translator at EPA's Receipt Computer, and is syntactically correct to applicable EDI

[4] The number of days shall depend on specific program needs and will be specified in the Program-Specific Notice or related documents (e.g., Implementation Guideline, TCA).

[5] Or, in the case where PIN is not required, as otherwise noted in the program-specific notice.

standards. No Document shall satisfy any reporting requirement or be of any legal effect until it is received.

4. *VERIFICATION.* Upon receipt of any Document, the receiving party shall promptly and properly transmit a functional acknowledgment in return within ''x'' business day of receipt to verify that the Document has been received.[6] If a positive functional acknowledgment is not received in return for a Document, the party initially transmitting the Document shall be responsible for re-sending the Document.

5. *DATE OF RECEIPT.* EPA will consider an electronically filed report received when it can be fully processed by the translator at the EPA's receipt computer, i.e., when the document is retrievable from the electronic mailbox by EPA, syntactically conforms to applicable EDI standards, and is able to be successfully translated by EPA. A positive functional acknowledgment indicating no syntactical errors will constitute conclusive evidence that EPA has properly received a report and will establish the ''Received Date''.

6. *RE-TRANSMISSION.* If the Submitter does not receive a functional acknowledgment promptly [7] after its transmission to the EPA, then the Submitter must re-send the document and follow any recovery procedures stated in the applicable EPA EDI Implementation Guidelines.

The Submitter must retransmit any document within ''X'' days [8] of receiving a re-transmission request by EPA. Likewise, EPA will re-send any transmission originated by EPA at the Submitter's request.

7. *INABILITY TO TRANSMIT.* Circumstances, both foreseeable and unforeseeable, may prevent a reporting party from conducting EDI. Nevertheless, no Submitter will be excused from the requirement to file reports with the Agency by the appropriate regulatory deadline. If a party is unable to electronically file a required report by such deadline, it must submit a paper report on forms required by the applicable regulation.

8. *SIGNATURE.* The Submitter shall adopt as its signature an electronic identification consisting of symbols (i.e., the Personal Identification Number [PIN] which is affixed to or contained in each Document transmitted by the Submitter (''Signature''). The Submitter agrees that any such Signature affixed to or contained in any transmitted Document shall be sufficient to verify such party originated and possessed the requisite authority both to originate the transaction and to verify the accuracy of the content of the document at the time of transmittal. Unless otherwise specified in the TCA, affixing the Personal Identification Number (PIN) issued to the Submitter by EPA to any transmitted Document constitutes a valid Signature. The Submitter expressly agrees that it will sign each and every report it submits by using its PIN(s) [or other electronic identification, if provided for in the TCA], and that the use of the PIN(s) [or other electronic identification, if provided for in the TCA] constitutes certification of the truth and accuracy, upon penalty of perjury (or other program specific requirement), of the information contained in each such report.

9. *DEFINITIONS.* Whenever used in this Agreement or any documents incorporated into this Agreement by reference, the following terms shall be defined as follows:

9.1 *Compromise.* When the PIN is intentionally or unintentionally disclosed to individuals and organizations who are not authorized to know or use the PIN.

9.2 *Data.* Facts or descriptions of facts.

9.3 *Document/Record.* Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

9.4 *Electronic Agent.* A computer program designed, selected or programmed by a party to initiate or respond to electronic messages or performances without review by an individual. An electronic agent acts within the scope of its agency if its performance is consistent with the functions intended by the party who utilizes the electronic agent.

9.5 *Electronic Message/Transaction.* A record generated or communicated by electronic, optical or other analogous means for transmission from one information system to another. The term includes electronic data interchange and electronic mail.

9.6 *Functional Acknowledgement.* Is the sending of a 997 transaction set (under ANSI ASC X12 Standards) indicating the results of the translator's syntactical analysis of the electronically submitted file. A positive acknowledgement indicates that the syntax of the submitted file conforms to the standard and can be processed by the translator. A negative acknowledgement indicates nonconformance to the standards.

9.7 *Guidelines.* Federal Register Notice and EPA Implementation Guidelines.

9.8 *Message.* Data structured in accordance with the protocol specified in the Guidelines and transmitted electronically between the parties and relating to a Transaction.

9.9 *Personal Identification Number (PIN).* Assigned by EPA, each PIN will consist of a sequence of alpha-numeric characters.

9.10. *Receive/Receipt.* To take delivery of a record or information. An electronic record or information is received when it enters an information processing system in a form capable of being processed by that system if the recipient has designated that information system for the purpose of receiving such records or information.

9.11 *Date of Receipt.* EPA will consider an electronically filed report received when it is accessible to the receiver (i.e. EPA) at its receipt computer. Upon receipt of any report, EPA will promptly submit a functional acknowledgment in return. A positive functional acknowledgment indicating no syntactical errors will constitute conclusive evidence that EPA has properly received a report and will establish the ''Received Date''. No document shall satisfy any reporting requirement until it is received.

9.12 *Report.* The report required by _____ [Program-specific notice will insert applicable regulatory/statutory cite for program-specific report].

9.13 *Signed.* For the purposes of EDI, a transaction is ''signed'' if it includes a symbol and/or action that is adopted or performed by a party or its electronic agent with the present intent to authenticate or manifest assent to a record, a performance, or a message. Actions or symbols adopted or performed by an electronic agent serve to authenticate with present intent a record or message on behalf of a party if the party designed, programmed or selected the electronic agent with an intent that the agent produce the result and the electronic agent performs in a manner consistent with its intended programming. That a record or message is signed is conclusively presumed as a matter of law if the parties agreed to an authentication procedure and the symbol or action taken complies with that procedure. Otherwise, that a document is signed may be proved in any manner including by a showing that a procedure existed by which a party

[6] The number of days shall depend on specific program needs and will be specified in the Program-Specific Notice or related documents (e.g., Implementation Guideline, TCA).

[7] ''Promptly'' shall be determined by each program-specific EDI application and defined in the program-specific notice or related documents (e.g., Implementation Guideline, TCA).

[8] The number of days shall depend on specific program needs and will be specified in the Program-Specific Notice or related documents (e.g., Implementation Guideline, TCA).

must of necessity have taken an action or executed a symbol in order to have proceeded further in the use or processing of the information.

9.14 *Transaction.* Any communication made or transaction carried out and identified as the communication or transaction to which a Message refers including but not limited to the filing of a specific report.

9.15 *Transmission Log.* Must be retained by all parties using EDI for reporting purposes. The Transmission Log includes the date, time, destination address and telephone number, and a copy of the file transmitted; it also documents the persons who had access to the Submitter's system during the creation of the files and during their transmission. The Submitter shall create an official Transmission Log of all transactions and maintain it without any modification. Each Submitter shall designate one or more qualified individuals with appropriate authority to certify the accuracy and completeness of the Transmission Log and this designation shall be retained as part of the records. Each Submitter shall also maintain records concerning the assignment and revocation of PINs, as discussed elsewhere in this notice.

9.16 *Transaction set.* [Cite for specific program].

9.17 *User Manual.* [Cite, if any].

9.18 *Writing.* Any document properly transmitted pursuant to this Agreement shall be considered to be a ''writing'' or ''in writing''.[9]

9.19 *Other Definitions.* (As required, additional Definitions may be included in Program-specific TCAs.)

10. *EDI TRANSACTION PARAMETERS.* Each party may electronically transmit to or receive from the other party any of the transaction sets listed in the Appendix and transaction sets which by agreement are added to the Appendix (collectively referred to as ''Documents'' or ''Reports''). All Documents/Reports shall be transmitted in accordance with the standards set forth herein and in the Appendix. Appendix(es) are hereby incorporated herein by reference. Any transmission of data which is not a Document/Report (i.e., which is not one of the specified transaction sets) shall have no force or effect between the parties.

10.1 *Implementation Guidelines.* All Documents/Reports transmitted between the parties shall strictly adhere to published Accredited Standards Committee (ASC) X12 standards for Electronic Data Interchange (EDI) and shall comply with data conventions and implementation guidelines set forth in this Agreement and Federal Register notice (''Guidelines'') and all modifications of the Guidelines.

10.2 *Modifications of Standards.* Whenever EPA intends to upgrade to a new version and release of the ASC X12 standard or modify the Guidelines, EPA shall give notice of its intent and shall establish a conversion date. The Submitter shall have a minimum of sixty (60) days from the conversion date to upgrade to the new standard.[10] EPA can discontinue support of the previous standard no sooner than ninety (90) days after the conversion date.[11]

11. *SYSTEM AND OPERATION EXPENSES.* Each party, at its own expense, shall provide and maintain the equipment, software, services and testing necessary to effectively and reliably transmit and receive Documents.

12. *SECURITY.* The parties shall take reasonable actions to implement and maintain security procedures necessary to ensure the protection of transmissions against the risk of unauthorized access, alteration, loss or destruction including, but not limited to those set forth [in Appendix A, in guidelines set forth in F.R., etc.].

12.1 *Creation of PIN.* Where EPA requires certification to insure the authenticity of electronically submitted documents, EPA will generally require the Submitter to use a PIN assigned by EPA. If EPA agrees to enter into a trading partner relationship with a Submitter, EPA will assign PIN(s) upon receipt and receipt by EPA of the Submitter's signed TCA. EPA will mail the PIN(s) directly to each authorized representative(s) identified in the PIN request. The Agency will issue a new PIN at the written request, on company letterhead, of a responsible corporate officer of the submitter. In addition, EPA will change PINs where Submitters undergo personnel changes that affect the identity of their authorized representatives, or where there is evidence of compromise. Depending on the reporting cycle, EPA will then cancel such authorized representative's individual PIN before the next reporting cycle to which the PIN applies, or no later than fourteen (14) business days of receiving such notice, whichever comes first.

12.2 *Protection of PIN.* Each party must protect the security of its PIN(s) from compromise and shall take all necessary steps to prevent its loss, disclosure, modification, or unauthorized use. The Submitter shall notify EPA immediately if it has reason to believe the security of any PIN(s) has been compromised and must request a change. If EPA has reason to believe that PIN security has been compromised, the Agency will consult with the Submitter and initiate PIN changes where necessary. Also, the Submitter is responsible for immediately notifying EPA (in writing and on company letterhead and signed by an authorized corporate officer) of termination of employment, or reassignment, of any authorized representative, and of any new or newly assigned employee(s) who will act as authorized representative(s).

12.3 *Access Control.* [If required, additional program-specific measures to control access to the transmitted files.]

12.4 *Confidentiality.* (If Applicable, program-specific clause.) The submitter may claim as confidential information submitted to EPA pursuant to this agreement. In order to assert a claim of confidentiality, the Submitter must mark the response **CONFIDENTIAL BUSINESS INFORMATION** or with a similar designation, and must clearly specify which information in the Document is so claimed. [The program may wish to insert here specific instructions for asserting confidentiality claims for electronic submissions.] Information so designated will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in, 40 CFR Part 2. If the Submitter fails to claim the information as confidential in accordance with the provisions of this paragraph, 10.4, the information may be available to the public without further notice.

12.5 *Other Specific Security Requirements.* [If required, other program-specific measures.]

13. *MISDIRECTED AND CORRUPTED TRANSMISSIONS.* If EPA has reason to believe that a Message is not intended for EPA or is corrupted, EPA shall notify the Submitter and shall delete from EPA's system the information contained

[9] ''For the purpose of interpreting federal statutes, ''writing'' is defined to include 'printing and typewriting and reproductions of visual symbols by photographing, multi graphing, mimeographing, manifolding, or otherwise.' Although the terms of contracts formed using EDI are stored in a different manner than those of paper and ink contracts, they ultimately take the form of visual symbols. . . .it is sensible to interpret federal law in a manner to accommodate technological advancements. . . .It is evident that EDI technology had not been conceived nor, probably, was even anticipated at the times section 1501 and the statutory definition of ''writing'' were enacted. Nevertheless, we conclude that, given the legislative history of section 1501 and the expansive definition of writing, section 1501 and 1 U.S.C. Section 1 encompass EDI technology.'' U.S. Comptroller General decision, ''Use of Electronic Data Interchange Technology to Create Valid Obligations,'' File: B–245714 (13 December 1991).

[10] These dates may vary with specific program requirements.

[11] These dates may vary with specific program requirements.

in such Message (where allowed by applicable law) but not the record of its receipt. Where there is evidence that a Message has been corrupted or if any Message is identified or capable of being identified as incorrect, EPA shall notify the Submitter and it shall be re-transmitted by the Submitter as soon as practicable with a clear indication that it is a corrected Message. [Dependent on circumstances, corresponding requirement may be needed if EPA will be sending messages.]

14. *COMMUNICATIONS CONNECTIONS.* Unless otherwise stipulated in program-specific notice, documents shall be transmitted electronically to each party through a third party service provider (''Provider''), designated in the program-specific Implementation Guidelines, who shall be considered the designated provider. The Submitter may transmit through EPA's designated Provider or through a third party service provider of their choice. In either case, the Submitter assumes all risks associated with their interaction with third party service providers. Upon written consent of EPA, at Submitter's own expense and at sender's own risk, documents may be electronically transmitted to EPA directly. EPA will specify procedures for doing so. Upon thirty days advance notice EPA may change its third party service providers.

14.1 *Third-Party Service Provider Fees.*[12] [Apportionment of the following fees: (could be incorporated by reference from guidelines, appendix etc.)]

14.2 *Third-Party Service Provider Liability Apportionment.* Each party shall be responsible for ensuring the correctness of its transmission except as otherwise provided in this Agreement.

14.3 *Records Transmitted Through Provider.* The parties agree that either of them may have access to Providers' copies of the records, at the expense of the requesting party.

15. *RECORD RETENTION AND STORAGE.*

15.1 *Transmission Log.* The Transmission Log shall be maintained by the Submitter without any modification for as long as required for the paper record [Specific program must insert applicable regulations]. The Submitter shall designate one or more individuals with appropriate authority to certify the accuracy and completeness of the Transmission Log.

15.2 *Record Retention.* Nothing herein is intended to release the Submitter from or waive any requirement of law applicable to the Submitter pertaining to record or document retention, or to create new or additional requirements for retention of records or documents except as specifically noted herein or in the Appendix(es). Sender shall retain all records, regardless of the medium on which they are recorded, used in the derivation of the Documents/Reports or information therein transmitted pursuant to this Agreement for the period which would be required for functionally equivalent paper records.

16. *CONFLICTING TERMS AND CONDITIONS.* This Agreement and all appendices attached constitute the entire agreement between the parties. As the parties develop additional capabilities respecting EDI, additional addenda may be added to this Agreement. EPA will publish notice of new Addenda appending this Agreement and their effective date in the Federal Register. Upon the effective date, each Addendum shall be appended to this Agreement. If the Submitter does not agree to specified changes in the terms and conditions of this Agreement, as provided in the newly published Addenda, the Submitter must notify EPA in accordance with paragraph 15 below. In the absence of such notification, each addendum shall be appended to this Agreement and the date published in the Federal Register notice shall be the effective date.

17. *TERMINATION.* This Agreement shall remain in effect until terminated by either party with not less than 30 days prior written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement prior to the effective date of termination. Termination of this Agreement shall not affect any action required to complete or implement Messages which are sent prior to such termination. Emergency temporary termination of computer connections may be made to protect data from illegal access or other incidental damage.

18. *SURVIVABILITY.* Notwithstanding termination for any reason, Clauses #2 (Validity and Enforceability), #10 (Security), #13 (Record Retention and Storage), #21 (Governing Law), #22 (Choice of Language), and #23 (Dispute Resolution) shall survive termination of this Agreement.

19. *ASSIGNABILITY.* This Agreement is for the benefit of, and shall be binding upon, the Submitter and their respective successors and assigns.

20. *SEVERABILITY.* Any provision of this Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

21. *NOTICE.* All notices or other forms of notification, request or instruction required to be given by a party to any other party under paragraphs 10, 14, and 15 of this Agreement shall be delivered by hand, or sent by first class post or other recognized carrier to the address of the addressee as set out in this Agreement or to such other address as the addressee may from time to time have notified for the purpose of this clause, or sent by electronic means of message transmission producing hard copy read-out including telex and facsimile, or published in the Federal Register notice, and shall be deemed to have been received:

- if sent by electronic means: at the time of transmission if transmitted during business hours of the receiving instrument and if not during business hours, one hour after the commencement of the next working day following the day transmission;
- if sent by first-class post or recognized carrier: 3 business days after posting exclusive of the day of posting;
- if delivered by hand: on the day of delivery.

Notwithstanding the above, EPA may at its discretion provide notices under paragraphs 7.2, 13, and 17 of this Agreement via publication in the Federal Register. Notice shall be deemed to be received on the day of publication of the Federal Register notice.

Notice address for EPA follows: USEPA, _____.

22. *INABILITY TO FILE REPORTS VIA EDI.* No party shall be liable for any failure to perform its obligations in connection with any EDI Transaction or any EDI Document, where such failure results from any act or cause beyond such party's control which prevents such party from transmitting or receiving any Documents via EDI, except that the Submitter is nonetheless required to submit records or information required by law via other means, as provided by applicable law and within the time period provided by such law.

23. *GOVERNING LAW.* This Agreement shall be governed by and interpreted in accordance with the Federal laws of the United States.

[12] EPA does not foresee clause 12.1 being included in it's TCA during the Interim Policy Phase and is uncertain if such provisions will be included in future TCAs.

24. *CHOICE OF LANGUAGE.* (Optional Program-specific application clause) The parties have requested that this Agreement and all Documents and other communications transmitted via the EDI Network or otherwise delivered with respect to this Agreement be expressed in the English language. (Should include translation.)

25. *DISPUTE RESOLUTION.* All disputes, differences, disagreements, and/or claims between the parties arising under or relating to this agreement that are not resolved by negotiation and that the parties cannot agree to submit for arbitration or other procedure for the resolution of disputes, shall be subject to the jurisdiction of U.S. Courts.

26. *ENTIRE AGREEMENT.* This Agreement [and the Implementation Guide and Appendix] constitute the complete agreement of the parties relating to the matters specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. As the Partners develop additional capabilities respecting EDI, additional Addenda may be added to this Agreement. EPA does not intend to change guidelines without just cause or without consulting industry, however, as a practical matter it is too cumbersome to obtain formal agreements from each Submitter when technical or procedural changes are required, particularly to the Implementation Guidelines. Therefore, EPA will publish notice of new Addenda appending this Agreement and their effective date in the Federal Register. Upon the effective date, each Addendum shall be appended to this Agreement.

This Agreement is for the benefit of, and shall be binding upon, the parties and their respective successors and assigns.

(To be signed by the Delegated Authority in specific EPA Office)

Dated: _____

_____

Name of Delegated Authority
Title of Delegated Authority

## III. Model of EPA Terms and Conditions Agreement Memorandum

Program-specific notices will contain the memorandum, similar to this model agreement memorandum, which the Submitter will sign and return to EPA. The program-specific TCA will stipulate what actions will constitute acceptance by EPA of a Submitter's signed and returned agreement memorandum and the effective date of the agreement.

BILLING CODE 6560–50–M

## Model TCA Memorandum Agreement

**(If report or information is subject to PRA, OMB# and Date are included.)** **OMB No.** _____
Expiration Date_____

**NOTICE OF ADMINISTRATOR'S INTENT TO PERMIT FILING OF "ABC" REPORT VIA ELECTRONIC DATA INTERCHANGE (EDI)**

**TERMS AND CONDITIONS AGREEMENT MEMORANDUM:**[13]

**FROM:** (Submitter's Address)

**TO:** (USEPA's Address)

The terms and conditions for submitting the "abc" report to EPA via Electronic Data Interchange (EDI) as set forth in the Terms and Conditions Agreement published in the *Federal Register* on _____ [page citation to *Federal Register* notice] are hereby accepted and agreed to by the Submitter. Upon receipt of this properly signed Terms and Conditions Memorandum and the list of reporting facilities and authorized representatives, EPA will issue PINs and accept electronic reports from the Submitter. The Submitter hereby expressly agrees that it will sign each and every report it submits by using it's PIN(s) or other electronic identification and that use of the PIN(s) or other electronic identification constitutes certification of the truth and accuracy, upon penalty of perjury (or other program-specific requirement), of the information contained in each such report. The Submitter has caused this Agreement to be properly executed on its behalf as of the date first written below. The Submitter:

_____ _____
Signature of Submitter's Responsible Corporate Officer Date

_____
Printed/Typed Name of Responsible Corporate Officer

_____
Title of Responsible Corporate Officer

_____
Submitter's Company Name

_____
Submitter's Company Address

_____
Submitter's Notice Address (In accordance with para. 19 of the TCA.)

**ATTACHMENT: PIN REQUEST**

SAMPLE ONLY

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[13] Submission by potential trading partners of this memorandum does not necessarily constitute agreement by EPA of entering into an electronic trading partner agreement with a given Submitter. Receipt of the Submitter's TCA and entry into an Agreement by EPA will be confirmed by assignment of PIN(s). Date of PIN Issuance will constitute effective date of Agreement.

Dated: August 21, 1996.

Carol M. Browner,

*Administrator.*

[FR Doc. 96–22381 Filed 9–3–96; 8:45 am]

**BILLING CODE 6560–50–C**

federal register

Wednesday
September 4, 1996

# Part III

# The President

## Memorandum of August 30, 1996—Determinations Under Section 203 of the Trade Act of 1974 and Section 304 of the North American Free Trade Agreement Implementation Act Concerning Broom Corn Brooms

Federal Register
Vol. 61, No. 172
Wednesday, September 4, 1996

# Presidential Documents

Title 3—

The President

Memorandum of August 30, 1996

## Determinations Under Section 203 of the Trade Act of 1974 and Section 304 of the North American Free Trade Agreement Implementation Act Concerning Broom Corn Brooms

Memorandum for the United States Trade Representative, the Secretary of Agriculture, the Secretary of Commerce, [and] the Secretary of Labor

On August 1, 1996, the United States International Trade Commission (USITC) submitted to me a report that included:

(a) a determination pursuant to section 202 of the Trade Act of 1974 (''the Trade Act'') that imports of broom corn brooms are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article;

(b) a finding pursuant to section 311(a) of the North American Free Trade Agreement (NAFTA) Implementation Act (''NAFTA Act'') that imports of broom corn brooms produced in Mexico account for a substantial share of total imports of such brooms and contribute importantly to the serious injury caused by imports; but that imports of broom corn brooms produced in Canada do not account for a substantial share of total imports and thus do not contribute importantly to the serious injury caused by imports;

(c) a determination under section 302 of the NAFTA Act that, as a result of the reduction or elimination or a duty provided for under the NAFTA, broom corn brooms produced in Mexico are being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of serious injury to the domestic industry producing an article that is like, or directly competitive with, the imported article; and

(d) recommendations for action by the President in response to these determinations.

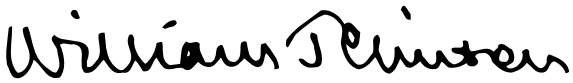
Pursuant to section 203(a) of the Trade Act, I have determined to take appropriate and feasible action within my power that will facilitate efforts by the domestic industry to make a positive adjustment to competition from imports of broom corn brooms. I have not implemented at this time any of the actions recommended by the USITC, because I believe it would be more appropriate first to seek a negotiated solution with appropriate foreign countries that would address the serious injury to our domestic broom corn broom industry, promote positive adjustment, and strike a balance among the various interests involved.

Therefore, after considering all relevant aspects of the investigation, including the factors set forth in section 203(a)(2) of the Trade Act, I hereby direct the Trade Representative to negotiate and conclude, within 90 days, agreements of a type described in section 203(a)(3)(E) of the Trade Act, and to carry out any agreements reached. Not later than the end of this 90-day period, I would implement action of a type described in section 203(a)(3). I hereby direct the Secretaries of Agriculture, Commerce, and Labor to develop and present to me, within 90 days, a program of measures designed to enable our domestic industry producing broom corn brooms to adjust to import competition.

I agree with the USITC's finding under section 311(a) of the NAFTA Act, and therefore determine, pursuant to section 312(a) of the Act, that imports of broom corn brooms from Mexico account for a substantial share of total imports of such brooms and contribute importantly to the serious injury caused by imports; but that imports of broom corn brooms from Canada do not account for a substantial share of total imports and thus do not contribute importantly to the serious injury caused by imports. Therefore, pursuant to section 312(b) of the NAFTA Act, agreements reached, and action of a type described in section 203(a)(3) of the Trade Act, would apply to imports of broom corn brooms from Mexico, but would not apply to imports of broom corn brooms from Canada. Also, in light of the USITC's findings, any agreements and action would not apply to imports of broom corn brooms from Israel.

As a result of the action I have taken under section 203 of the Trade Act, I have fully preserved my ability to implement tariff increases of a magnitude equal to or greater than the increases recommended by USITC commissioners under section 303 of the NAFTA Act. Section 203 of the Trade Act also authorizes a wider array of types of action than the tariff increases permitted under the NAFTA Act. Thus, through section 203 of the Trade Act, I maintain the full power to address the serious injury found by the USITC to have resulted from the reduction in tariffs under the NAFTA. For these reasons, I have determined that additional action under section 304 of the NAFTA Act is not necessary and would not provide greater benefits than costs.

The United States Trade Representative is authorized and directed to publish this determination in the Federal Register.



THE WHITE HOUSE,
*Washington, August 30, 1996.*

[FR Doc. 96–22756
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