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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 31

[Docket No. 96–23]

RIN 1557–AB40

Extensions of Credit to Insiders and Transactions With Affiliates

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is revising its rules governing extensions of credit to national bank insiders. This rulemaking is another component of the OCC's Regulation Review Program to update and streamline OCC regulations and to reduce unnecessary regulatory costs and other burdens. The final rule modernizes and clarifies the insider lending rules and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

EFFECTIVE DATE: November 20, 1996.

FOR FURTHER INFORMATION CONTACT: Aline Henderson, Senior Attorney, Bank Activities and Structure (202) 874–5300; Emily McNaughton, National Bank Examiner, Credit & Management Policy (202) 874–5170; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities (202) 874–5090, Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Summary of Regulation Review Program

The OCC is revising 12 CFR part 31 as another component of its Regulation Review Program (Program). The goal of the Program is to review all of the OCC's rules and to eliminate provisions that do not contribute significantly to maintaining the safety and soundness of national banks or to accomplishing the OCC's other statutory responsibilities. Another goal of the Program is to clarify regulations so that they more effectively convey the standards the OCC seeks to apply.

The OCC intends for this final rule to reduce regulatory costs and other burdens on national banks by clarifying certain requirements and eliminating a separate statement of provisions that are similar to provisions found in the Federal Reserve Board's (the Board) Regulation O (12 CFR part 215) (Reg. O). The final rule also responds to commenters' requests for guidance on certain of the key differences between the requirements of part 31 (as amended by this final rule) and 12 CFR part 32 (Lending Limits).

The Proposal

Current part 31 contains two subparts. Subpart A implements 12 U.S.C. 375a(4) and 375b(3) by setting a limit on the amount that a national bank may lend to any one of its executive officers other than for housing- and education-related loans and by establishing a threshold above which approval of the bank's board of directors is required for any loan to an insider. Subpart B implements 12 U.S.C. 1817(k) and 1972(2)(G)(ii) by requiring a national bank to disclose, upon request, the names of its executive officers and principal shareholders who borrow more than specified amounts from the bank itself or from the bank's correspondent banks and to maintain records related to requests for this information. Subpart B also implements 12 U.S.C. 1972(2)(G)(i), which requires a national bank's executive officers and principal shareholders to report on loans they or their related interests receive from the bank's correspondent banks.

The OCC solicited comment in the proposal (60 FR 63461 (December 11, 1995)) on whether the agency should adopt exceptions to the limit on loans that a national bank may make to its executive officers for loans that are secured by United States obligations, guaranteed by a Federal agency, or secured by a segregated deposit account, in order to be consistent with recent changes made by other agencies.[1] The OCC also solicited comment on proposed changes intended to clarify and simplify the former rule by removing provisions that no longer are necessary. Finally, the OCC invited comments on whether guidance would be helpful on the differences between the insider lending limits and the loans-to-one-borrower limits.

The Final Rule and Comments Received

The OCC received eleven comments in response to the proposal, most of which supported the proposed changes. In many cases, a commenter expressed support for the proposed changes and then requested that the OCC reduce burden further. These comments fall for the most part into two broad categories: First, that the OCC either eliminate part 31 altogether or remove those provisions that substantively are identical to provisions in Reg. O; and second, that the OCC relax or clarify various restrictions that currently apply to loans to insiders. These comments are addressed in greater detail in the text that follows.

Adoption of proposed exceptions. Commenters addressing this issue uniformly supported adopting the three proposed exceptions to the limits that apply to loans to an executive officer. The OCC continues to believe that these exceptions are appropriate for two reasons. First, the OCC recognizes that a lending bank's position clearly is protected where a loan is secured by obligations of the United States, guaranteed by a Federal agency, or secured by a segregated deposit account. The strength of the security in these situations reduces the need for the additional protections against insider abuse that the lower limits on loans to executive officers provide. Second, conforming the OCC's regulation to those of the other Federal banking agencies is consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) (12 U.S.C. 4803) (which requires each agency to work with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or

[1] *See* 59 FR 66666 (December 28, 1994) (amending the Federal Deposit Insurance Corporation's rule) and 59 FR 8831 (February 24, 1994) (amending the Board's rule). The Office of Thrift Supervision's regulation automatically applies the Board's rule to thrifts. *See* 12 CFR 563.43.

supervisory policies). Accordingly, the OCC adopts the exceptions as proposed.

Elimination of part 31. One commenter suggested that the OCC eliminate part 31 in its entirety. This commenter stated that part 31 is unnecessary because national banks, as member banks, must comply with Reg. O. Another commenter suggested that the OCC eliminate requirements in part 31 that duplicate requirements in Reg. O. In this commenter's view, national banks are put at a disadvantage by having to comply with the more restrictive set of rules if part 31 and Reg. O differ. Finally, a third commenter stated that, if the OCC retains a separate rule, the rule should be identical to comparable provisions in Reg. O because even stylistic differences raise the question of whether a substantive difference is intended.

In light of these comments and the agency's further internal considerations, the OCC has decided simply to state in its rule that a national bank and its insiders shall comply with provisions contained in 12 CFR part 215. The final rule therefore eliminates from part 31 those sections that are redundant in light of comparable provisions in Reg. O. The reference in the final rule to 12 CFR part 215 includes the exceptions to the limits on the amount of loans a bank may make to its insiders. The OCC agrees with the commenters that part 31 is substantively identical to comparable restrictions in Reg. O (with the addition of the exceptions that are being adopted as part of this final rule) and that compliance would be simplified by eliminating a restatement of the provisions in question.

The OCC is not eliminating part 31 altogether because several provisions in the statutes that part 31 implements mandate that certain restrictions be set by the ''appropriate Federal banking agency.'' For instance, section 22(g) of the Federal Reserve Act (12 U.S.C. 375a(4)) states that a member bank may make extensions of credit not otherwise specifically authorized under that section in an amount ''prescribed by regulation of the member bank's appropriate Federal banking agency.'' Similarly, section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(3)) states that a member bank must obtain the approval of the bank's board of directors before extending credit to an insider in an amount that would exceed a threshold established by regulation by the bank's ''appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act)* * *.'' See also 12 U.S.C. 1817(k) (regarding reports on, and disclosure of, loans by a bank to its executive officers and principal shareholders) and 12 U.S.C. 1972(2)(G)(ii) (regarding reports on, and disclosure of, loans by a correspondent bank to the reporting bank's executive officers and principal shareholders).

The OCC believes that adopting a regulation that incorporates restrictions from another regulation satisfies its obligation to implement these statutes. Moreover, this eliminates any confusion that may exist concerning, for instance, whether the OCC intends for the rules to be identical to those adopted by the Board or whether national banks must comply with a different and/or more restrictive provision.

Relaxation or clarification of restrictions. Several commenters, while supporting the proposed changes, asked that the OCC relax certain provisions governing insider lending. Others suggested amendments to clarify existing ambiguities.

Two commenters seeking a relaxation of various standards objected to provisions that are mandated by statute. One of these commenters suggested that the OCC eliminate the requirement that an executive officer submit a detailed current financial statement as a condition of receiving credit from the officer's bank. However, this requirement comes from section 22(g)(1)(C) of the Federal Reserve Act (12 U.S.C. 375a(1)(C)) and thus cannot be eliminated by a regulation. Another commenter suggested that the OCC eliminate the prior approval requirements and the requirement that a loan to an executive officer be payable on demand whenever the officer becomes indebted to other banks in an amount greater than the officer could borrow from his or her own bank. These, too, are mandated by statutes. See 12 U.S.C. 375b(3) and 375a(1)(D), respectively. Accordingly, the OCC has not made the changes suggested by these commenters.

In other cases, commenters requested that the OCC unilaterally adopt changes to certain insider lending restrictions that have been established by regulation. For instance, three commenters requested that the OCC raise the maximum amount that a national bank may lend to one of its executive officers. Another commenter suggested that the OCC exempt loans secured by readily marketable securities or cash value life insurance policies from the limits on loans to an executive officer. Two other commenters requested that the OCC clarify certain provisions that these commenters find ambiguous. The first of these commenters noted that bank holding companies are excluded from definition of ''principal shareholder'' in 12 CFR 215.2(m) but are included in the definition of the same term in 12 CFR 215.11(a)(1). The commenter stated that this difference requires the preparation of many unnecessary reports of loans made by correspondent banks to subsidiaries of a member bank's parent holding company. Another commenter requested that the OCC clarify which provisions of the insider lending restrictions apply to subsidiaries of a bank.

The OCC believes these types of changes should be considered on an interagency basis, which also would be consistent with section 303 of the CDRI Act. For these reasons, the OCC has declined to make the changes suggested, but will discuss these suggestions with the other Federal banking agencies.

The following discussion summarizes the amendments to part 31 and the remaining comments.

Title of Regulation

The final rule changes the title of part 31 from ''Extensions of credit to national bank insiders'' to ''Extensions of credit to insiders and transactions with affiliates.'' This change reflects the relocation to part 31 of two interpretations regarding transactions with affiliates that formerly were set out in part 7.

Authority (§ 31.1)

The final rule states that part 31 is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 93a, 375a(4), 375b(3), 1817(k), and 1972(2)(G), as amended. With the exception of 12 U.S.C. 93a (which provides general rulemaking authority to the OCC), each of these sections directs or authorizes the appropriate Federal banking agency to issue rules governing various aspects of loans to insiders.

Insider Lending Restrictions and Reporting Requirements (§ 31.2)

The final rule implements the statutes identified in § 31.1 by requiring national banks to comply with the provisions of Reg. O. These statutes are implemented as follows: 12 U.S.C. 375a(4) is implemented in § 215.5 (b) and (c) of Reg. O; 12 U.S.C. 375b(3) is implemented in § 215.4(b); 12 U.S.C. 1817(k) is implemented in § 215.11; and 12 U.S.C. 1972(2)(G) is implemented in subpart B of part 215. Because national banks are members of the Federal Reserve System, the remaining provisions in Reg. O implementing other provisions of the insider lending statutes also apply to national banks. Thus, rather than create the impression that national banks are to comply with

only some of Reg. O's provisions (namely, those provisions that implement the statutes identified in § 31.1), the final rule simply states that national banks and their insiders shall comply with all of Reg. O.

By stating the OCC's rule in this way, the final rule incorporates the definitions used in Reg. O. In order to promote uniformity between part 31 and Reg. O, the final rule does not distinguish between insured and uninsured national banks in the definition of ''bank'' as that term was used in former § 31.5(a)(1). Finally, the rule clarifies that the OCC administers and enforces Reg. O as it applies to national banks.

The OCC intends for the provisions of Reg. O that have been incorporated, as now or hereafter in effect, to govern insider lending by national banks. The OCC will review subsequent revisions to Reg. O and will publish further amendments to part 31 if necessary.

Interpretations (Appendix A)

Earlier this year, the OCC relocated several interpretations pertaining to section 23A of the Federal Reserve Act (12 U.S.C. 371c) that formerly appeared in part 7. See 61 FR 4849 (February 9, 1996) (relocating 12 CFR 7.7360—loans secured by stock or obligations of an affiliate, 7.7365—Federal funds transactions between affiliates, and 7.7370—deposits between affiliated banks). The OCC relocated these interpretations to part 31 because the section 23A interpretations and part 31 stem from similar concerns about persons or entities taking undue advantage of positions of influence and thereby adversely affecting the safety and soundness of a national bank.

The final rule amends the interpretation concerning loans secured by stock or obligations of an affiliate (Section 1) to emphasize that a loan is a covered transaction for purposes of section 23A if the loan proceeds in the circumstances identified in the interpretation are used for the benefit of, or transferred to, an affiliate.

The final rule removes the interpretation concerning Federal funds transactions between affiliates (proposed § 31.101). This interpretation is substantively identical to a Board interpretation (*see* 12 CFR 250.160) that applies to all member banks. Accordingly, there is no need for the OCC to restate this provision.

The remaining interpretation (Section 2) has been restated without amendment.

Guidance Regarding Differences Between Lending Limits and Insider Lending Standards (Appendix B)

In the proposal, the OCC sought comment on whether it would be useful for the agency to issue guidance clarifying the differences between the insider lending limits (part 31) and the loans-to-one-borrower limits (part 32).

The four commenters addressing this issue uniformly favored having the OCC provide guidance. Of those who identified areas where additional guidance would be helpful, one requested guidance on the differences between the rules for combining loans to related interests with the insider and the rules for combining loans due to a common enterprise. Another asked for guidance on the differences between the tangible economic benefit rule in part 31 and the direct benefit rule in part 32. Two commenters expressed concern about the possibility of the guidance adding burden to national banks. One of these commenters stated that the OCC should proceed with caution so that guidance does not deviate from Reg. O.

In light of these comments, the OCC has decided to issue guidance that focuses on areas of significant difference. Appendix B sets forth guidance on the differences in part 31 (as amended by this final rule) and part 32 between (a) the definitions of ''extension of credit,'' (b) exceptions to the definitions of ''extension of credit,'' and (c) the attribution rules. This guidance does not impose any new requirements on national banks. Rather, it simply provides an accessible reference for several important areas where parts 31 and 32 differ and highlights areas that will require additional care by banks when engaging in transactions that are subject to both sets of standards.

Effective Date

Section 302(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that a Federal banking agency regulation that imposes ''additional reporting, disclosures, or other new requirements on insured depository institutions [to] * * * take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.* * *'' A regulation may become effective earlier than the first day of the next calendar quarter if the agency determines that good cause exists to make the effective date earlier and publishes this determination with the regulation.

The OCC has determined that the part 31 final rule does not impose any additional requirements on national banks. Rather, it simplifies the former rule by removing provisions that are unnecessary in light of comparable provisions in Reg. O, provides national banks with additional flexibility in extending credit to executive officers, and highlights certain differences between the insider lending restrictions and the lending limits regulation. Accordingly, the requirement for a delayed effective date does not apply.

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This final rule will reduce somewhat the regulatory burden on national banks, regardless of size, by eliminating and clarifying current regulatory requirements. However, its impact will be minimal.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Act of 1995 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the annual expenditure of $100 million or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act requires an agency to identify and consider a reasonable number of alternatives before promulgating a rule.

The OCC has determined that the final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 31

Credit, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 31 of chapter I of title 12 of the Code of Federal Regulations is revised to read as follows:

PART 31—EXTENSIONS OF CREDIT TO INSIDERS AND TRANSACTIONS WITH AFFILIATES

Sec.
31.1 Authority.
31.2 Insider lending restrictions and reporting requirements.

Appendix A to Part 31—Interpretations

Appendix B to Part 31—Guidance Regarding Differences Between Lending Limits and Insider Lending Standards

Authority: 12 U.S.C. 93a, 375a(4), 375b(3), 1817(k), and 1972(2)(G).

§ 31.1 Authority.

This part is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 93a, 375a(4), 375b(3), 1817(k), and 1972(2)(G), as amended.

§ 31.2 Insider lending restrictions and reporting requirements.

(a) *General rule.* A national bank and its insiders shall comply with the provisions contained in 12 CFR part 215.

(b) *Enforcement.* The Comptroller of the Currency administers and enforces insider lending standards and reporting requirements as they apply to national banks and their insiders.

Appendix A to Part 31—Interpretations

Section 1. Loans Secured by Stock or Obligations of an Affiliate

A bank that makes a loan to an unaffiliated third party may take a security interest in securities of an affiliate as collateral for the loan without the loan being deemed a ''covered transaction'' under section 23A of the Federal Reserve Act (12 U.S.C. 371c) if:

a. The borrower provides additional collateral that, taken alone, meets or exceeds the collateral requirements specified in section 23A(c) (12 U.S.C. 371c(c)); and

b. The loan proceeds:

1. Are not used to purchase the bank affiliate's securities that serve as collateral; and

2. Are not otherwise used for the benefit of, or transferred to, any affiliate.

Section 2. Deposits Between Affiliated Banks

a. *General rule.* The OCC considers a deposit made by a bank in an affiliated bank to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c. These deposits must be secured in accordance with 12 U.S.C. 371c(c). However, a national bank may not pledge assets to secure private deposits unless otherwise permitted by law (*see, e.g.,* 12 U.S.C. 90 (permitting collateralization of deposits of public funds); 12 U.S.C. 92a (trust funds); and 25 U.S.C. 156 and 162a (Native American funds)). Thus, unless one of the exceptions to 12 U.S.C. 371c noted in paragraph b. of this interpretation applies or unless another exception applies that enables a bank to meet the collateral requirements of 12 U.S.C. 371c(c), a national bank may not:

1. Make a deposit in an affiliated national bank;

2. Make a deposit in an affiliated State-chartered bank unless the affiliated State-chartered bank can legally offer collateral for the deposit in conformance with applicable State law and 12 U.S.C. 371c; or

3. Receive deposits from an affiliated bank.

b. *Exceptions.* The restrictions of 12 U.S.C. 371c (other than 12 U.S.C. 371c(a)(4), which requires affiliate transactions to be consistent with safe and sound banking practices) do not apply to deposits:

1. Made in the ordinary course of correspondent business; or

2. Made in an affiliate that qualifies as a ''sister bank'' under 12 U.S.C. 371c(d)(1).

Appendix B to Part 31—Comparison of Selected Provisions of Part 31 and Part 32 (as of October 1, 1996)

Note: Even though part 31 now simply requires that national banks comply with the insider lending provisions contained in Regulation O (Reg. O) (12 CFR part 215), the chart in this appendix refers to part 31 because Reg. O is a Federal Reserve Board regulation and part 31 is the means by which several provisions of Reg. O are made applicable to national banks and their insiders.

Definition of ''Loan or Extension of Credit''

Renewals	In most cases, the two definitions of ''loan or extension of credit'' will be applied in the same manner. A difference exists, however, in the treatment of renewals. Under Part 31, a renewal of a loan to an ''insider'' (which, unless noted otherwise, includes a bank's executive officers, directors, principal shareholders, and ''related interests'' of such persons) is considered to be an extension of credit. Under Part 32, renewals generally are not considered to be an extension of credit if the bank exercises reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit. Renewals would be considered an extension of credit under Part 32, however, if new funds are advanced to the borrower, a new borrower replaces the original borrower, or the OCC determines that the renewal was undertaken to evade the lending limits.
Commitments to extend credit	A binding commitment to make a loan is treated as an extension of credit under Part 31. Under Part 32, a commitment to make a loan will not be treated as an extension of credit if the amount of the commitment exceeds the lending limit. Rather, the commitment will be deemed a ''nonqualifying commitment'' under Part 32 and advances may be made thereunder only if the advance, together with all other outstanding loans to the borrower, will not exceed the bank's lending limit.
Overdrafts	An advance by means of an overdraft (except for an intraday overdraft) generally is considered to be an extension of credit under both Parts 31 and 32. However, indebtedness in amounts up to $5,000 is excluded from the definition of ''extension of credit'' under Part 31 if the indebtedness arises pursuant to a written, preauthorized, interest-bearing plan or written, preauthorized transfer of funds from another account. Under Part 31, if an overdraft is not made pursuant to this type of plan or transfer, a bank is prohibited from paying an overdraft of an insider (which, in this case, includes only an executive officer or director of the insider's bank) unless the overdraft is inadvertent, in amounts not exceeding $1,000, outstanding for not more than 5 business days, and subject to the bank's standard overdraft fee. Part 32 does not contain these exceptions for overdrafts, and simply treats overdrafts (except for intraday overdrafts) as extensions of credit subject to lending limits.
Guarantees	Generally speaking, guarantees are included in the Part 31 definition of ''extension of credit'' but are not included in the definition of ''extension of credit'' in Part 32 unless other criteria are satisfied. Part 31 applies to any transaction as a result of which an insider becomes obligated to pay money to a bank, whether the obligation arises (i) directly or indirectly, (ii) because of an endorsement on an obligation or otherwise, or (iii) by any means whatsoever. Accordingly, a loan guaranteed by an insider will be deemed to have been made to that insider. In contrast, Part 32 does not consider a loan on which someone signs as guarantor as having been made to the guarantor unless that person is deemed to be a borrower under the ''direct benefit'' or ''common enterprise'' tests (*see* discussion of these tests in the discussion of the ''General Rule'' under ''Combination/Attribution Rules,'' below).

Exclusions to Definition	
Funds advanced for taxes, etc., necessary to preserve collateral or that are incidental to indebtedness.	Both rules exclude funds advanced for items such as taxes, insurance, or other expenses related to existing indebtedness. However, Part 32 includes these advances for the purpose of determining whether subsequent loans meet the lending limit, whereas Part 31 excludes these advances for all purposes. In addition, Part 32 requires that the funds, which are advanced ''for the benefit of'' a borrower, be advanced by the bank directly to the third party to whom the borrower is indebted. Part 31 contains no such requirement.
Loan participations	Both rules exclude loan participations if the participation is without recourse. However, Part 32 elaborates on this exclusion by requiring that the participation result in a *pro rata* sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Part 32 also requires the originating bank, if funding the entire loan, to receive funding from the participants before the close of the next business day. Otherwise, the portion funded will be treated as a loan by the originating bank to the underlying borrower, and may be treated as a ''nonconforming'' loan rather than a violation if (i) the originating bank had an agreement with the participating bank that reduced the loan to an amount within the originating bank's lending limit, (ii) the participating bank reconfirmed its participation and the originating bank had no knowledge of information that would permit the participating bank to withhold its participation, and (iii) the participation was to be funded by close of business of the originating bank's next business day.
Acquisition of debt through merger or foreclosure.	Under Part 31, a note or other evidence of indebtedness acquired through a merger is excluded from the definition of ''extension of credit.'' Under Part 32, the indebtedness is deemed to be a loan or extension of credit. However, if a loan that conformed with Part 32 when originally made exceeds the lending limits following a merger after the loan is aggregated with other extensions of credit to the same borrower, the loan will not be deemed to be a lending limits violation. Rather, the loan will be treated as ''nonconforming,'' and the bank will have to exercise reasonable efforts to bring the loan into compliance unless to do so would be inconsistent with safe and sound banking practices.
Credit card indebtedness	An insider may incur up to $15,000 in debt on a credit card or similar open-end credit plan offered by the insider's bank without the debt counting as an extension of credit under Part 31. The terms of the credit card or other credit plan must be no more favorable than those offered by the bank to the general public. Part 32 does not exclude credit card debt from the lending limits.
Combination/ Attribution Rules	
General rule	Under Part 31, a loan will be attributed to an insider if the loan proceeds are ''transferred to,'' or used for the ''tangible economic benefit of,'' the insider or if the loan is made to a ''related interest'' of the insider. Under Part 32, a loan will be attributed to another person when either (i) the proceeds of the loan are to be used for the direct benefit of the other person or (ii) a common enterprise exists between the borrower and the other person. The ''transfer'' test and ''tangible economic benefit'' test of Part 31 are substantially the same as the ''direct benefit'' test of Part 32. Under each of these tests, a loan will be attributed to another person where the proceeds are transferred to the other person, unless the proceeds are used in a *bona fide* arm's length transaction to acquire property, goods, or services. However, the ''related interest'' test of Part 31 and the ''common enterprise'' test under Part 32 will lead to different results in many instances. Under Part 31, a ''related interest'' is a company or a political or campaign committee that is ''controlled'' by an insider. Part 31 defines ''control'' as meaning, generally speaking, that someone owns or controls at least 25 percent of a class of voting securities of a company, controls the election of a majority of the company's directors, or can ''exercise a controlling influence'' over the company. Part 32 uses the same definition of ''control'' in the ''common enterprise'' test, but a mere finding of ''control'' is not, by itself, a sufficient basis to find that a common enterprise exists. Part 32 will attribute a loan under the ''common enterprise'' test if the borrowers are under common control (including where one of the persons in question controls the other) *and* there is ''substantial financial interdependence'' between the borrowers (*i.e.,* where at least 50 percent of the gross receipts or expenditures of one borrower comes from transactions with the other). If there is not both common control and substantial financial interdependence, the OCC will not attribute a loan under the ''common enterprise'' test unless (i) the expected source of repayment for a loan is the same for each borrower and neither borrower has another source of income from which the loan may be repaid, (ii) two people borrow to acquire a business of which they will own a majority of the voting securities, or (iii) OCC determines that a common enterprise exists based on facts and circumstances of a particular transaction.
Loans to corporate groups	Both Parts 31 and 32 will consider a loan that was made to a corporation to have been made to a third person if the tests identified in the previous discussion of the ''General Rule'' are satisfied. If these tests are not met, Parts 31 and 32 still may require attribution, but the circumstances when this will occur and the consequences of attribution under these circumstances differ under the two rules. Under Part 31, a loan to a corporation will be deemed to have been made to an insider if the corporation is a ''related interest'' of the insider (*i.e.,* the insider owns at least 25% percent of a class of voting shares of the company, controls the election of a majority of the company's directors, or has the power to exercise a controlling influence over the company). Under Part 32, a loan to an individual or company will not be considered to have been made to a corporate group until a ''person'' (which includes individuals and companies) owns more than 50% of the voting shares of a company. If a loan is found to have been made to a related interest of an insider under Part 31, the loan must comply with all of the insider lending restrictions of Part 31. If a loan is found to have been made to a corporate group under Part 32, the loan, when aggregated with all other loans to that corporate group, generally may not exceed 50% of the bank's capital and surplus.

Loans to partnerships, joint ventures, and associations.

Part 31 applies different rules to implement different restrictions applicable to partnerships. For purposes of the limits on loans to executive officers, a loan made to a partnership in which an executive officer of the lending bank holds a majority interest is deemed to have been made to the executive officer. For all other purposes under Part 31, a loan to a partnership will be attributed to an executive officer or other insider only if the partnership is a ''related interest'' of the insider or if the loan is transferred to, or used for the tangible economic benefit of, the insider. Part 32 does not make any similar distinction based on the restriction in question. Under Part 32, a loan made to a partnership, joint venture, or association will be attributed to all members of such an entity—regardless of the percentage of ownership—unless a person's liability is limited by a valid agreement. Conversely, loans to members of a partnership, joint venture, or association will not be attributed to the entity under Part 32 unless either the ''common enterprise'' or ''direct benefit'' test is met.

Dated: October 2, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–26849 Filed 10–18–96; 8:45 am]

BILLING CODE 4810–33–P

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standards; Notice of Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Purified Terephthalic Acid Ground (PTAG) and Un-Ground (PTAU).

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Purified Terephthalic Acid Ground (PTAG) and Un-Ground (PTAU). The basis for a waiver is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set-aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: David Wm. Loines, Procurement Analyst, (202) 205–6475, FAX (202) 205–7324.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines ''class of products'' based on two coding systems. The first is the Office of Management and Budget Standard Industrial Classification Manual. The second is the Product and Service Code (PSC) established by the Federal Procurement Data System.

The SBA was asked to issue a waiver for PTAG and PTAU because of an apparent lack of any small business manufacturers or processors for them within the Federal market. The SBA searched its Procurement Automated Source System (PASS) for small business participants and found none. We then published a notice in the Federal Register on May 6, 1996 (vol. 61, no. 88, found none. We then published a notice in the Federal Register on May 6, 1996 (vol. 61, no. 88, p. 20191), of our intent to grant a waiver for these classes of products unless new information was found. The proposed waiver covered PTAG and PTAU (PSC 6810). The notice described the legal provisions for a waiver, how SBA defines the market and asked for small business participants of these classes of products. After the 15-day comment period, no small businesses were identified for PTAG and PTAU. This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656 for PTAG and PTAU. The waiver will last indefinitely but is subject to both an annual review and a review upon receipt of information that the conditions required for a waiver no longer exist. If such information is found, the waiver may be terminated.

Judith A. Roussel,

Associate Administrator for Government Contracting.

[FR Doc. 96–26932 Filed 10–18–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–40–AD; Amendment 39–9782; AD 96–21–05]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft SA226 and SA227 series airplanes that do not have a certain elevator torque tube installed. This action requires drilling inspection access holes in the elevator torque tube arm, inspecting the elevator torque tube for corrosion, replacing any corroded elevator torque tube, and applying a corrosion preventive compound. Several reports of corrosion found in the elevator torque tube area on the affected airplanes prompted this action. The actions specified by this AD are intended to prevent failure of the flight control system caused by a corroded elevator torque tube, which could result in loss of control of the airplane.

DATES: Effective November 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 29, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone

(210) 824–9421. 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–40–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: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5155; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Events Leading to This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes was published in the Federal Register on September 19, 1995 (60 FR 48431). The action proposed to require drilling inspection access holes in the elevator torque tube arm, inspecting the elevator torque tube for corrosion, replacing any corroded elevator torque tube, and applying a corrosion preventive compound. Accomplishment of the proposed inspection access hole drilling, the inspection, and the corrosion preventive compound application as specified in the notice of proposed rulemaking (NPRM) would be in accordance with either Fairchild Service Bulletin (SB) 226–27–050 or Fairchild SB 227–27–028, both Issued: January 22, 1990.

Several reports of corrosion found in the elevator torque tube area on the affected airplanes prompted the proposal.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposal and no comments were received regarding the FAA's determination of the cost to the public.

Since issuing Fairchild SB 226–27–050, Fairchild Aircraft has designed an improved elevator torque tube, part number (P/N) 27–44026–007. The FAA has determined that airplane owners/operators of Fairchild Aircraft SA226 and SA227 series airplanes that have a P/N 27–44026–007 elevator torque tube installed should not have to accomplish the actions specified in the NPRM.

The FAA's Determination

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 as proposed except for the exemption of those airplanes with a P/N 27–44026–007 elevator torque tube installed and minor editorial corrections. The FAA has determined that this exemption and the minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The compliance time for this AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time for compliance would be the most desirable method because the unsafe condition described by this AD is caused by corrosion. Corrosion can occur on airplanes regardless of whether the airplane is in service or on the ground.

Cost Impact

The FAA estimates that 390 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 10 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $234,000. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the required inspection access hole drilling, inspection, or corrosion preventive compound application. It also is based on the assumption that no elevator torque tube would be found corroded and need to be replaced. The FAA has no way of determining how many owners/operators of the affected airplanes may have already complied with this AD.

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 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:

96–21–05 Fairchild Aircraft: Amendment 39–9782; Docket No. 95–CE–40–AD.

Applicability: The following airplane models and serial numbers, certificated in any category, that do not have a part number (P/N) 27–44026–007 elevator torque tube installed:

Model	Serial Nos.
SA226–T	T201 through T275 and T277 through T291.
SA226–T(B)	T(B)276 and T(B)292 through T(B)417.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA227–TT	TT421 through TT541.
SA227–AT	AT423 through AT695.
SA227–AC	AC406, AC415, AC416, and AC420 through AC772.

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

specific proposed actions to address it. Compliance: Required within the next six calendar months after the effective date of this AD, unless already accomplished.

To prevent failure of the flight control system caused by a corroded elevator torque tube, which could result in loss of control of the airplane, accomplish the following:

(a) Drill two .5-inch diameter holes in the inboard side of the elevator torque tube arm in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of and as specified in Figure 1 of Fairchild Aircraft Service Bulletin (SB) 226–27–050 or Fairchild Aircraft SB 227–27–028, both Issued: January 22, 1990, as applicable.

(b) Inspect the elevator torque tube in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft SB 226–27–050 or Fairchild Aircraft SB 227–27–028, both Issued: January 22, 1990, as applicable.

(1) If corrosion is found inside the elevator torque tube, prior to further flight after the inspection required by paragraph (b) of this AD, replace the corroded elevator torque tube with a P/N 27–44026–007 elevator torque tube in accordance with the applicable maintenance manual.

(2) If corrosion is not found inside the elevator torque tube, prior to further flight after the inspection required by paragraph (b) of this AD, apply a corrosion preventive compound in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft SB 226–27–050 or Fairchild Aircraft SB 227–27–028, both Issued: January 22, 1990, as applicable.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

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

(e) The drilling, inspection, and application required by this AD shall be done in accordance with Fairchild Aircraft Service Bulletin 226–27–050 or Fairchild Service Bulletin 227–27–028, both Issued: January 22, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. 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.

(f) This amendment (39–9782) becomes effective on November 29, 1996.

Issued in Kansas City, Missouri, on October 10, 1996.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–26705 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 734, 740, 742, 752, 771A, 774, 776A and 799A

[Docket No. 960928265–6265–01]

RIN 0694–AB09

Commercial Communications Satellites and Hot Section Technology for the Development, Production or Overhaul of Commercial Aircraft Engines

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends parts 774 and 799A of the Export Administration Regulations (the Commerce Control List) by revising Export Control Classification Numbers (ECCNs) 9A04A and 9A004 to control all commercial communications satellites. This interim final rule also amends the Export Administration Regulations (EAR) by imposing enhanced national security and foreign policy controls on all commercial communications satellites controlled under ECCNs 9A04.a. and 9A004.a. and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCNs 9E03.a.1 through a.12, .f and related controls, and 9E003.a.1 through a.12., .f and related controls, to supplement the national security controls on those items. The provisions of this interim final rule apply for items transferred from the USML to the CCL and to license applications for those items received after the effective date of this rule.

This interim final rule also amends the EAR to exclude commercial communications satellites and hot section technology from the *de minimis* provisions for items and commingled technology exported from abroad, from the mandatory foreign availability decontrol or export licensing provisions of the EAR, and from Special Comprehensive License eligibility. Finally, this interim final rule also amends the licensing policy provisions of parts 742 and 776A of the EAR to reflect these new national security and foreign policy controls, providing for case-by-case review of applications for export and reexport to all destinations to determine if the export or reexport is consistent with U.S. national security and foreign policy interests.

Exporters are advised that license applications for commercial communications satellites controlled under ECCN 9A04.a. and 9A004.a., and hot section technology controlled under ECCN 9E03.a.1. through a.12 and .f, and related controls, and 9E003.a.1. through a.12 and .f, and related controls, will be subject to full interagency review in accordance with Executive Order 12981 of December 5, 1995 (60 FR 62981), as amended.

The EAR have been totally revised by an interim rule published on March 25, 1996 (61 FR 12714) that provides for a transition period within which exporters can take advantage of both the old rules and the new rules until November 1, 1996. Therefore, this interim final rule and all other amendments to the EAR during the transition period will amend both the new EAR and the old EAR, which are now designated with the letter ''A'' following the part number.

DATES Effective Date: This interim final rule is effective October 21, 1996 except the amendments to parts 776A and 799A are effective October 21, 1996 until November 1, 1996.

Comments: Comments must be received December 5, 1996.

ADDRESSES: Written comments should be sent to Nancy Crowe, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Room 2705, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Gene Christiansen, Office of Strategic Trade, Telephone: (202) 482–2984.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 1992, the Bureau of Export Administration added a new ECCN 9A04 to the CCL to control certain commercial communications satellites previously controlled on the USML.

On March 25, 1996, BXA published an interim rule in the Federal Register (61 FR 12714) that completely revised and simplified the EAR, and redesignated the parts of the EAR prior to publication of that rule (15 CFR parts 768–799) by including an ''A'' following the part number (e.g., old part 768 is

now part 768A). The March 25 rule was effective April 24, 1996, and all EAR parts designated with ''A'' are effective until November 1, 1996. This interim final rule therefore amends the relevant parts of the EAR that end in ''A'' that were in effect prior to April 25, 1996 as well as the provisions of the new EAR. For example, commercial communications satellites are included under ECCN 9A04 in the old regulations (Supplement No. 1 § 799A.1 of the EAR), and under ECCN 9A004 in the new regulations (Supplement No. 1 part 774 of the EAR). Hot section technology for commercial aircraft engines is under ECCN 9E03 in the old regulations, and ECCN 9E003 in the new regulations.

This interim final rule amends ECCNs 9A04 and 9A004 on the CCL by removing the nine characteristics that identified commercial communications satellites under the jurisdiction of the Department of State. Such satellites are therefore now controlled on the CCL. The Department of State is publishing in the Federal Register a separate rule that removes commercial communications satellites from the USML. This interim final rule also amends the EAR by expanding national security controls and imposing foreign policy controls on commercial communications satellites controlled under ECCNs 9A04 and 9A004.

Space launch vehicles and all detailed design, development, production, or manufacturing data for all spacecraft including satellites, regardless of which government agency has jurisdiction over the export of the spacecraft, remains subject to the licensing authority of the Department of State. Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified in Category XV(f) of the USML. In all other cases, these systems, components, or parts remain on the USML, except that non-embedded, solid propellant orbit transfer engines (''kick motors'') are subject to Commerce licensing jurisdiction (and not controlled under the USML) when they are to be utilized for a specific commercial communications satellite launch, provided the solid propellant ''kick motor'' being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of the USML). Technical data, as defined in 120.21 of the ITAR, and defense services as defined in 120.8 of the ITAR, related to the systems, components, or parts referred to in Category XV(f) of the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce.

Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch (e.g. orbit, timing) of the satellite is under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellites and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR Part 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight.

This interim final rule also revises the List of Items Controlled under ECCNs 9E003 and 9E03 by adding a new paragraph .f to control technology not otherwise controlled in 9E003.a.1. through a.12 and 9E03.a.1. through a.12, and currently used in the development, production or overhaul of hot section parts and components of civil derivatives of military engines controlled on the U.S. Munitions List. This interim final rule also imposes enhanced national security and foreign policy controls on hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E03.a.1. through a.12., .f and related controls, and 9E003.a.1. through a.12., .f and related controls. Note that this interim final rule does not change controls on developmental aircraft controlled under ECCNs 9A91 and 9A991. Hot section technology specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is subject to the jurisdiction of the Department of State. Technology is subject to the EAR when actually applied to a commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in support of a request for an export license from Commerce in respect to a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction determination from State.

A license will be required for all exports and reexports to all destinations, except Canada, of commercial communications satellites controlled under ECCNs 9A04.a. and 9A004.a. and for hot section technology controlled under ECCNs 9E03.a.1. through a.12 and .f. and 9E003.a.1. through a.12 and .f. These items are not eligible for a Special Comprehensive License, and they are not subject to the mandatory foreign availability decontrol or export licensing provisions of the EAR. Exporters are advised that license applications for commercial communications satellites and hot section technology will be subject to full interagency review in accordance with Executive Order 12981 of December 5, 1995 (60 FR 62981). Applications for exports and reexports will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. Specifically, the following factors are among those that will be considered to determine what action will be taken on license applications:

(1) The country of destination;

(2) The ultimate end-users;

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

This interim final rule also amends part 734 of the EAR to exclude commercial communications satellites and hot section technology from the *de minimis* provisions for items and commingled technology exported from abroad, and amends parts 740 and 771A to exclude commercial communications satellites and hot section technology from License Exception GOV and General License GCG. Finally, this interim final rule also amends parts 738 and 742, and §§ 776A.2 and 776A.20 of the EAR to reflect the new foreign policy controls imposed by this interim final rule.

This interim final rule involves no new curtailment of exports, because the transfer or removal of items from the United States Munitions List to the CCL maintains a continuity of controls. Therefore, the provisions regarding the impact of new controls do not apply and contract sanctity also does not apply to this imposition of controls.

Consistent with the provisions of section 6 of the Export Administration Act, a foreign policy report was submitted to Congress on October 17, 1996, notifying the Congress of the

Department's intention to impose controls on commercial communications satellite and hot section technology associated with commercial aircraft engines that will be controlled on the CCL and subject to new control procedures.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, notice of August 15, 1995 (60 FR 42767), and August 14, 1996 (61 FR 42527).

Rulemaking Requirements

1. This interim final rule has been determined to be significant for purposes of E. O. 12866.

2. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This interim final rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0088.

3. This interim final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this interim final rule by under 5 U.S.C. 553 or by any other law, this rule is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim final rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim final form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close December 5, 1996. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Parts 742 and 774

Exports, Foreign trade.

15 CFR Parts 740 and 752

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Parts 771A, 776A and 799A

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 734, 742, 752, 771A, 774, 776A and 799A of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527).

2. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527).

3. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527).

4. The authority citation for 15 CFR part 752 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527).

5. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527).

6. The authority citation for 15 CFR part 776A continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18

U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

7. The authority citation for 15 CFR parts 771A and 799A continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

PART 734—[AMENDED]

§ 734.4 [Redesignated (b) through (f) as (c) through (g)]

8. Section 734.4 is amended by:

a. Redesignating paragraphs (b) through (f) as (c) through (g) respectively; and

b. Adding new paragraphs (b) and (h) to read as follows:

§ 734.4 De minimis U.S. content.

* * * * *

(b) There is no *de minimis* level for the reexport of foreign-origin items that incorporate items controlled by ECCN 9A004.a.

* * * * *

(h) Notwithstanding the provisions of paragraphs (c) and (d) of this section, U.S.-origin technology controlled under ECCNs 9E003.a.1. through a.12, and .f, and related controls does not lose its U.S.-origin when it is redrawn, used, consulted, or otherwise commingled abroad in any respect with other technology of any other origin. Therefore, any subsequent or similar technology prepared or engineered abroad for the design, construction, operation, or maintenance of any plant or equipment, or part thereof, which is based on or uses any U.S.-origin technology controlled under ECCNs 9E003.a.1. through a.12, and .f, and related controls is subject to the EAR.

PART 740—[AMENDED]

§ 740.6 [Amended]

9. Section 740.6 is amended by:

a. Redesignating paragraphs (b)(2)(iii)(A) through (C) as (b)(2)(iii) (B) through (D);

b. Redesignating paragraphs (b)(2)(iv)(A) through (C) as (b)(2)(iv) (B) through (D); and

c. Adding new paragraphs (b)(2)(iii)(A) and (b)(2)(iv)(A) to read as follows:

§ 740.6 Governments and international organizations (GOV).

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) Commercial communications satellites controlled under ECCN 9A004 and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.12, and .f, and related controls;

* * * * *

(iv) * * *

(A) Commercial communications satellites controlled under ECCN 9A004 and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.12, and .f, and related controls;

* * * * *

PART 742—[AMENDED]

10. Part 742 is amended by adding new § 742.14 to read as follows:

§ 742.14 Significant items: commercial communications satellites; hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirements.* Licenses are required for all destinations, except Canada, for ECCNs having an ''SI'' under the ''Reason for Control'' paragraph. These items include commercial communications satellites controlled by ECCN 9A004.a., and hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12., .f, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended (EAA), foreign policy controls apply to commercial communications satellites controlled under 9A004.a. and technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003.a.1. through a.12, .f, and related controls. These controls supplement the national security controls that apply to those items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

(1) The country of destination;

(2) The ultimate end-user(s);

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this § 742.14.

(d) [Reserved]

PART 752—[AMENDED]

§ 752.3 [Amended]

11. Section 752.3 is amended by redesignating paragraphs (a)(7) and (a)(8) as (a)(9) and (a)(10) respectively, and by adding new paragraphs (a)(7) and (a)(8) to read as follows:

§ 752.3 Eligible items.

(a) * * *

(7) Commercial communications satellites controlled under ECCN 9A004.a on the CCL;

(8) Hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12. .f, and related controls;

* * * * *

PART 771A—[AMENDED]

12. Section 771A.14 is amended by adding a new paragraph (d)(4) to read as follows:

§ 771A.14 General License GCG; Shipments to agencies of cooperating government.

* * * * *

(d) * * *

(4) No commercial communications satellites controlled under ECCN 9A04.a. or hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E03.a.1 through a.12, and .f, and related controls may be exported under this general license.

PART 774—[AMENDED]

Supplement to Part 774, Category 9 [Revised]

13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9 (Propulsion Systems, Space Vehicles, and Related Equipment), ECCNs 9A004 and 9E003 are revised to read as follows:

9A004 ''Spacecraft'', (not including their payloads) and specially designed components therefor that are not subject to the authority of the Department of State. (See notes.)

License Requirements

Reason for Control: NS, AT, SI.

Control(s)	Country chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

SI applies to commercial communications satellites controlled by 9A004.a. See § 742.14 of the EAR for additional information.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; systems, components, parts and accessories in $ value.

Related Controls: (1) The corresponding EU list number controls space launch vehicles (not including their payloads) and other ''spacecraft'' (not identified in this CCL entry). These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category XV). For the control status of products contained in ''spacecraft'' payloads, see the appropriate categories of the U.S. Munitions List (USML). (2) For the control status of items contained in ''spacecraft'' payloads subject to the EAR, see the appropriate entries on the CCL.

Related Definition: Transferring registration or operational control to any foreign person of any commercial communications satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the commercial communications satellite is physically located in the United States or abroad.

List of Items Controlled

a. Commercial communication satellites;

Technical Note: Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified in Category XV(f) of the USML. In all other cases, these systems, components, or parts remain on the USML, except that non-embedded, solid propellant orbit transfer engines (''kick motors'') are subject to Commerce licensing jurisdiction (and not controlled under the USML) when they are to be utilized for the specific commercial communications satellite launch, provided the solid propellant ''kick motor'' being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of the USML). Technical data (as defined in § 120.21 of the International Traffic in Arms Regulations (ITAR)) and defense services (as defined in § 120.8 of the ITAR) related to the systems, components, or parts referred to in Category XV(f) of the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce.

Note: Military communications satellites or multi-mission satellites, including commercial communications satellites having additional non-communication mission(s) or payload(s) are under the jurisdiction of the Department of State.

b. [Reserved]

c. Other ''spacecraft'' not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category XV.

Notes: 1. ECCN 9A004.c includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Exporters requesting a license from the Department of Commerce for spacecraft other than the international space station or a commercial communications satellite specified in 9A004 must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce.

2. All other spacecraft, including all other satellites not controlled under 9A004 and components, parts, accessories, attachments, associated equipment, and ground support equipment therefor are subject to the export licensing authority of the Department of State.

3. Items on Category XV(f) of the USML that are included in a commercial communications satellite to be exported under a Commerce license must be specifically listed on the Commerce license application. Such items when not included in a specific commercial communications satellite are under the jurisdiction of the Department of State.

4. Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch (e.g. orbit, timing) of the satellite, are under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellite and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR parts 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight.

5. Once a satellite is launched, items remaining unlaunched are required to be returned immediately to the United States. If the satellite launch is canceled or unduly delayed, the satellite and all support equipment must be returned immediately to the United States.

6. Detailed design, development, production, or manufacturing data for all spacecraft, including satellites, regardless of which agency has jurisdiction over the export, and all systems components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for articles under Category XV on the United States Munitions List (including software source code and operating algorithms) are subject to licensing by the Department of State. This does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal in-orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware).

* * * * *

9E003 Other ''technology''.

License Requirements

Reason for Control: NS, AT, SI.

Control(s)	Country chart
NS applies to entire entry	NS Column 1.
AT applies to entire entry	AT Column 1.

SI applies to 9E003. a.1. through a.12 and f. See § 742.14 of the EAR for additional information.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: N/A.

Related Controls: (1) The corresponding EU List number does not control technology controlled under 9E003.f. (2) Hot section technology specifically designed, modified,

or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is subject to the jurisdiction of the Department of State. (3) Technology is subject to the EAR when actually applied to a commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from Commerce in respect to a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction determination from State.

Items

a. ''Technology'' ''required'' for the ''development'', ''production'' or overhaul of the following commercial aircraft engines, components or systems:

a.1. Gas turbine blades, vanes or tip shrouds made from directionally solidified (DS) or single crystal (CS) alloys having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000 °C) at a stress of 200 MPa, based on the average property values;

a.2. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370 °C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.3. Components manufactured from organic ''composite'' materials designed to operate above 588 K (315 °C), or from metal ''matrix'' ''composite'', ceramic ''matrix'', intermetallic or intermetallic reinforced materials controlled by 1A002 or 1C007;

a.4. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050 °C) or more;

a.5. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E003.a.1, exposed to gas path temperatures of 1,643 K (1,370 °C) or more;

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. Gas turbine engine components using ''diffusion bonding'' ''technology'' controlled by 2E003.b;

a.8. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C002.b;

a.9. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.10. Adjustable flow path geometry and associated control systems for:

a.10.a. Gas generator turbines;

a.10.b. Fan or power turbines;

a.10.c. Propelling nozzles;

Note 1: Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

Note 2: 9E003.a.10 does not control ''development'' or ''production'' ''technology'' for adjustable flow path geometry for reverse thrust.

a.11. Rotor blade tip clearance control systems employing active compensating casing ''technology'' limited to a design and development data base;

a.12. Gas bearings for gas turbine engine rotor assemblies;

a.13. Wide chord hollow fan blades without part-span support;

Note: Also see 9E003.f.

b. ''Technology'' ''required'' for the ''development'' or ''production'' of:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;

b.2. ''Composite'' propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for the ''development'' or ''production'' of gas turbine engine components using ''laser'', water jet or ECM/EDM hole drilling processes to produce holes with:

c.1.a. Depths more than four times their diameter;

c.1.b. Diameters less than 0.76 mm; and

c.1.c. Incidence angles equal to or less than 25°; or

c.2.a. Depths more than five times their diameter;

c.2.b. Diameters less than 0.4 mm; and

c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E003.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems:

d.1. Capable of loss-of-lubrication operation for 30 minutes or more; or

d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg.

e.1 ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1.a. A box volume of 1.2 m^3 or less;

e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of the following:

a. The dimension of the crankshaft center-line to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

e.2. ''Technology'' ''required'' for the ''production'' of specially designed components, as follows, for ''high output diesel engines'':

e.2.a. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following components employing ceramics materials controlled by 1C007:

e.2.a.1. Cylinder liners;

e.2.a.2. Pistons;

e.2.a.3. Cylinder heads; and

e.2.a.4. One or more other components (including exhaust ports, turbocharger, valve guides, valve assemblies or insulated fuel injectors);

e.2.b. ''Technology'' ''required'' for the ''production'' of turbocharger systems, with single-stage compressors having all of the following:

e.2.b.1. Operating at pressure ratios of 4:1 or higher;

e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and

e.2.b.3. Variable flow area capability within the compressor or turbine sections;

e.2.c. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8° C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8° C)), having both of the following:

e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder;

e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

e.3. ''Technology'' ''required'' for the ''development'' or ''production'' of ''high output diesel engines'' for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450° C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

f. Technology not otherwise controlled in 9E003.a.1. through a.12 and currently used in the ''development'', ''production'' or overhaul of hot section parts and components of civil derivatives of military engines controlled on the U.S. Munitions List.

PART 776A—[AMENDED]

14. Sections 776A.2 and 776A.20 are added effective October 21, 1996 until November 1, 1996 to read as follows:

§ 776A.2 Commercial communications satellites.

Pursuant to section 6 of the Export Administration Act of 1979, as amended, (EAA), foreign policy controls apply to commercial communications satellites controlled under 9A04.a. These controls supplement the national security controls that apply to those items.

(a) *License requirements.* Individual validated licenses are required for all exports and reexports of commercial communications satellites controlled by ECCN 9A04A.a. to all destinations, except Canada.

(b) *License review policy.* Applications for export and reexport

will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on individual license applications:

(1) The country of destination;

(2) The ultimate end-users;

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

* * * * *

§ 776A.20 Hot section technology for the development, production or overhaul of commercial aircraft engines, components or systems.

Pursuant to section 6 of the Export Administration Act of 1979, as amended, (EAA), an individual validated export license is required for hot section technology related to the development, production or overhaul of commercial aircraft engines, components or systems. These controls supplement the national security controls that apply to those items.

(a) *License requirements.* Individual validated licenses are required for all exports and reexports of hot section technology for the development, production or overhaul of civil gas turbine engines controlled by ECCN 9E03A.a.1 through a.12, .f, and related controls to all destinations, except Canada.

(b) *License review policy.* Applications for export and reexports will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on individual license applications:

(1) The country of destination;

(2) The ultimate end-users;

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

PART 799A—[AMENDED]

15. In Supplement No. 1 to § 799A.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCNs 9A04A and 9E03A are revised effective October 21, 1996 until November 1, 1996 to read as follows:

9A04A ''Spacecraft'' (not including their payloads), and specially designed components therefor that are not subject to the authority of the Department of State. (See notes.)

Note: Space launch vehicles (not including their payloads) and other ''spacecraft'' (not identified in this CCL entry) are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category XV). For the control status of products contained in ''spacecraft'' payloads, see the appropriate categories of the U.S. Munitions List (USML). For the control status of items contained in ''spacecraft'' payloads subject to the EAR, see the appropriate entries on the CCL.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in number; parts and accessories in $ value

Reason for Control: NS, FP (see Note)

GLV: $0

GCT: No

GFW: No

Note: FP controls apply to items controlled in 9A04.a (see § 776.2 of this subchapter).

List of Items Controlled

a. Commercial communications satellites;

Technical Note: Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified in Category XV(f) of the USML. In all other cases, these systems, components, or parts remain on the USML, except that non-embedded, solid propellant orbit transfer engines (''kick motors'') are subject to Commerce licensing jurisdiction (and not controlled under the USML) when they are to be utilized for the specific commercial communications satellite launch, provided the solid propellant ''kick motor'' being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of the USML). Technical data (as defined in § 120.21 of the International Traffic in Arms Regulations (ITAR)) and defense services (as defined in § 120.8 of the ITAR) related to the systems, components, or parts referred to in Category XV(f) of the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce.

Note: Military communications satellites or multi-mission satellites, including commercial communications satellites having additional non-communication mission(s) or payload(s) are under the jurisdiction of the Department of State.

b. [Reserved]

c. Other ''spacecraft'' not controlled under Category XV of the USML.

Note: 9A04.c. includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Exporters requesting a validated license from the Department of Commerce for spacecraft other than the international space station or a commercial communication satellite specified in 9A04, must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce.

Notes: 1. Transferring registration or operations control to any foreign person of any commercial communications satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the commercial communications satellite is physically located in the United States or abroad.

2. All other spacecraft, including all other satellites not controlled under 9A04, and components, parts, accessories, attachments, associated equipment, and ground support equipment therefor are subject to the export licensing authority of the Department of State.

3. Items on Category XV(f) of the USML that are included in a commercial communications satellite to be exported under a Commerce license must be specifically listed on the Commerce license application. Such items when not included in a specific commercial communications satellite are under the jurisdiction of the Department of State.

4. Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch (e.g. orbit, timing) of the satellite, are under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellite and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR parts 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight.

5. Once a satellite is launched, items remaining unlaunched are required to be returned immediately to the United States. If the satellite launch is canceled or unduly delayed, the satellite and all support equipment must be returned immediately to the United States.

6. Detailed design, development, production, or manufacturing data for all spacecraft, including satellites, regardless of which agency has jurisdiction over the export, and all systems components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for articles under Category XV on the United States Munitions List (including software source code and operating algorithms) are subject to licensing by the Department of State. This does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item

intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal in-orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware).

9E03A Other technology, as follows:

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS, FP (see Note)
GTDR: No
GTDU: No
GFW: No

Note: FP controls apply to technology controlled in 9E03.a.1 through a.12, and .f, and related controls (see § 776.19 of this subchapter).

Related controls: (1) Hot section technology specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is subject to the jurisdiction of the Department of State. (2) Technology is subject to the EAR when actually applied to a commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from Commerce in respect to a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction determination from State.

List of Items Controlled

a. ''Technology'' ''required'' for the ''development'' ''production'' or overhaul of the following commercial aircraft engine components or systems:

a.1. Gas turbine blades, vanes or tip shrouds made from directionally solidified (DS) or single crystal (CS) alloys having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000° C) at a stress of 200 MPa, based on the average property values;

a.2. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370° C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.3. Components manufactured from organic ''composite'' materials designed to operate above 588 K (315° C), or from metal ''matrix'' ''composite'', ceramic ''matrix'', intermetallic or intermetallic reinforced materials controlled by 1A02 or 1C07;

a.4. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050° C) or more;

a.5. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E03.a.1, exposed to gas path temperatures of 1,643 K (1,370° C) or more;

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. Gas turbine engine components using ''diffusion bonding'' ''technology'' controlled by 2E03.b;

a.8. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C02.b;

a.9. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.10. Adjustable flow path geometry and associated control systems for:

a.10.a. Gas generator turbines;

a.10.b. Fan or power turbines;

a.10.c. Propelling nozzles;

Note 1: Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

Note 2: 9E03.a.10 does not control ''development'' or ''production'' ''technology'' for adjustable flow path geometry for reverse thrust.

a.11. Rotor blade tip clearance control systems employing active compensating casing ''technology'' limited to a design and development data base;

a.12. Gas bearings for gas turbine engine rotor assemblies;

a.13. Wide chord hollow fan blades without part-span support;

Note: Also see 9E03.f.

b. ''Technology'' ''required'' for the ''development'' or ''production'' of:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;

b.2. ''Composite'' propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for the ''development'' or ''production'' of gas turbine engine components using ''laser'', water jet or ECM/EDM hole drilling processes to produce holes with:

c.1.a. Depths more than four times their diameter;

c.1.b. Diameters less than 0.76 mm; and

c.1.c. Incidence angles equal to or less than 25°; or

c.2.a. Depths more than five times their diameter;

c.2.b. Diameters less than 0.4 mm; and

c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E03.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems:

d.1. Capable of loss-of-lubrication operation for 30 minutes or more; or

d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg.

e.1 ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1.a. A box volume of 1.2 m^3 or less;

e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of the following:

a. The dimension of the crankshaft center-line to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

e.2. ''Technology'' ''required'' for the ''production'' of specially designed components, as follows, for ''high output diesel engines'':

e.2.a. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following components employing ceramics materials controlled by 1C07:

e.2.a.1. Cylinder liners;

e.2.a.2. Pistons;

e.2.a.3. Cylinder heads; and

e.2.a.4. One or more other components (including exhaust ports, turbocharger, valve guides, valve assemblies or insulated fuel injectors);

e.2.b. ''Technology'' ''required'' for the ''production'' of turbocharger systems, with single-stage compressors having all of the following:

e.2.b.1. Operating at pressure ratios of 4:1 or higher;

e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and

e.2.b.3. Variable flow area capability within the compressor or turbine sections;

e.2.c. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8° C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8° C)), having both of the following:

e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder;

e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

e.3. ''Technology'' ''required'' for the ''development'' or ''production'' of ''high output diesel engines'' for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450° C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

f. Technology not otherwise controlled in 9E03.a.1. through a.12 and currently used in the ''development'', ''production'' or overhaul of hot section parts and components of civil derivatives of military engines controlled on the U.S. Munitions List.

Dated: October 15, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–26806 Filed 10–18–96; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Parts 1, 305, 306, 460

Debt Collection Improvement Act of 1996

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: This rule implements the Debt Collection Improvement Act of 1996 by making inflation adjustments in the dollar amounts prescribed for each type of violation established by the statutory civil penalty provisions within the FTC's jurisdiction.

EFFECTIVE DATE: November 20, 1996.

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, (202) 326–2447, Office of General Counsel, FTC, Sixth Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: This regulation implements the Debt Collection Improvement Act (DCIA) of 1996, Pub. L. 104–134, section 31001(s) (Apr. 26, 1996) (amending the Federal Civil Penalties Inflation Adjustment Act (FCPIAA) of 1990, 28 U.S.C. 2461 note). The DCIA requires that the Commission publish regulations, no later than 180 days after the enactment of the statute and at least once every four years thereafter, making inflation adjustments in the dollar amount of ''each civil monetary penalty provided by law within the [agency's] jurisdiction * * *.'' Pub. L. 104–134 at section 31001(s)(1)(A) (amending FCPIAA section 4). *See also* FCPIAA section 3(2) (defining ''civil monetary penalty'' as any ''penalty, fine, or other sanction'' for a ''specific monetary amount'' or ''maximum'' amount that is ''assessed or enforced'' by the agency in an ''administrative proceeding'' or through a ''civil action'' in federal court).

The DCIA requires that the adjustments be determined in accordance with section 5 of the FCPIAA, as amended. Section 5 provides that each civil penalty amount prescribed by statute is to be adjusted by a cost-of-living increase equal to the percentage, if any, by which the U.S. Department of Labor's Consumer Price Index (CPI) for June of the calendar year preceding the adjustment exceeds the June CPI for the calendar year in which the civil penalty amount was ''last set or adjusted pursuant to law.'' FCPIAA section 5 (b). These calculations are based on the comprehensive CPI for all urban consumers (1913 to present, base year 1967). FCPIAA section 3(3) (defining CPI). The increase is then mathematically rounded, pursuant to section 5 (a) of the FCPIAA, to arrive at the final adjusted figure, which may not exceed 10% of the current statutory civil penalty amount in the case of the initial adjustment. Pub. L. 104–134 at section 31001(s)(2) (limitation on initial adjustment).

Due to inflation since the civil penalty amounts in the Commission's statutes were ''last set or adjusted pursuant to law,'' the increase will, in every case, be the maximum 10% initially permitted under the DCIA. *Id.* The increases to civil penalty amounts specified in the FTC Act will also apply with respect to civil penalties authorized pursuant to the FTC Act under other laws that the Commission is responsible for administering or enforcing. *See, e.g.,* Wool Products Labeling Act sections 6(a), 8, et al., 15 U.S.C. 68d(a), 68f, et al.; Textile Fiber Products Identification Act sections 6, 7, et al., 15 U.S.C. 70d, 70e, et al.; Fair Credit Reporting Act (Consumer Credit Protection Act section 621), 15 U.S.C. 1681s; Equal Credit Opportunity Act (Consumer Credit Protection Act section 704(c)), 15 U.S.C. 1691c(c); Petroleum Marketing Practices Act section 203(e), 15 U.S.C. 2823(e); Telephone Disclosure and Dispute Resolution Act section 201(c), 15 U.S.C. 5711(c); Telemarketing and Consumer Fraud and Abuse Prevention Act section 6(b), 15 U.S.C. 6105(b); etc.

This regulation is being added to Part 1 of the Commission's existing Rules of Practice in a new Subpart L, entitled ''Civil Penalty Adjustments Under the Debt Collection Improvement Act of 1996.'' Conforming amendments are also being made to 16 CFR 1.97 and 305.4 (Appliance Labeling penalty proceedings and Rule, respectively), to 16 CFR 306.1 (Fuel Rating Rule), and to 16 CFR 460.1 (R–Value Rule). The adjustments set forth in this regulation are effective 30 days after publication, as noted earlier, and will apply only to violations occurring after the effective date. *See* Pub. L. 104–134 at section 31001(s)(1)(C) (adding FCPIAA section 7).

The Commission has no discretion in determining the amounts of the published adjustments. Accordingly, the Commission finds it unnecessary to seek public comment in this matter. *See* 5 U.S.C. 553(b)(B) (exemption from notice-and-comment rulemaking procedures under the Administrative Procedure Act). For that reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603 & 604 (requiring initial and final analyses only where notice-and-comment is required by 5 U.S.C. 553, *supra*). In promulgating this regulation, the Commission has consulted the Department of Justice (DOJ) with respect to those FTC civil penalty statutes concurrently administered or enforced by DOJ.

List of Subjects

16 CFR Part 1

Administrative practice and procedure, Penalties, Trade practices.

16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Penalties, Reporting and recordkeeping requirements.

16 CFR Part 306

Gasoline, Labeling, Penalties, Reporting and recordkeeping requirements, Track practices.

16 CFR Part 460

Advertising, Insulation, Labeling, Reporting and recordkeeping requirements, Trade practices.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapters A, C, and D, of the Code of Federal Regulations, as follows:

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 1—GENERAL PROCEDURES

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

Authority: Sec. 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

2. Section 1.97 is amended by revising the first sentence of the introductory text to read as follows:

§ 1.97 Amount of penalty.

All penalties assessed under this subchapter shall be in the amount per violation as described in section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a), adjusted for inflation pursuant to § 1.98, unless the Commission otherwise directs.* * *

* * * * *

3. Part 1 is amended by adding a new Subpart L consisting of § 1.98 to read as follows:

Subpart L—Civil Penalty Adjustments Under the Debt Collection Improvement Act of 1996

Sec.
1.98 Adjustment of civil monetary penalty amounts.

Authority: Pub. L. 101–410 (28 U.S.C. 2461 note), as amended by sec. 31001(s), Pub. L. 104–134 (Apr. 26, 1996), 110 Stat. 3009 *et seq.*

Subpart L—Civil Penalty Adjustments Under the Debt Collection Improvement Act of 1996

§ 1.98 Adjustment of civil monetary penalty amounts.

Effective November 20, 1996, dollar amounts specified in civil monetary penalty provisions within the Commission's jurisdiction are adjusted for inflation in accordance with paragraphs (a) through (l) of this section. The adjustments set forth in this section apply to violations occurring after November 20, 1996. The adjustments are as follows:

(a) Clayton Act section 7A(g)(1), 15 U.S.C. 18a(g)(1), adjusted from $10,000 to $11,000 per violation;

(b) Clayton Act section 11(*l*), 15 U.S.C. 21(*l*), adjusted from $5,000 to $5,500 per violation;

(c) FTC Act section 5(*l*), 15 U.S.C. 45(*l*), adjusted from $10,000 to $11,000 per violation;

(d) FTC Act section 5(m)(1)(A), 15 U.S.C. 45(m)(1)(A), adjusted from $10,000 to $11,000 per violation;

(e) FTC Act section 5(m)(1)(B), 15 U.S.C. 45(m)(1)(B), adjusted from $10,000 to $11,000 per violation;

(f) FTC Act section 10, 15 U.S.C. 50, adjusted from $100 to $110 per violation;

(g) Webb-Pomerene (Export Trade) Act section 5, 15 U.S.C. 65, adjusted from $100 to $110 per violation;

(h) Wool Products Labeling Act section 6(b), 15 U.S.C. 68d(b), adjusted from $100 to $110 per violation;

(i) Fur Products Labeling Act section 3(e), 15 U.S.C. 69a(e), adjusted from $100 to $110 per violation;

(j) Fur Products Labeling Act section 8(d)(2), 15 U.S.C. 69f(d)(2), adjusted from $100 to $110 per violation;

(k) Energy Policy and Conservation Act section 333(a), 42 U.S.C. 6303(a), adjusted from $100 to $110 per violation; and

(l) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission, adjusted in accordance with paragraphs (c), (d), (e) and (f) of this section, as applicable.

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCES AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT (''APPLIANCE LABELING RULE'')

4. The authority for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

5. Section 305.4 is amended by revising the introductory text of paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act, as adjusted for inflation pursuant to § 1.98 of this chapter, for each unit of any new covered product to which the part applies:

* * * * *

(b) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act, as adjusted for inflation pursuant to § 1.98 of this chapter, for any manufacturer or private labeler knowingly to:

* * * * *

PART 306—AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING

6. The authority for Part 306 continues to read as follows:

Authority: 15 U.S.C. 2801 *et seq.*

7. Section 306.1 is amended by revising the last sentence to read as follows:

§ 306.1 What this rule does.

* * * You can be fined up to $10,000 (plus an adjustment for inflation, under § 1.98 of this chapter each time you break a rule.

SUBCHAPTER D—TRADE REGULATION RULES

PART 460—LABELING AND ADVERTISING OF HOME INSULATION

8. The authority for Part 460 is revised to read as follows:

Authority: 38 Stat. 717, as amended (15 U.S.C. 41 *et seq.*).

9. Section 460.1 is amended by revising the last sentence to read as follows:

§ 460.1 What this regulation does.

* * * You can be fined heavily (up to $10,000 plus an adjustment for inflation, under § 1.98 of this chapter each time you break a rule.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–26495 Filed 10–18–96; 8:45 am]

BILLING CODE 6750–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances and Articles: Administration and Enforcement Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Revocation of statement of policy.

SUMMARY: The Commission revokes the statement of policy under the Federal Hazardous Substances Act that sets forth examples of a hazard warning label acceptable for containers of ethylene glycol-base radiator antifreeze. The examples contain first aid instructions—to induce vomiting—that are no longer appropriate.

DATES: The revocation is effective October 21, 1996. It applies to products introduced into commerce on or after October 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Toro, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400 ext. 1378.

SUPPLEMENTARY INFORMATION:

A. Background

Radiator antifreeze containing ethylene glycol is a hazardous substance which must be labeled in accordance with the requirements of the Federal Hazardous Substances Act (''FHSA''). Before the Consumer Product Safety Commission (''the Commission'') existed, the Food and Drug Administration (''FDA'') was responsible for implementing the FHSA. When Congress established the Commission it transferred to the Commission the authority to administer the FHSA. 15 U.S.C. 2079(a). In 1967, the FDA issued a policy statement describing two labels for ethylene glycol-base radiator antifreeze that would meet the labeling requirements of the FHSA. 16 CFR 1500.132. The suggested labeling provides:

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. *If swallowed, induce vomiting immediately.*

Call a physician. Ethylene glycol base. Do not store in open or unlabeled containers. Keep out of reach of children.

Id. 1500.132(b)(1) (emphasis added). A slightly different example (also containing the underlined first aid instructions) is provided for antifreeze containing between 0.01 percent and 1 percent of sodium arsenate. *Id*. 1500.132(b)(2). As explained below, the Commission believes that the underlined first aid instruction to induce vomiting is no longer appropriate for ethylene glycol.

B. FHSA Requirements

Under section 2(p)(1) of the FHSA, a hazardous substance (such as ethylene glycol-base radiator antifreeze) that is ''intended, or packaged in a form suitable, for use in the household or by children'' must bear appropriate hazard labeling. 15 U.S.C. 1261(p)(1). A hazardous substance that does not bear the labeling specified by section 2(p)(1) of the FHSA is misbranded and its introduction or receipt in interstate commerce is a prohibited act under the FHSA, 15 U.S.C. 1263, subjecting the violator to certain penalties, 15 U.S.C. 1264.

To satisfy section 2(p)(1), the label on such a hazardous substance must provide: the name and place of the manufacturer, packer, distributor or seller; the chemical name of the hazardous substance; the appropriate signal word; a statement of the principal hazard or hazards; precautionary measures; first aid instruction when appropriate or necessary; the word ''poison'' if appropriate; instructions for handling and storage if necessary; the statement ''Keep out of reach of children'' or, if intended for children, directions for protection of children. 15 U.S.C. 1261(p)(1) (A)–(J).

In addition to these requirements, ethylene glycol-base radiator antifreeze is also subject to special labeling requirements issued under section 3(b) of the FHSA. 15 U.S.C. 1262(b). According to these requirements, ethylene glycol and mixtures containing 10 percent or more by weight of ethylene glycol must be labeled with the signal word ''warning'' and the statement ''Harmful or fatal if swallowed.'' 16 CFR 1500.14(b)(2). A product that does not meet these requirements would be considered misbranded and subject to penalties. 15 U.S.C. 1262(b) and 1263.

The statement of policy that the Commission is revoking sets forth examples of a hazard warning label for ethylene glycol-base radiator antifreeze that would meet the FHSA requirements. Although the Commission is not specifying an alternative labeling example at this time, manufacturers continue to be responsible for properly labeling their product so that it meets the requirements of section 2(p)(1) of the FHSA and the additional requirements at 16 CFR 1500.14(b)(1).

C. New Information

At the time FDA published the example of hazard labeling for ethylene glycol-base radiator antifreeze, the most common technique to reduce gastrointestinal absorption of most ingested poisons was to induce emesis (vomiting) with syrup of ipecac. However, current medical information indicates that this practice is often ineffective in reducing absorption of a toxin when administered more than one hour after ingestion. In addition, syrup of ipecac may not be appropriate in certain circumstances (e.g., certain pre-existing medical conditions, or ingestion of caustics, petroleum distillates, or chemicals known to induce seizures). Thus, the use of syrup of ipecac has declined, and the American Association of Poison Control Centers, PoisIndex, and the American Association of Pediatrics now recommend consulting a medical professional before inducing vomiting for ingestion of any toxic substance.

For the following reasons, inducing emesis with syrup of ipecac is particularly inappropriate when ethylene glycol has been ingested:

(1) Ethylene glycol is absorbed rapidly with blood levels reaching their peak 1 to 4 hours after ingestion. Since syrup of ipecac requires 20–30 minutes to produce vomiting, it would probably only be effective if administered immediately.

(2) Because ethylene glycol can itself cause nausea and vomiting, syrup of ipecac would provide no additional benefit.

(3) With recent improvements in diagnostic techniques and medical treatment, the drawbacks of administering syrup of ipecac in an individual case weigh more strongly than they would have previously.

(4) Ingestion of ethylene glycol can produce central nervous system (CNS) depression and seizures. When these are combined with the multiple episodes of vomiting that syrup of ipecac can induce, the risk of serious injury increases.

For these reasons, the Commission no longer believes that the first aid instruction to induce vomiting when ethylene glycol has been ingested is proper.

D. Appropriate Labeling

As stated above, revocation of the labeling example does not relieve manufacturers of their obligation to label ethylene glycol-containing products appropriately. The Commission believes that other aspects of the labeling example continue to be appropriate. However, labeling must provide an alternative first aid instruction. The Commission suggests the statement ''If swallowed, IMMEDIATELY contact a poison control center, emergency treatment center, or physician.'' This statement is simply one possibility, and similar statements would also be appropriate.

The Commission is not issuing a statement of policy providing a new labeling example. Currently, CPSC staff is revising the Commission's Hazardous Substances Labeling Guide (the ''Guide''). The Guide was originally developed in 1979 to assist manufacturers and staff in devising warning labels that would meet the requirements of the FHSA. Since that time, changes have occurred in toxicity data and labeling practices. The staff is revising the Guide to reflect those changes. The Guide should be finalized in 1998 and will address labeling for ethylene glycol-base antifreeze as well as other products.

E. Revocation

As explained above, the Commission is revoking the suggested labeling for ethylene glycol-base radiator antifreeze because the first aid instruction is no longer medically appropriate. The Administrative Procedure Act (''APA'') generally requires agencies to publish a notice of proposed rulemaking and provide an opportunity for the public to comment before issuing or revoking regulations. 5 U.S.C. 553(b) and (c). However, notice and comment is not required for statements of policy. *Id*. 553(b)(3)(A). Because the labeling examples at 16 CFR 1500.132 were issued as a statement of policy, the Commission is not providing for notice and comment.

Similarly, the APA generally requires that rules be published at least 30 days before their effective date. 5 U.S.C. 553(d). However, this is not necessary for statements of policy. *Id*. 553(d)(2). Therefore, this revocation takes effect immediately.

F. Implementation

The Commission recognizes that manufacturers have relied on the warning label examples for many years and that these companies will need time to change their product labels. Thus,

although the revocation is effective immediately, the Commission will delay enforcement to coincide with the product's annual production and packaging period. According to information provided by the industry to CPSC staff, annual production of the antifreeze begins in May, and labels are generally ordered prior to production. Therefore, ethylene glycol antifreeze introduced into commerce after April 1, 1997 will be expected to bear appropriate first aid instructions that satisfy the FHSA requirements. Until that time, the staff will work with affected manufacturers to develop appropriate labeling. This delay should allow sufficient time for manufacturers to make appropriate labeling changes before marketing their 1997 products.

If a manufacturer anticipates difficulty meeting this enforcement date, he or she may request additional time by writing to David Schmeltzer, Assistant Executive Director for Compliance, Office of Compliance, U.S. Consumer Product Safety Commission, Washington, D.C. 20207. Such requests must provide a full explanation and justification of the need for additional time and documentation of claims that the firm would experience financial hardship meeting the April 1, 1997 date.

Reference Documents

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Washington, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814.

1. Briefing Memorandum with attached briefing package, October 1, 1996.

2. Memorandum from Susan Aitken, Ph.D., ESPS, to Mary Ann Danello, Ph.D., Associate Executive Director ESPS, ''Toxicity and Treatment of Accidental Ingestions of Ethylene Glycol'' May 28, 1996.

3. Memorandum from Robert Ochsman, Ph.D, to Susan Aitken, Ph.D., ESPS, ''Revised Warning Labels for Radiator Antifreeze Containing Ethylene Glycol,'' June 5, 1996.

4. Memorandum from Robert Franklin, EPSS, to Susan Aitken, Ph.D., ESPS, ''Antifreeze Market Information,'' August 16, 1996.

5. Memorandum from Robert Poth, Director CRM, Office of Compliance, ''Revised First-Aid for Ethylene Glycol Antifreeze,'' August 27, 1996.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Labeling, Packaging and containers, and Toxic substances.

Conclusion

Under the authority of section 553 of the Administrative Procedure Act and sections 2(p)(1), 3(b) and 10(a) of the Federal Hazardous Substances Act (15 U.S.C. 1261(p)(1), 1262(b), 1269(a)), the Commission amends part 1500 of 16 CFR chapter II as follows:

PART 1500—[AMENDED]

1. The authority for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

§ 1500.132 [Removed and reserved]

2. Section 1500.132 is removed and reserved.

Dated: October 15, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–26824 Filed 10–18–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 96–76]

Annual User Fee for Customs Broker Permit; General Notice

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This is to advise Customs brokers that for 1997 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 10, 1997. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Adline Tatum, Entry (202) 927–0380.

SUPPLEMENTARY INFORMATION: Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association, or corporation. This fee is set forth in the Customs Regulations in section 111.96 (19 CFR 111.96).

Section 111.96, Customs Regulations, provides that the fee is payable for each calendar year in each Broker district where the broker was issued a permit to do business by the due date which will be published in the Federal Register annually. Broker districts are defined in the General Notice published in the Federal Register, Volume 60, No. 187, Wednesday, September 27, 1995.

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99–514), provides that notices of the date on which a payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the Federal Register by no later than 60 days before such due date. This document notifies brokers that for 1997, the due date for payment of the user fee is January 10, 1997. It is expected that annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: October 15, 1996.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 96–26839 Filed 10–18–96; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

25 CFR Part 309

RIN 1090–AA45

Protection for Products of Indian Art and Craftsmanship

AGENCY: Indian Arts and Crafts Board (IACB), DOI.

ACTION: Final rule.

SUMMARY: This rule adopts regulations to carry out Public Law 101–644, the Indian Arts and Crafts Act of 1990. The regulations define the nature and Indian origin of products that the law covers and specify procedures for carrying out the law. The trademark provisions of the Act are not included in this rulemaking and will be treated at a later time.

EFFECTIVE DATES: November 20, 1996.

FOR FURTHER INFORMATION CONTACT: Meridith Z. Stanton or Geoffrey E. Stamm, Indian Arts and Crafts Board, Room 4004–MIB, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone 202–208–3773 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The Act of August 27, 1935 (49 Stat. 891; 25 U.S.C. 305 et seq.; 18 U.S.C. 1158–59), created the Indian Arts and Crafts Board. The Board is responsible for promoting the development of

American Indian and Alaska Native arts and crafts, improving the economic status of members of Federally-recognized tribes, and helping to develop and expand marketing opportunities for arts and crafts produced by American Indians and Alaska Natives.

The 1935 Act adopted criminal penalties for selling goods with misrepresentations that they were Indian produced. This provision, currently located in section 1159 of title 18, United States Code, set fines not to exceed $500 or imprisonment not to exceed six months, or both. Although this law was in effect for many years, it provided no meaningful deterrent to those who misrepresent imitation arts and crafts as Indian produced. In addition, it required ''willful'' intent to prove a violation, and very little enforcement took place.

In response to growing sales in the billion dollar U.S. Indian arts and crafts market of products misrepresented or erroneously represented as produced by Indians, the Congress passed the Indian Arts and Crafts Act of 1990. This Act is essentially a truth-in-advertising law designed to prevent marketing products as ''Indian made'' when the products are not, in fact, made by Indians as defined by the Act.

Public Participation

The Indian Arts and Crafts Board published the proposed rulemaking for the Indian Arts and Crafts Act of 1990 on October 13, 1994. 59 FR 51908–51911. As the Federal Register omitted several key lines from the Enforcement section 309.3, the Federal Register published a correction on October 18, 1994. 59 FR 52588.

In addition to publication, several thousand copies of the proposed rulemaking were distributed to interested parties, including every Federally-recognized Indian tribe.

The Board received 36 public comments on the proposed rulemaking, and each was carefully reviewed, analyzed, and considered. These comments are grouped by issues and Board responses in the following summary.

Summary and Analysis of Public Comments

A broad range of respondents expressed their support of the proposed regulations. These comments emphasized the crucial contribution of art and craft work production and sales to the economic development of Indian individuals and tribes throughout the nation.

Overall Comments

Several comments raised the issue of what is a reasonable boundary between marketing statements that are simply truthful and statements that are clearly misleading. One respondent expressed concern that the Act and proposed regulations prohibit an artist who is not a member of an Indian tribe from truthfully describing his or her Indian heritage as part of the discussion of his or her art work. The regulations do not prohibit any statements about a person's Indian heritage that are truthful and not misleading in the marketing of that individual's work.

One comment asked whether an individual, who is neither enrolled nor certified as an Indian artisan, is permitted under the Act to use the term ''Non-Government Enrolled Descendant'' or its abbreviation, ''NGED,'' in conjunction with the name of an Indian tribe to market his or her work. Considered as a whole, this phrase and its abbreviation are misleading. The capitalization implies some sort of official standing, and the word ''enrolled'' is positive. However, the truth is exactly the opposite: the individual is not officially recognized by, and is not enrolled in, the tribe named.

One comment questioned the treatment of persons of various degrees of Indian ancestry who are active in the art market, but are not members of tribes. As described in section 309.3 of the Section-by-Section Comments, Congress in the Act addressed this situation by leaving it to the tribes to decide whether to certify as Indian artisans for purposes of the Act individuals who have some degree of ancestry of that tribe but are not tribal members. This tribal certification method also is discussed in section 309.4 of the regulations. A person is permitted under the regulations to make a truthful statement, in connection with marketing of an art or craft product, that he or she is of Indian ''descent'' or particular tribal ''descent''.

Several respondents questioned the absence of regulations implementing the Act's trademark provisions and recommended that a supplementary rule be proposed for comment, to carry out the trademark section, before final publication of the regulations. This recommendation has not been adopted. The Indian Arts and Crafts Board is not prepared to carry out the trademark section of the Act at this time. Although the trademark provisions may be desirable in their own right, they are not necessary to the protections covered by these regulations. As stated previously, the trademark provisions of the Act will be treated at a later time.

One comment recommended and advocated changes in both the proposed regulations and the Act on the grounds that they are unconstitutional. Another comment asked for a repeal of the Act and proposed regulations, as they are a violation of the freedom of speech of all ''Indian Americans.'' These comments have not been adopted either. While regulations can interpret and clarify the Act, regulations cannot change the Act. Furthermore, the regulations do not prohibit any individual, marketing enterprise, or other vendor from truthfully representing the art or craft products that they offer or display for sale or sell. The regulations define the nature and Indian origin of products protected by the Indian Arts and Crafts Act of 1990, a truth-in marketing law, from false representations. They also specify how the Indian Arts and Crafts Board will interpret certain conduct for enforcement purposes.

Finally, several comments recommended that the regulations be reissued in proposed form for further comment before final publication of the regulations to carry out the Act. A broad range of comments was received and carefully considered. Appropriate revisions and refinements have been adopted without fundamental change to the approach of the proposed regulations. Accordingly reissuance in proposed form is not warranted.

Section-by-Section Comments

Section 309.1 How Do These Regulations Carry Out the Indian Arts and Crafts Act of 1990?

One response asked how the legislation affects arts and crafts sold in business establishments. Another stated that the ''middle man'' should be held accountable for how the product is marketed.

Section 309.1 of the regulations covers these concerns. It states that the Act regulates products offered or displayed for sale, or sold as Indian produced, an Indian product, or the product of a particular Indian, or Indian tribe, or Indian arts and crafts organization within the United States. This section does not limit the marketing vehicles covered by the regulations. The Act applies to any offer for sale or display for sale, or actual sale by any person in the United States. In light of this broad application, section 309.1 is appropriately drafted.

Section 309.2 What Are the Key Definitions for Purposes of the Act?

Definition of Indian, Section 309.2(a)

One respondent asked that the regulations specifically name Native Hawaiians to protect them under the Act. Another wanted individuals who have Certificates of Indian Blood, yet are neither on tribal rolls nor certified as Indian artisans, to be included under the definition of Indian.

The final regulations do not adopt these suggestions. The Act specifically defines who is an Indian protected by the Act. The regulations can interpret and clarify the Act but cannot change the statutory terms of the Act.

One respondent expressed concern about state incorporated non-profit ''Indian'' organizations and their members who are not enrolled with state or Federally-recognized tribes, yet present themselves as Indian at crafts shows. In addition, adoption was an issue for two respondents. One expressed concern that non-Indians, ''adopted by Indian spiritual leaders,'' may be permitted to sell their work as Indian. Another stated that ''not until the seventh generation'' should an adopted tribal member or family have the right to offer their handcrafts for sale as Indian.

The definition of Indian already satisfies these concerns. State incorporated non-profit ''Indian'' organizations do not meet the definition of Indian tribe under the Act and in section 309.2(e)(1) and (2) of the regulations. Membership in a non-profit ''Indian'' organization does not meet the definition of Indian under the Act and in section 309.2 of the regulations. Furthermore, if an ''Indian spiritual leader'' or tribal member adopts an individual, this action does not mean that the adopted individual is a member of a state or Federally-recognized tribe or is certified as an Indian artisan by a state or Federally-recognized tribe.

Definition of Indian Artisan, Section 309.2(b)

Several respondents suggested that the definition of Indian artisan should be clarified to read ''an individual who is certified by an Indian tribe as its non-member artisan.'' This clarification has been adopted with a minor modification.

Definition of Indian Arts and Crafts Organization, Section 309.2(c)

Two respondents asked whether section 309.2(c) operates to exclude marketing entities, other than Indian arts and crafts organizations, from the law and regulations. Several others asserted that the definition of Indian arts and crafts organization should include any organization set up under tribal law, custom or authority, as well as under any other legal authority.

The Act broadly applies to the marketing of arts and crafts by any person in the United States. The reference to Indian arts and crafts organization as a protected group is not intended to suggest that the Act's regulation does not apply to all marketing activities. In addition, the Act's requirement that an Indian arts and crafts organization be legally established in order to meet the definition includes tribal law.

Definition of Indian Product, Section 309.2(d)

Several comments stated that the definition of Indian product should be more inclusive. One comment stated that the definition should be broad enough to include the work of musicians, actors, and writers. Another stated it should include all products made by an Indian. Several other comments stated that the definition of Indian product should also cover any cultural property of an Indian tribe or moiety and include a reference to a compatible Indian cultural property law. Still another respondent asserted that the proposed regulations incorrectly focus on ''what good is made, not who made the good.''

The final regulations do not adopt these comments. In keeping with the Indian Arts and Crafts Board's organic legislation, its primary mission, and the Congressional intent of the Act, the Board has determined in the final regulations that the Act applies to Indian arts and crafts and not to all products generally. However, what constitutes an Indian art or craft product is potentially very broad.

Several comments asked that the words ''or produced'' follow ''made'' in the definition of Indian product to underscore that art or craft is to be broadly construed.

Within the meaning of the statute, Indian arts and crafts mean any art or craft made by an Indian or Indian artisan. As the addition of the words ''or produced'' does not significantly enhance the definition of Indian product, the final regulations do not adopt this comment.

Several respondents stated that the 1935 cut off date for products regulated by the Act is arbitrary and should be dropped.

The final regulations do not adopt this comment. The focus on the contemporary arts and crafts market is in keeping with the Congressional intent of the Act and the legislated mission of the Indian Arts and Crafts Board—economic growth through the development and promotion of contemporary Indian arts and crafts.

Two comments asked that proposed section 309.2(d)(ii) be dropped so as to exclude from regulation by the Act products of a non-traditional Indian style or non-traditional Indian medium. Another comment asked that proposed section 309.2(d)(iii) include a reference to the difference between handmade, hand painted, and manufactured.

The final regulations do not adopt these comments. The proposed exclusion of products made in a non-traditional Indian style or non-traditional Indian medium runs counter to the legislative history of the Act, as the sponsors of the legislation were clearly aware of the evolution of such non-traditional products. The proposed exclusion is also inconsistent with a primary mission of the agency charged with carrying out the Act—the promotion of contemporary Indian arts and crafts. On the issue of production terms, handcrafts are clearly defined and anything else is not a handcraft. Additional descriptions in this section would make the regulations more complicated, and would not measurably improve the purpose of the regulations which is to define the nature and Indian origin of products covered by the Act.

One respondent supported the exclusion of industrial products from the proposed regulations, section 309.2(d)(2). Another asked that the products under this section be further clarified. Other respondents described the industrial products section as unclear and asked that it be removed. Upon further review, the exclusion for industrial products has been dropped from the final regulations because the provisions limiting the reach of the Act to arts and crafts already exclude such products.

Another comment suggested that the regulations incorporate seven ''classes'' of products, based on the degree of Indianness of the maker and whether the product is a replica or import. The final regulations do not adopt the proposed classes of goods as they would make the regulations greatly more complicated and burdensome, and would not measurably improve the main purpose of the regulations which is to define rather than to classify the nature and Indian origin of products covered by the Act.

In final form, section 309.2(d) has been mildly reorganized and renumbered to improve readability.

Definition of Indian Tribe, Section 309.2(e)

One comment asked that all references in the regulations to ''Indian tribe'', the statutory term drawn from the Act, be revised to read ''any federally-recognized tribes(s)'', in recognition of consolidated tribes. This comment has not been adopted, as the definition of ''Indian tribe'' is provided in the Act, and the regulations cannot change the Act. However, all Federally-recognized consolidated tribes are, in fact, included in that definition.

One respondent asked that section 309.2(e)(2) include a provision to require state governments to use the same comprehensive tribal recognition criteria the Federal government uses for Federal recognition. This comment asserted that comprehensive procedures must be mandatory to prevent undermining the Act and those it is intended to protect. The final regulations do not require the use of comprehensive criteria for state recognition of tribes, as this goes beyond the authority of the Federal statute and is a matter of state authority. Additionally, the regulations do not set criteria for state tribal enrollment, as this is beyond the authority of the Federal statute.

Some comments asked for the addition of language in the regulations to include terminated California Indians and ''federally-accepted tribal-preemption principles.'' Another asked that the Act protect all terminated tribes. These comments are not adopted into the final regulations. The regulations cannot change the Act, which makes no provision for terminated tribes.

Definition of Product of a Particular Indian Tribe or Indian Arts and Crafts Organization, Section 309.2(f)

One comment suggested the addition of the term ''legally recognized Indian tribe'' would help clarify the text of section 309.2(f). Another comment recommended the section include language for oversight of Indian tribes and arts and craft organizations.

These comments are not adopted into the final regulations. The term Indian tribe is defined earlier, in section 309.2(e), and the intent of this section is clear—to simply define the product of a particular Indian tribe or Indian arts and crafts organization.

Section 309.3 Interpretation of Statements About Indian Origin of Art or Craft Products

The final regulations clarify that the term ''Indian'' as used under the Act includes its market synonym ''Native American.''

One respondent stated that the regulations should work to prevent deceptive advertisements that use the name of a tribe to market a product, when the product is not made by a member of that tribe. Concern also was expressed about the use of phrases that refer to the ''style'' of a particular Indian tribe when the items are not made by artisans of that tribe, but imitate the work of that tribe. The respondent believed that the names of tribes as either nouns or adjectives should be for the exclusive use of the members of those tribes.

The Act and section 309.1 of the proposed regulations specifically state that it is unlawful to offer or display for sale or sell any good in a manner that falsely suggests it is the product of a particular Indian or Indian tribe or Indian arts and crafts organization. Section 309.3(a) also regulates the use of the unqualified name of an Indian tribe, and the unqualified term Indian, in connection with an art or craft product. However, the use of a tribal name in conjunction with the work ''style'' is not prohibited by the Act or the regulations, as it is not necessarily misleading. The rights of tribes to control the use of their names, qualified and unqualified, is an issue of cultural patrimony and is beyond the scope of these regulations.

Several responses dealt with the issue of foreign products. Two respondents expressed concern over their perception of the undermining of permanent country-of-origin markings by importers of imitation Indian arts and crafts. One respondent expressed concern about foreign merchandise falsely marketed as ''South American Indian'' while another questioned the need of businesses to differentiate between products made by members of tribes resident in the United States and by members of foreign tribes.

The topic of permanent country-of-origin marking is beyond the scope of the Act and regulations. Under the Omnibus Trade Bill, Public Law 100–418, the U.S. Customs Service published regulations and oversees the requirement for permanent country-of-origin marking on imported Indian-style jewelry and other arts and crafts (19 CFR 134.43 (c)–(d).

Although the concern about products falsely marketed as South American Indian is beyond the scope of the regulations, identification of products of foreign Indian tribes is covered in section 309.3(b). The regulations require that products marketed in the United States must clearly show the name of the foreign country of the producer's tribal ancestry if the name of a tribe is used.

Section 309.4 Certification of Indian Artisans

One respondent expressed concern that the proposed regulations do not offer a ''designation'' for descendants that are not tribal members. A second expressed concern for individuals who are raised on reservations, but who are not tribal members because they do not meet tribal blood quantum requirements.

The Act adopts tribal certification as the exclusive approach to these situations, and the regulations simply carry out this Congressional mandate. Truthful statements may be made about Indian or tribal ancestry.

A number of comments supported the proposed regulations' measure of flexibility in the certification process and the placement of responsibility for the determination of individual cases upon an appropriate tribal authority.

Other respondents stated that the provision for tribal certification of Indian artisans under the proposed regulations should be clarified. The majority of these respondents were concerned that section 309.4 as proposed could allow a tribe to certify a person as an Indian artisan who is in no way connected with the tribe and who is not even of Indian ancestry. Those respondents maintained that the statute and its legislative history support the conclusion that Congress intended that Indian tribes should be able to certify persons as Indian artisans only if those persons were, first, of Indian ancestry and, second, of Indian ancestry connected with the certifying tribe. One response further suggested that to be eligible for certification one must prove lineal descent from a tribal member.

The final regulations adopt most of these comments. As amended, section 309.4 clarifies that to be eligible for certification as an Indian artisan by a particular tribe, the individual must be of the Indian ancestry of that tribe. The final regulations clarify that the certification must be documented in writing by the governing body of an Indian tribe or by a certifying body delegated this function by the governing body of an Indian tribe. The certification to be provided by the Indian tribe is that the individual is a non-member Indian artisan of the tribe.

Other comments asked that the regulations give Indian tribes guidance on procedures for the certification of Indian artists, such as documentation. In particular, on comment asked that the regulation also specify who within the

tribe will have authority to make the certification decisions. One comment stated that procedural guidance would help prevent misuse of authority. Another stated it would encourage tribes to adopt certification programs. Others cautioned that care should be taken to avoid intrusion on tribal sovereignty.

While the final regulations clarify the overall requirements for certification, in deference to tribal sovereignty the actual certification procedures are left to the discretion of tribal governments.

One respondents expressed concern for individuals of various degrees of Indian ancestry, who are not tribal members, whose requests for Indian artisan certification are denied by the tribe. The respondent suggested that recognition of an individual's Indian ancestry by a state legislature should be an alternative to tribal certification. Another respondent suggested that recognition of an individual's Indian ancestry by a local entity, other than a tribe, should be sufficient for certification. These alternatives to tribal certification are not valid under the Act and are beyond the scope of the regulations. Truthful statements may be made about Indian or tribal heritage.

Finally, one respondent asked what specific authority prohibits the tribes from charging a fee for certification. This prohibition appears in section 107 of the Act (see also 25 U.S.C. 305e note).

Section 309.5 Penalties.

No comments received. However, language has been added to clarify what actions may subject a person to civil and criminal penalties.

Section 309.6 Complaints.

No comments received.

Drafting Information

These final regulations were prepared by Meredith Z. Stanton (Deputy Director, Indian Arts and Crafts Board) and Geoffrey E. Stamm (Director, Indian Arts and Crafts Board).

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under E.O 12866.

There is no collection of information in this rule requiring approval by the Officer of Management and Budget under 44 U.S.C. 3504.

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An unknown number of individuals, small businesses, and tribal governments may be affected in some way. These possible effects, such as increased demand on tribal governments from some of their members to document their status, stem from the statute itself rather than the regulations, as the preponderance of the regulations merely reflect statutory terms and requirements.

The Department of the Interior determined that these regulations will not have a significant effect on the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347). In addition, the Department of the Interior determined that these regulations are categorically excluded from the procedural requirements of the National Environmental Policy Act by Departmental regulations in 516 DM2. As such, there is no need for an Environmental Assessment or an Environmental Impact Statement.

List of Subjects in 25 CFR Part 309

Indians—Arts and crafts, Penalties.

For the reasons set out in the preamble, 25 CFR Chapter II is amended to add part 309 as follows:

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

Sec.

309.1 How do these regulations carry out the Indian Arts and Crafts Act of 1990?
309.2 What are the key definitions for purposes of the Act?
309.3 How will statements about Indian origin of art or craft products be interpreted?
309.4 How can an individual be certified as an Indian artisan?
309.5 What penalties apply?
309.6 How are complaints filed?

Authority: 18 U.S.C. 1159, 25 U.S.C. 305 *et seq.*

§ 309.1 How do the regulations in this part carry out the Indian Arts and Crafts Act of 1990?

These regulations define the nature and Indian origin of products protected by the Indian Arts and Crafts Act of 1990 (18 U.S.C. 1159, 25 U.S.C. 305 et seq.) from false representations, and specify how the Indian Arts and Crafts Board will interpret certain conduct for enforcement purposes. The Act makes it unlawful to offer or display for sale or sell any good in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian, or Indian tribe, or Indian arts and crafts organization resident within the United States.

§ 309.2 What are the key definitions for purposes of the Act?

(a) *Indian* as applied to an individual means a person who is a member of an Indian tribe or for purposes of this part is certified by an Indian tribe as a non-member Indian artisan (in accordance with the provisions of § 309.4).

(b) *Indian artisan* means an individual who is certified by an Indian tribe as a non-member Indian artisan.

(c) *Indian arts and crafts organization* means any legally established arts and crafts marketing organization composed or members of Indian tribes.

(d) *Indian products.* (1) *In general.* Indian product means any art or craft product made by an Indian.

(2) *Illustrations.* The term ''Indian product'' includes, but is not limited to:

(i) Art works that are in a traditional or non-traditional Indian style or medium;

(ii) Crafts that are in a traditional or non-traditional Indian style or medium;

(iii) Handcrafts, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(3) *Exclusion for products made before 1935.* The provisions of this part shall not apply to any art or craft products made before 1935.

(e) *Indian tribe* means—

(1) Any Indian tribe, band, nation, Alaska Native village, or any organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(2) Any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

(f) *Product of a particular Indian tribe or Indian arts and crafts organization* means that the origin of a product is identified as a named Indian tribe or named Indian arts and crafts organization.

§ 309.3 How will statements about Indian origin of art or craft products be interpreted?

(a) *In general.* The unqualified use of the term ''Indian'' or of the term ''Native American'' or the unqualified use of the name of an Indian tribe, in connection with an art or craft product, is interpreted to mean for purposes of this part that—

(1) The maker is a member of an Indian tribe, is certified by an Indian tribe as a non-member Indian artisan, or is a member of the particular Indian tribe named; and

(2) The art or craft product is an Indian product.

(b) *Products of Indians of foreign tribes.* (1) *In general.* The unqualified

use of the term ''Indian'' or of the term ''Native American'' or the unqualified use of the name of a foreign tribe, in connection with an art or craft product, regardless or where it is produced and regardless of any country-of-origin marking on the product, is interpreted to mean for purposes of this part that—

(i) The maker is a member of an Indian tribe, is certified by an Indian tribe as a non-member Indian artisan, or is a member of the particular Indian tribe named;

(ii) The tribe is resident in the United States; and

(iii) The art or craft product is an Indian product.

(2) *Exception where country of origin is disclosed.* Paragraph (b) of this section does not apply to any art or craft for which the name of the foreign country of tribal ancestry is clearly disclosed in conjunction with marketing of the product.

(c) *Example.* X is a lineal descendant of a member of Indian Tribe A. However, X is not a member of Indian Tribe A, nor is X certified by Indian Tribe A as a non-member Indian artisan. X may not be described in connection with the marketing of an art or craft product made by X as an Indian, a Native American, a member of an Indian tribe, a member of Tribe A, or as a non-member Indian artisan of an Indian tribe. However, the true statement may be used that X is of Indian descent, Native American descent, or Tribe A descent.

§ 309.4 How can an individual be certified as an Indian artisan?

(a) In order for an individual to be certified by an Indian tribe as a non-member Indian artisan for purposes of this part—

(1) The individual must be of Indian lineage of one or more members of such Indian tribe; and

(2) The certification must be documented in writing by the governing body of an Indian tribe or by a certifying body delegated this function by the governing body of the Indian tribe.

(b) As provided in section 107 of the Indian Arts and Crafts Act of 1990, Public Law 101–644, a tribe may not impose a fee for certifying an Indian artisan.

§ 309.5 What penalties apply?

A person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States:

(a) Is subject to the criminal penalties specified in section 1159, title 18, United States Code; and

(b) Is subject to the civil penalties specified in section 305e, title 25, United States Code.

§ 309.6 How are complaints filed?

Complaints about protected products alleged to be offered or displayed for sale or sold in a manner that falsely suggests they are Indian products should be made in writing and addressed to the Director, Indian Arts and Crafts Board, Room 4004–MIB, U.S. Department of the Interior, 1849 C Street, NW, Washington, DC 20240.

Dated: October 15, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 96–26876 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–RK–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL18–9; FRL–5615–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On October 21, 1993, and March 4, 1994, the Illinois Environmental Protection Agency (IEPA) submitted to the USEPA volatile organic compound (VOC) rules that were intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act), as amended in 1990. Specifically, these rules provide control requirements for certain major sources not covered by a Control Technique Guideline (CTG) document. These non-CTG VOC rules apply to sources in the Chicago ozone nonattainment area which have the potential to emit 25 tons of VOC per year. These rules provide an environmental benefit due to the imposition of these additional control requirements. IEPA estimates that these rules will result in VOC emission reductions, from 119 industrial plants, of 2.78 tons per day. On January 26, 1996, USEPA issued a direct final approval of these non-CTG VOC rules. On the same day (January 26, 1996) USEPA proposed approval and solicited public comment on this requested revision to the Illinois State implementation plan (SIP). This proposed rule established a 30-day public comment period noting that if adverse comments were received regarding the direct final rule USEPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period from the Illinois Environmental Regulatory Group (IERG). USEPA withdrew the direct final rule on March 25, 1996. This final rule addresses these comments and finalizes the approval of these major non-CTG rules for the Chicago area.

EFFECTIVE DATE: This final rule is effective November 20, 1996.

ADDRESSES: Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886–6052, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR–18J) (312) 886–6052.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1993, and March 4, 1994, IEPA submitted VOC rules for the Chicago severe ozone nonattainment area [1]. The rules submitted on March 4, 1994, include both new rules and revisions to the rules that were submitted on October 21, 1993. Those sections contained in the March 4, 1994, submittal supersede the same sections in the October 21, 1993, submittal. These rules were intended to satisfy, in part, the major non-CTG reasonably available control technology (RACT) requirements of section 182(b)(2). These ''catch-up'' rules lower the applicability cutoff for major non-CTG sources from 100 tons VOC per year to 25 tons VOC per year. This cutoff was lowered because section 182(d) of the amended Act defines a major source in a severe ozone nonattainment area as a source that emits 25 tons or more of VOC per year. However, the March 4, 1994, submittal does not include major non-CTG regulations for the 11 source categories for which USEPA expected to issue CTGs to satisfy section 183, but did not. As stated previously, Illinois is required to adopt and submit RACT

[1] The Chicago severe ozone nonattainment area consists of Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County.

regulations by November 1994 for these 11 source categories.

On January 26, 1996, (61 FR 2423) the USEPA issued a direct final approval (and proposed approval) of these non-CTG rules as a revision to the Illinois SIP. (For further information refer to the January 26, 1996, final rule.) Because adverse comments were received by IERG regarding the direct final rule, USEPA withdrew the direct final rule on March 25, 1996 (61 FR 12030). This final rule addresses the comments which were received during the public comment period and announces USEPA's final action on the non-CTG rules for the Chicago ozone nonattainment area.

The January 26, 1996, direct final rule incorrectly referred to ''Section 218.113—Compliance with Permit Conditions,'' based upon the Illinois Pollution Control Board's January 6, 1994, Final Order. However, the correct citation is Section 218.114, as indicated in the Illinois Register (18 Ill. Reg. 1958).

IERG Comment and USEPA Response

IERG Comment

IERG's February 26, 1996, comment relates to provisions in Illinois' VOC rules for major sources which allow them to avoid reasonably available control technology (RACT) control requirements, to which they would otherwise be subject, if they obtain a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production limitations. USEPA noted in the January 26, 1996 rulemaking that:

> USEPA can deem a permit to be ''not federally enforceable'' in a letter to IEPA. Upon issuance of such a letter, the source is no longer protected by the permit referenced in the subject subsections. The source would then be subject to the SIP requirements if its emissions exceed the applicable cutoff. 61 FR 2423

In its comments, IERG stated that it found this language ''troublesome,'' as it appeared to indicate that USEPA could deem a permit ''not federally enforceable'' at any time. IERG further suggested that this approach was inconsistent with the framework outlined in a March 26, 1993, letter to USEPA from Bharat Mathur, Chief of IEPA's Bureau of Air. According to IERG, this letter, which USEPA specifically referenced in the rulemaking, supports the position that USEPA may only deem a provision of a permit ''not federally enforceable'' [2] during the public notice and comment period.

USEPA Response

The primary basis for USEPA approval of Illinois' provisions allowing sources to avoid applicability by obtaining a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production restrictions is USEPA's December 17, 1992, (57 FR 59928) approval of Illinois' Operating Permit program. This permit program was found to satisfy USEPA's five criteria for approving a state operating permit program as part of the SIP. See 54 FR 27274, 27282 (June 28, 1989). The second of these criteria is that:

> The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA. (54 FR 27282).

In its December 17, 1992, approval of Illinois' operating permit program, USEPA stated that:

> The latter part of the second approval criterion requires that the SIP has provisions which allow USEPA to deem a permit not ''federally enforceable'' under certain conditions. In approving the State operating permit program, USEPA is determining that Illinois' program allows USEPA to deem an operating permit not ''federally enforceable'' for purposes of limiting potential to emit and to offset creditability. Such a determination will (1) be done according to appropriate procedures, and (2) be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements and the requirements of USEPA's underlying regulations. Based on this interpretation of Illinois program, USEPA finds that the second criterion for approving an operating permit program has been met by the State. (57 FR 59930).

The third (of USEPA's five) criterion is that:

> The State operating permit program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP. * * * (54 FR 27282).

As stated in USEPA's December 17, 1992, final rule, since Section 39 of the Illinois Environmental Protection Act requires that State-issued operating permits must comport with all State regulations, which could include the regulations adopted to implement the SIP, the State cannot issue operating permits less stringent than the regulations in the SIP. (57 FR 59930).

The fourth (of USEPA's five) criterion is that:

> The limitations, controls, and requirements in the operating permits are permanent, quantifiable, and otherwise enforceable as a practical matter.

In its December 17, 1992, final rule, USEPA stated that it had reviewed the Illinois operating program and was satisfied that it required the State to issue permits which satisfy this criterion and added that:

> If USEPA in the future determines that an individual permit condition is not quantifiable or practically enforceable, it can deem the permit not ''federally enforceable'' within the means of the NSR regulations. The State's current practice and regulatory provisions meet the fourth criterion for permit program approval. (57 FR 59931)

As demonstrated by the above discussion, USEPA can deem a permit not ''federally enforceable'' if it does not conform to the operating permit program requirements and USEPA's underlying regulations. These requirements include the need for the permit to be no less stringent than the SIP and for the limitations in the permit to be quantifiable and otherwise enforceable as a practical matter. It should be noted that IEPA did not disagree with, during the comment period, USEPA's statements in the January 26, 1996, final rule regarding USEPA's ability to deem a permit to be ''not federally enforceable.''

In the January 26, 1996, direct final approval of Illinois' non-CTG rules, USEPA referenced the March 26, 1993, letter to it from IEPA's Bharat Mathur. This letter described IEPA's procedures for coordinating with USEPA before issuing a federally enforceable operating permit (FESOP) containing operating/production restrictions which limit a source's emissions to below an applicability cutoff (thereby allowing the source to avoid the rule's control requirements). More specifically, IEPA acknowledges in this letter: (1) its intent to provide USEPA with copies of subject draft permits, and (2) USEPA's ability to deem a permit to be ''not federally enforceable.''

IERG is mistaken in interpreting this letter to mean that USEPA can only make such a determination with a draft permit during the public comment period. Rather, this letter merely

[2] ''Not federally enforceable'' in this context means that the permit is not valid for purposes of establishing a federally recognized limit below the applicable cutoff(s) (to avoid the requirement of complying with RACT).

acknowledges IEPA's intent to submit these draft permits to USEPA at the beginning of Illinois' public notice and comment period and USEPA's ability to deem a permit to be ''not federally enforceable'' (and subject to the otherwise applicable SIP requirements). IERG's position, that USEPA can only take action on a draft permit, means that under no circumstances could USEPA deem an issued (as opposed to draft) permit ''not federally enforceable.'' IERG's objections to USEPA's ability to deem State operating permits ''not federally enforceable'' are not supported.

First, neither USEPA's June 28, 1989, criteria nor the Agency's December 17, 1992, approval of Illinois's FESOP rule suggest that a determination by USEPA that a permit is ''not federally enforceable'' must be made within the public comment period—or within any particular time.

It should also be noted that IERG has not objected to USEPA's potential actions on draft permits during the comment period; its concern is solely with the timing of USEPA's action, and the potential uncertainty to affected facilities. While USEPA understands IERG's concerns, IERG should be aware that its suggested constraint is unreasonable as a practical matter: USEPA simply does not have the resources to review in the requisite detail each submitted permit within the relatively short (30 days) time period provided under Illinois' rules. There also may be facts which are not known/existent at the time of State draft permit submission, which later come to the Agency's attention, and merit a negative determination.

Finally, USEPA's June 28, 1989, criteria for an approvable FESOP program consistently refers to USEPA action on *permits,* not *draft permits,* reflecting USEPA's intention to act on issued permits. In fact, one obvious problem with reviewing a State permit in draft form is that it may be modified in response to public comments received during the comment period. Thus, if USEPA were to review only draft permits, it might not review significant changes that are ultimately incorporated into the actual, issued permits.

Nonetheless, USEPA will make every attempt to comment during the public notice and comment period. See, also, Ohio Federally Enforceable State Operating Permit (FESOP) Program, at 59 FR 53586 (Final Rule) (October 25, 1994) and 60 FR 55200 (October 30, 1995). USEPA's ability to do so, of course, is limited by such events as when (relative to the comment period) the draft permit is received, whether it is flagged as a potential ''federally enforceable'' permit, intended to limit emissions below the applicable cutoff to allow the source to avoid RACT, and the number of such draft permits that are submitted at or about the same time. Furthermore, each permittee is (or should be) typically informed by IEPA that USEPA's review and concurrence is required; and that a confirmatory letter from USEPA must be sent in order for the source to ensure that it will remain subject to the FESOP limits, and exempt from the otherwise applicable RACT emission limits. USEPA will send such a letter to IEPA in those cases in which the USEPA determines that the permit has been found to meet USEPA's June 28, 1989, criteria, provided that the submitted permit has been adequately identified (''flagged'') by IEPA as a FESOP intended to allow a source to avoid Illinois' VOC RACT control requirements by limiting its VOC emissions to below the applicable cutoff through capacity or production limitations.

In summary, although USEPA does have the legal authority to deem an operating permit ''not federally enforceable'' at any time, it will attempt to complete this determination (for those permits in which the source seeks to avoid RACT and are flagged as such by IEPA) during the comment period; or if not, as expeditiously as practicable thereafter. Furthermore, there is no reason for any uncertainty on the part of an affected facility as to the status of its permit. Permittees have the ability, at any time, to contact EPA's regional office to determine the status of the federal permit review.

Final Rulemaking Action

For the reasons discussed in the January 26, 1996, (61 FR 2423) direct final approval, and as clarified by the above response to IERG's comment, USEPA approves the major non-CTG VOC RACT rules (for the Chicago ozone nonattainment area) that were submitted on October 21, 1993, (and not replaced, or repealed, by the rules submitted on March 4, 1994) and March 4, 1994.

On September 9, 1994, (59 FR 46562) USEPA approved a number of Illinois' VOC regulations which replaced a large part of the Chicago Federal Implementation Plan (FIP), which was promulgated June 29, 1990 (55 FR 26814) and codified at 40 CFR 52.741. This rule completes approval of Illinois' VOC regulations which, in combination with the rules approved on September 9, 1994, replace the Chicago FIP, as the federally enforceable VOC rule, except as indicated below:

(1) In accordance with § 218.101(b), all non-CTG FIP requirements remaining in effect on October 11, 1994[3], remain in effect (and are enforceable after the effective date of this SIP revision) for the period prior to the effective date of this SIP revision.

(2) Any source that received a stay, as indicated in § 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally-promulgated or federally-approved rule applicable to such source.

(3) In accordance with section 218.101(b), all FIP requirements in effect prior to October 11, 1994[4], remain in effect (and are enforceable after October 11, 1994) for the period prior to October 11, 1994.

As of the effective date of this final action, these rules are the sole federally enforceable control strategy for sources of VOC located in the Chicago area.

The action will become effective on November 20, 1996.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, former Acting Assistant Administrator for the Office of Air and Radiation. A July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for the Office of Air and Radiation explains that the authority to approve/disapprove SIPs has been delegated to the Regional Administrators for Table 3 actions. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregrate; or to the private sector, of $100 million or more. This Federal action approves pre-existing

[3] October 11, 1994, is the effective date of the September 9, 1994, Federal Register notice approving most of Illinois' VOC rules for the Chicago ozone nonattainment area.

[4] See footnote 3.

requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See § 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: September 9, 1996.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(102) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(102) On October 21, 1993 and March 4, 1994, the State submitted volatile organic compound control regulations for incorporation in the Illinois State Implementation Plan for ozone.

(i) Incorporation by reference.

(A) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Sections 211.270, 211.1070, 211.2030, 211.2610, 211.3950, 211.4050, 211.4830, 211.4850, 211.4970, 211.5390, 211.5530, 211.6110, 211.6170, 211.6250, 211.6630, 211.6650, 211.6710, 211.6830, 211.7050. These sections were adopted on January 6, 1994, Amended at 18 Ill. Reg. 1253, and effective January 18, 1994.

(B) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emissions Standards and Limitations for the Chicago Area, Subpart PP: 218.927, 218.928; Subpart QQ: 218.947, 218.948; Subpart RR: 218.967, 218.968; Subpart TT: 218.987, 218.988; Subpart UU: 218.990. These sections were adopted on September 9, 1993, Amended at 17 Ill. Reg. 16636, effective September 27, 1993.

(C) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emissions Standards and Limitations for the Chicago Area, Subpart A: 218.106, 218.108, 218.112, 218.114; Subpart H: 218.402; Subpart Z: 218.602, 218.611; Subpart AA: 218.620, 218.623 (repealed); Subpart CC; Subpart DD; Subpart PP: 218.920, 218.926; Subpart QQ: 218.940, 218.946; Subpart RR: 218.960, 218.966; Subpart TT: 218.980, 218.986; Subpart UU: 218.991. These sections were adopted on January 6, 1994, Amended at 18 Ill. Reg. 1945, effective January 24, 1994.

* * * * *

3. Section 52.741 is amended by revising paragraph (a)(2) to read as follows:

§ 52.741 Control Strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry or Will County.

(a) * * *

(2) *Applicability.* (i) Any source that received a stay, as indicated in § 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally-promulgated or federally-approved rule applicable to such source.

(ii)(A) Effective November 20, 1996 Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, and Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replace the requirements of 40 CFR 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will County as the federally enforceable control measures in these counties for the major non-Control Technique Guideline (CTG) sources in the Chicago area, previously subject to paragraph u, v, w, or x because of the applicability criteria in these paragraphs.

(B) In accordance with Section 218.101(b), for the major non-CTG sources subject to paragraphs u, v, w, or x because of the applicability criteria of those paragraphs, the requirements of paragraphs u, v, w, and x, and the recordkeeping requirements in paragraph y and any related parts of § 52.741 necessary to implement these paragraphs (including, but not limited to, those paragraphs containing test methods and definitions), shall remain in effect and are enforceable after November 20, 1996 for the period from July 30, 1990 until November 20, 1996.

(iii)(A) Except as provided in paragraphs (a)(2) (i) and (ii) of this section, effective October 11, 1994, Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, and Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replace the requirements of this § 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will County as the federally enforceable control measures in these counties.

(B) In accordance with § 218.101(b), the requirements of § 52.741 shall remain in effect and are enforceable after October 11, 1994, for the period from July 30, 1990, to October 11, 1994.

[FR Doc. 96–26571 Filed 10–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[WA53–7126 FRL–5637–3]

Approval and Promulgation of Maintenance Plan for Air Quality Planning Purposes for the State of Washington: Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Vancouver nonattainment area to attainment for the carbon monoxide (CO) air quality standard and approving a maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act (CAA) as amended in 1990, designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Washington Department of Ecology's request because it meets the redesignation requirements set forth in the CAA. In addition, EPA is approving a related State Implementation Plan (SIP) revision, the 1990 base year emission inventory for CO emissions, which includes emissions data for sources of CO in the Vancouver, Washington CO nonattainment area.

EFFECTIVE DATE: This rule is effective as of October 21, 1996.

ADDRESSES: Copies of the State's redesignation request and other information supporting this action are available during normal business hours at the following locations: EPA, Alaska-Washington Unit (OAQ–107), 1200 Sixth Avenue, Seattle, Washington, 98101, and the Washington State Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, Washington, 98504–7600.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, EPA Region 10, Office of Air Quality, at (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

In a March 15, 1991, letter to the EPA Region 10 Administrator, the Governor of Washington recommended that the Vancouver portion of the Portland-Vancouver Air Quality Maintenance Area be designated as nonattainment for carbon monoxide (CO) as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAAA) (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The area was designated nonattainment and classified as ''moderate,'' with a design value less than or equal to 12.7 ppm under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991), codified at 40 CFR § 81.348.) On September 29, 1995, EPA approved the separation of the Portland-Vancouver CO nonattainment area into two distinct nonattainment areas, effective November 28, 1995. Because the Vancouver area had a design value of 10 ppm (based on 1988–1989 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas. The Vancouver area has ambient monitoring data showing attainment of the CO National Ambient Air Quality Standard (NAAQS) since 1992.

On March 19, 1996, the Washington State Department of Ecology (Washington) submitted a CO redesignation request and a request for approval of a CO maintenance plan for the Vancouver area. On July 29, 1996, EPA proposed to approve Washington's requested redesignation and maintenance plan. Washington has met all of the CAA requirements for redesignation pursuant to section 107(d)(3)(E). EPA has approved all SIP requirements for the Vancouver area that were due under the 1990 CAA.

Washington provided monitoring, modeling and emissions data to support its redesignation request. The 1992 CO attainment emissions inventory totals in tons per day are 76.43, 15.14, 164.3, and 67.84, respectively, for the area, non-road, mobile, and point sources. The emission budget established through the year 2006 is as follows:

VANCOUVER CO EMISSION BUDGET

[Pounds per winter day]

	1992	1995	1997	2001	2003	2006
Other sources	318,823	318,259	327,317	344,693	350,365	359,089
Mobile budget	328,606	300,000	300,000	270,000	270,000	260,000
Total	647,429	618,259	627,317	614,693	620,365	619,089

Washington relied on the existence of an approved Inspection and Maintenance (I/M) program as part of the maintenance demonstration. EPA approved the I/M program on September 25, 1996. Washington will discontinue implementation of the oxygenated fuel program in the Vancouver Consolidated Metropolitan Statistical Area (CMSA) once the CO maintenance plan is approved.

Washington will retain the oxygenated fuels program as a contingency measure as required under section 175A(d) of the CAA. The program will be reimplemented the next full winter season following the date of a quality assured violation of the CO National Ambient Air Quality Standards (NAAQS).

II. Public Comment/EPA Response

During the public comment period on EPA's proposed finding, the Agency received a number of comments from one commenter. No other comments were received. A discussion of those comments follows.

1. The commenter asserted that the Maintenance Demonstration developed by the Southwest Air Pollution Control Authority (SWAPCA) was a direct result

of oxygenated fuels, that without oxygenated fuels there would have been two violations in 1994 using SWAPCA's own modeling, and that by taking away oxygenated fuels, Vancouver is taking away the one enforceable control measure that assured maintenance.

Response: Under Title I of the CAA, Congress established a system of state and federal cooperativeness. EPA is required to establish the NAAQS, i.e., the level at which air quality is determined to be protective of human health. However, the states take the primary lead in determining the measures necessary to attain and maintain the NAAQS. These measures are incorporated into the SIP. The CAA requires EPA to approve a SIP submission that meets the requirements of the CAA. If the state fulfills its obligations in developing a SIP that meets the requirements of the CAA, EPA has no authority to supplement or revise that plan with a federal implementation plan.

Once a state has attained the NAAQS for a particular pollutant, such as CO, and the state can demonstrate that it has met the other requirements specified in section 107(d)(3)(E) of the CAA, including the requirement for a maintenance plan, the state can request redesignation to attainment for the area. The maintenance plan, which is submitted as a revision to the state's SIP, must demonstrate maintenance of the NAAQS for ten years following redesignation. The maintenance plan need not be based on continued implementation of all the measures in the SIP prior to redesignation, but must provide that if a violation of the standard occurs, ''the State will implement all measures * * * which were contained in the [SIP] for the area before redesignation as an attainment area.'' CAA section 175(d).

Washington submitted validated data that shows that the NAAQS for CO has been met. There has been no violation of this standard since 1991. Other SIP requirements have been met and the Vancouver area meets the statutory requirements for redesignation to attainment. The maintenance plan includes oxygenated fuel as an enforceable contingency measure in the event of a violation of the NAAQS. EPA is satisfied that Washington and SWAPCA have documented that the NAAQS can be met in the ten-year period covered by the maintenance plan without oxygenated fuel and that in the event the standard is violated, adequate contingency control measures are in place to address the violation.

2. The commenter asserted that ''[u]sing SWAPCA's emission inventory, projected attainment for ten years is not possible without oxyfuels. In 1994, there was an exceedance * * * associated with an emission inventory of 611.525 [sic] lbs/day. Vancouver will not be permanently below this inventory until sometime in 1999 without oxy fuels.''

Response: The commenter is correct that there was an exceedance of the CO standard in 1994, for which year SWAPCA identified total CO emissions of 611,525 pounds per year in the 1992 Emissions Inventory. However, there was no violation of the CO NAAQS during 1994, nor were there any exceedances or violations of the CO NAAQS during either 1992 or 1993, both of which years had higher total CO emissions (647,428 and 642,193 pounds per year, respectively) than 1994. EPA is satisfied that the ten-year maintenance plan adequately projects maintenance without oxygenated fuel and that, in the event exceedances or violations occur, adequate, enforceable control measures exist to address those occurrences.

3. The commenter asserted that ''SWAPCA violated both the letter and the spirit of the public involvement process. a.) No oxygenate representative was asked to be on the advisory committee. The TAC however did have two members of the petroleum industry. This led to a one sided presentation of the issues and a general lack of facts to the entire committee. b.) Due to the substantive change in nature from eliminating oxy fuels in 1996–1997 as opposed to what was originally in the document to be 1997–97 SWAPCA needed to extend their public hearing giving an additional 30 day public notice. They did not. This is a direct violation of the public hearing law. WADOE understood this and extended their hearing on the subject but SWAPCA did not.''

Response: EPA's requirement regarding the public hearing process that states must follow is stated in section 110(l) of the CAA. In summary, EPA requires that each revision of a SIP be adopted by the state after ''reasonable notice and public hearing'' of the proposed change(s). The criteria EPA uses to determine whether the ''reasonable notice and public hearing'' requirement has been met are identified at 40 C.F.R. Part 51, Appendix V. As indicated in the July 29, 1996, Notice of Proposed Rulemaking, Washington submitted evidence that two public hearings were held in Vancouver: one on December 19, 1995, by the Southwest Air Pollution Control Authority (SWAPCA) and the other on January 30, 1996, by Washington. In addition, Washington provided documentation that adequate notice of both public hearings had been provided. EPA is satisfied that the public participation process employed by PSAPCA meets this requirement. Any additional public procedures are at the State's discretion. EPA also notes that the commenter had the opportunity to provide comments during Washington's public comment period and the record shows that he provided such comment.

4. The commenter wrote: ''The board was given misleading guidance by SWAPCA staff on key issue relating the SIP and CO maintenance plan adoption. Staff suggested to the Board that the Board could apply for re designation with the use of oxy fuels. That the use of oxy fuels would preclude being redesignated. This is absolutely not true and the board needs to reconsider given the true facts.''

Response: EPA interprets this comment as asserting that SWAPCA relied on incorrect advice that the oxygenated fuel program could not be continued if it were no longer needed to maintain the NAAQS. Although section 211(m) of the CAA prohibits the federal government from requiring oxygenated gasoline if it is not needed for maintenance of the CO NAAQS, EPA believes that this section does not prevent a State from imposing such a program under its own authority. The record clearly shows that SWAPCA and Washington decided to remove oxygenated gasoline because they believe that it is not needed for maintenance of the NAAQS. This is documented in the responses to public comment by both SWAPCA and Washington, and in the Maintenance Plan. It is also important to point out that oxygenated gasoline is being retained as a contingency measure in the maintenance plan, as required by the CAA.

EPA believes that, under the CAA, it is obligated to approve the maintenance plan and redesignation request submitted by a state if that request meets all of the requirements of the CAA. Under the CAA, the state takes the lead in developing a plan to attain and maintain the NAAQS. If the maintenance plan meets the requirements of the CAA, EPA must approve the plan under section 110(k)(3) of the CAA. Since Washington has submitted a maintenance plan that meets the requirements of section 175 of the CAA, EPA must approve the plan. Furthermore, Washington has demonstrated that the Vancouver area has met the redesignation criteria in section 107(d)(3)(E) of the CAA and, therefore, should be redesignated to attainment for CO. Since Washington

submitted a maintenance plan and redesignation request that comply with the CAA, and there is no issue as to whether Washington has the authority to implement the measures included in the submission, EPA has no authority to examine Washington's reasoning for selection of the measures in the maintenance plan.

None of the comments provided information that contradicts EPA's finding that the Vancouver area has met the criteria for redesignation to attainment. Delay in redesignation of the Vancouver area to attainment is unwarranted and would deny redesignation to an area that meets Clean Air Act requirements for such redesignation. Therefore, EPA is redesignating the Vancouver area to attainment of the CO standard.

III. Rulemaking Action

EPA is approving the Vancouver CO Maintenance Plan and Washington's request to redesignate the Vancouver area to attainment of the CO standard because Washington's submittal meets the requirements of section 107(d)(3)(E) of the CAA. This approval will revise the SIP for the Vancouver area that will assure that the CO standard continues to be maintained through the year 2006. Because EPA is approving the maintenance plan and because the area meets CAA requirements for redesignation to attainment, the Vancouver area will be designated as attaining the CO NAAQS. EPA is also approving Washington's 1990 base year emission inventory for CO emissions in the Vancouver CO nonattainment area.

Pursuant to Section 553(d)(3) of the Administrative Procedures Act (APA), this final notice is effective upon the date of publication in the Federal Register. Section 553(d)(3) of the APA allows EPA to waive the requirement that a rule be published 30 days before the effective date if EPA determines there is ''good cause'' and publishes the grounds for such a finding with the rule. Under section 553(d)(3), EPA must balance the necessity for immediate federal enforceability of these SIP revisions against principles of fundamental fairness which require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. *United States* v. *Gavrilovic*, 551 F 2d 1099, 1105 (8th Cir., 1977). The purpose of the requirement for a rule to be published 30 days before the effective date of the rule is to give all affected persons a reasonable time to prepare for the effective date of a new rule.

EPA is making this rule effective upon October 21, 1996 to provide as much time as possible for State and local air authorities to notify fuel distributors that distribution plans can be modified in response to these changes. In addition, this approval imposes no new requirements on sources since the measures in the maintenance plan were previously approved as part of the SIP and the maintenance plan contains no new requirement for the area.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Regional Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by December 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

40 CFR Part 81

Air pollution control.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: October 9, 1996.

Chuck Clarke,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(68) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(68) On March 19, 1996, the Director of Washington State Department of Ecology (Washington) submitted to the Regional Administrator of EPA a revision to the Carbon Monoxide State Implementation Plan for the Vancouver area containing a maintenance plan that demonstrated continued attainment of the NAAQS for carbon monoxide through the year 2006 and also containing an oxygenated fuels program as a contingency measure to be implemented if the area violates the CO NAAQS.

(i) Incorporation by reference.

(A) Letter dated March 19, 1996 from Washington to EPA requesting the redesignation of the Vancouver carbon monoxide nonattainment area to attainment and submitting the maintenance plan; the ''Supplement to the State Implementation Plan for Carbon Monoxide (CO) in Vancouver, WA—Redesignation Request for Vancouver, WA as Attainment for CO,'' dated December 19, 1995, and adopted on February 29, 1996.

(B) Letters dated January 22, 1993 and April 22, 1994 from Washington to EPA submitting a revision and replacement pages to the State Implementation Plan; enclosure dated November 1992 entitled ''Portland-Vancouver Carbon Monoxide Non-attainment Area (Washington State Portion), 1990 Base Year Emissions Inventory,'' together with the emission inventory replacement pages for carbon monoxide in Vancouver, dated December 1993.

(ii) Additional material.

(A) Appendices to the Vancouver Area Redesignation Request and Maintenance Plan for the National Ambient Carbon Monoxide Standard dated December 1995: Appendix A, Technical Analysis Protocol; Appendix B, Carbon Monoxide Air Quality Data Monitoring Network; Appendix C, Carbon Monoxide Saturation Study; Appendix D, Carbon Monoxide Air Quality Monitoring Data; Appendix E, Emission Inventory; Appendix F, Conformity Process; Appendix G, Historical and Projected Population, Employment and Households; Appendix H, Portland/Vancouver Carbon Monoxide Nonattainment Area Separation Documentation; Appendix I, Washington Department of Ecology Vancouver Carbon Monoxide Study; and Appendix J, Maintenance Planning Process.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.348, the table for ''Washington-Carbon Monoxide,'' is amended by revising the entry for the Vancouver Area to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON-CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * * *	*	*	*	
Vancouver Area:				
Clark County (part) Air Quality Maintenance Area		Attainment		
* * * *	*	*	*	

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–26874 Filed 10–18–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7651]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/Location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Illinois: Gilberts, village of, Kane County	170326	September 4, 1996	
Kentucky: Mt. Vernon, city of, Rockcastle County	210374	.....do	
Michigan: Marlette, city of, Sanilac County	260959	.....do	
Ohio: South Zanesville, village of, Muskingum County	390860	.....do	October 20, 1978.
Nebraska: Benedict, village of, York County	310250	September 12, 1996	April 18, 1975.
Illinois:			
Perry County, unincorporated areas	170538	September 13, 1996	August 1, 1986.
Macoupin County, unincorporated areas	170930	September 18, 1996	January 6, 1978.
Iowa:			
Floyd County, unincorporated areas	190127	.....do	June 3, 1977.
Jewell, city of, Hamilton County	190600	.....do	August 13, 1976.
Texas: Maverick County, unincorporated areas	480470	September 23, 1996	December 20, 1977.
Pennsylvania:			
Dallastown, borough of, York County	422739	September 27, 1996	
Penndel, borough of, Bucks County	422678	.....do	
New Eligibles—Regular Program			
Ohio: Fletcher, village of, Miami County	390900	September 4, 1996	March 15, 1995.
Illinois: Cumberland County, unincorporated areas	170987	September 18, 1996	July 18, 1985.
Texas:			
Highland Haven, city of, Burnet County [1]	481676	September 23, 1996	
Krum, city of, Denton County	480779	.....do	September 16, 1988.
Illinois: Martinsville, city of, Clark County	170041	September 27, 1996	November 4, 1988.

State/Location	Community No.	Effective date of eligibility	Current effective map date
Reinstatements			
Pennsylvania: Sewickley Hills, borough of, Allegheny County.	420072	December 10, 1976, Emerg.; September 1, 1986, Reg.; October 4, 1995, Susp.; September 13, 1996, Rein.	October 4, 1995.
Illinois: Birds, village of, Lawrence County	170410	November 20, 1975, Emerg.; July 5, 1984, Reg.; July 5, 1984, Susp.; September 25, 1996, Rein.	July 5, 1984.
Pennsylvania: Coaldale, borough of, Bedford County	420118	June 16, 1975, Emerg.; April 16, 1990, Reg.; April 16, 1990, Susp.; September 27, 1996, Rein.	April 16, 1990.
Regular Program Conversions			
Region II			
New York: Wellsville, village of, Allegany County	360036	September 6, 1996, Suspension Withdrawn	September 6, 1996.
Region III			
West Virginia: Danville, town of, Boone County	540230	.....do	Do.
Region V			
Indiana: Brownstown, town of, Jackson County	180317	.....do	Do.
Region II			
New York:			
Dresden, town of, Washington County	361410	September 20, 1996, Suspension Withdrawn	September 20, 1996.
Hillburn, village of, Rockland County	360683	.....do	Do.
Region III			
Pennsylvania: Shirley, township of, Huntingdon County.	421700	.....do	Do.
Region IV			
Florida: Bay County, unincorporated areas	120004	.....do	Do.
Region V			
Indiana: Scottsburg, city of, Scotts County	180234	.....do	Do.
Michigan: Hartland, township of, Livingston County	260784	.....do	Do.
Ohio: Riverside, city of, Montgomery County	390416	.....do	Do.
Region VI			
New Mexico:			
Albuquerque, city of, Bernalillo County	350002	.....do	Do.
Bernalillo County, unincorporated areas	350001	.....do	Do.
Tijeras, village of, Bernalillo County	350135	.....do	Do.
Region X			
Alaska: Fairbanks North Star, borough of, Fairbanks North Star Borough.	025009	.....do	Do.
Washington: Skagit County, unincorporated areas	530151	.....do	Do.

[1] The Town of Highland Haven has adopted by reference Burnet County's Flood Insurance Rate Map dated 11–16–90 for floodplain management and flood insurance purposes (Panel 284).

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: October 10, 1996.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 96–26907 Filed 10–18–96; 8:45 am]

BILLING CODE 6718–05–P

44 CFR Part 65

[Docket No. FEMA–7196]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Associate Director, Mitigation Directorate, reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this

interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California:					
Orange	City of Irvine	Aug. 14, 1996, Aug. 21, 1996, *Orange County Register.*	The Honorable Michael Ward, Mayor, City of Irvine, P.O. Box 19575, Irvine, California 92713–9575.	July 10, 1996	060222
Santa Clara	City of San Jose	July 23, 1996, July 30, 1996, *San Jose Mercury News.*	The Honorable Susan Hammer, Mayor, City of San Jose, 801 North First Street, Room 600, San Jose, California 95110–1792.	June 20, 1996	060349
Colorado: Jefferson	City of Lakewood	July 18, 1996, July 25, 1996, *Jefferson Sentinel.*	The Honorable Linda Morton, Mayor, City of Lakewood, 445 South Allison Parkway, Lakewood, Colorado 80226–3105.	June 7, 1996	085075
Nebraska: Douglas	City of Omaha	July 19, 1996, July 26, 1996, *Omaha World Journal.*	The Honorable Hal Daub, Mayor, City of Omaha, City Hall, 1819 Farnam Street, Suite 300, Omaha, Nebraska 68183.	June 6, 1996	315274
Nevada:					
Elko	City of Elko	Aug. 9, 1996, Aug. 16, 1996, *Elko Daily Free Press.*	The Honorable Mike Franzoia, Mayor, City of Elko, 1751 College Avenue, Elko, Nevada 89801.	July 23, 1996	320010

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Elko	Unincorporated Areas	Aug. 9, 1996, Aug. 16, 1996, *Elko Daily Free Press.*	The Honorable Royce Hackworth, Chairperson, Elko County Board of Commissioners, 569 Court Street, Elko, Nevada 89801.	July 23, 1996	320027
Clark	City of Henderson	July 23, 1996, July 30, 1996, *Las Vegas Review Journal.*	The Honorable Robert A. Groesbeck, Mayor, City of Henderson, 240 Water Street, Henderson, Nevada 89015.	June 7, 1996	320005
New Mexico: Bernalillo	City of Albuquerque	July 22, 1996, July 29, 1996, *Albuquerque Journal.*	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	June 28, 1996	350002
Texas:					
Tarrant	City of Arlington	Aug. 2, 1996, Aug. 9, 1996, *Dallas Morning News.*	The Honorable Richard Greene, Mayor, City of Arlington, P.O. Box 231, Arlington, Texas 76004–0231.	July 15, 1996	485454
Tarrant	City of Fort Worth	July 17, 1996, July 24, 1996, *Fort Worth Star-Telegram.*	The Honorable Jewel Woods, Mayor Pro Tem, City of Fort Worth, 1000 Throckmorton Street, Fort Worth Texas 76102–6311.	June 26, 1996	480596
	City of Fort Worth	Aug. 2, 1996, Aug. 9, 1996, *Dallas Morning News.*	The Honorable Jewel Woods, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	July 15, 1996	480596
	City of Haslet	July 17, 1996, July 24, 1996, *Fort Worth Star-Telegram.*	The Honorable I.J. Frazier, Mayor, City of Haslet, P.O. Box 183, Haslet, Texas 76052.	June 26, 1996	480600
Collin	City of Plano	Aug. 14, 1996, Aug. 21, 1996, *Plano Star Courier.*	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	July 30, 1996	480140
Bexar	City of San Antonio	July 31, 1996, Aug. 7, 1996, *San Antonio Express-News.*	The Honorable William E. Thornton, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	July 17, 1996	480045

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 96–26909 Filed 10–18–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each

community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Coconino (FEMA Docket No. 7152).	City of Flagstaff	July 20, 1995, July 17, 1995, *Arizona Daily Sun*.	The Honorable Christopher J. Bavasi, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001.	June 19, 1995	040020
Coconino (FEMA Docket No. 7189).	City of Flagstaff	May, 17, 1996, May 24, 1996, *Arizona Daily Sun*.	The Honorable Christopher J. Bavasi, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001.	Apr. 22, 1996	040020
Maricopa (FEMA Docket No. 7185).	City of Glendale	Apr. 4, 1996, Apr. 11, 1996, *Arizona Republic*.	The Honorable Elaine Scruggs, Mayor, City of Glendale, 5850 West Glendale Avenue, Glendale, Arizona 85301.	Feb. 26, 1996	040045

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maricopa (FEMA Docket No. 7185).	City of Phoenix	Apr. 4, 1996, Apr. 11, 1996, *Arizona Republic*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003–1611.	Feb. 26, 1996	040051
Maricopa (FEMA Docket No. 7189).	City of Phoenix	June 6, 1996, June 23, 1996, *Arizona Business Gazette*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003–1611.	May 8, 1996	040051
Pima (FEMA Docket No. 7180).	City of Tucson	Mar. 21, 1996, Mar. 28, 1996, *Arizona Daily Star*.	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85710–7210.	Feb. 22, 1996	040076
Arkansas: Garland (FEMA Docket No. 7189).	City of Hot Springs	May 24, 1996, May 31, 1996, *Sentinel Record*.	The Honorable Helen Selig, Mayor, City of Hot Springs, P.O. Box 700, Hot Springs, Arkansas 71902.	May 8, 1996	050084
California:					
Contra Costa (FEMA Docket No. 7176).	City of Clayton	Mar. 7, 1996, Mar. 14, 1996, *Contra Costa Times*.	The Honorable Robert Kendall, Mayor, City of Clayton, P.O. Box 280, Clayton, California.	Feb. 5, 1996	060027
Fresno (FEMA Docket No. 7189).	City of Clovis	May 3, 1996, May, 10, 1996, *Fresno Bee*.	The Honorable Harry Armstrong, Mayor, City of Clovis, 1033 Fifth Street, Clovis, California 93612.	Apr. 9, 1996	060044
Contra Costa (FEMA Docket No. 7176).	City of Concord	Mar. 7, 1996, Mar. 14, 1996, *Contra Costa Times*.	The Honorable Lou Rosas, Mayor, City of Concord, 1950 Parkside Drive, Concord, California 94519.	Feb. 5, 1996	065022
Riverside (FEMA Docket No. 7152).	City of Corona	July 19, 1996, July 25, 1996, *Corona Indepedent*.	The Honorable Jeff Bennett, Mayor, City of Corona, P.O. Box 940, Corona, California 91718.	June 20, 1995	060250
Fresno (FEMA Docket No. 7189).	Unicorporated areas ...	May, 3, 1996, May 10, 1996, *Fresno Bee*.	The Honorable Sharon Levy, Chairperson, Fresno County Board of Supervisors, Hall of Records, 2281 Tulare Street, Room 301, Fresno, California 93721–2198.	Apr. 9, 1996	065029
Orange (FEMA Docket No. 7185).	City of Orange	Apr. 4, 1996, Apr. 11, 1996, *Orange County Register*.	The Honorable Joanne Coontz, Mayor, City of Orange, P.O. Box 449, Orange, California 92666–1591.	Mar. 7, 1996	060228
Contra Costa (FEMA Docket No. 7189).	City of Pittsburg	May 24, 1996, May 31, 1996, *Ledger Dispatch*.	The Honorable Joseph Canciamella, Mayor, City of Pittsburg, P.O. Box 1518, Pittsburg, California 94565.	May 7, 1996	060033
Riverside (FEMA Docket No. 7152).	City of Riverside	July 19, 1995, July 26, 1995, *Press Enterprise*.	The Honorable Ron Loveridge, Mayor, City of Riverside, 3900 Main Street, Riverside, California 92522.	June 19, 1995	060260

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Riverside (FEMA Docket No. 7152).	Unicorporated areas ...	July 19, 1995, July 26, 1995, *Press Enterprise*.	The Honorable Kay Ceniceros, Chairperson, Riverside County Board of Supervisors, P.O. Box 1359, Riverside, California 92502–1359.	June 19, 1995	060245
Sacramento (FEMA Docket No. 7189).	Unicorporated areas ...	May 22, 1996, May 29, 1996, *Sacramento Bee*.	The Honorable Roger Dickinson, Chairman, Sacramento County Board of Supervisors, 700 H Street, Suite 2450, Sacramento, California 95814.	Apr. 25, 1996	060262
Santa Barbara (FEMA Docket No. 7189).	Unicorporated areas ...	May 15, 1996, May 22, 1996, *Santa Barbara News-Press*.	The Honorable Jeanne Graffy, Chairperson, Santa Barbara County Board of Supervisors, 104 East Arapamu Street, Santa Barbara, California 93101.	May 3, 1996	060331
Colorado:					
Adams, Arapahoe, and Douglas (FEMA Docket No. 7189).	City of Aurora	May 22, 1996, May 29, 1996, *Aurora Sentinel*.	The Honorable Paul E. Tauer, Mayor, City of Aurora, 1470 South Havana Street, Suite 808, Aurora, Colorado 80012.	Apr. 16, 1996	060002
Boulder (FEMA Docket No. 7152).	Unicorporated areas ...	July 20, 1995, July 27, 1995, *Daily Camera*.	The Honorable Homer Page, Chairperson, Boulder County Board of Commissioners, P.O. Box 471, Boulder, Colorado 80306.	June 19, 1995	080023
Denver (FEMA Docket No. 7185).	City of County of Denver.	Apr. 4, 1996, Apr. 11, 1996, *Daily Journal*.	The Honorable Wellington E. Webb, Mayor, City and County of Denver, 2000 West Third Avenue, Denver, Colorado 80223.	Mar. 7, 1996	080046
Denver (FEMA Docket No. 7189).	City and County of Denver.	May 22, 1996, May 29, 1996, *Daily Journal*.	The Honorable Wellington E. Webb, Mayor, City and County of Denver, 1437 Bannock Street, Room 350, Denver, Colorado 80202.	Apr. 16, 1996	080046
Weld (FEMA Docket No. 7189).	Town of Erie	June 12, 1996, June 19, 1996, *Longmont Daily Times-Call*.	The Honorable Victor F. Smith, Mayor, Town of Erie, P.O. Box 100, Erie, Colorado 80516.	May 24, 1996	080181
Jefferson (FEMA Docket No. 7185).	Unicorporated areas ...	Apr. 19, 1996, Apr. 26, 1996, *Golden Transcript*.	The Honorable Gary D. Laura, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, Colorado 80419.	Mar. 19, 1996	080087
Arapahoe and Douglas (FEMA Docket No. 7176).	City of Littleton	Feb. 29, 1996, Mar. 7, 1996, *Littleton Independent*.	The Honorable Dennis Reynolds, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, Colorado 80165.	Feb. 6, 1996	080017

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arapahoe and Douglas (FEMA Docket No. 7185).	City of Littleton	Apr. 11, 1996, Apr. 18, 1996, *Littleton Independent*.	The Honorable Dennis Reynolds, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, Colorado 80165.	Mar. 11, 1996	080017
Boulder (FEMA Docket No. 7152).	City of Longmont	July 20, 1995, July 27, 1995, *Times Call*.	The Honorable Leona Stoecker, Mayor, City of Longmont, Civic Center Complex, 350 Kimbark Street, Longmont, Colorado 80501.	June 19, 1995	080227
Boulder (FEMA Docket No. 7185).	City of Louisville	Apr. 10, 1996, Apr. 17, 1996, *Louisville Times*.	The Honorable Tom Davidson, Mayor, City of Louisville, 749 Main Street, Louisville, Colorado 80027.	Mar. 19, 1996	085076
Summit (FEMA Docket No. 7180).	Unicorporated areas	Mar. 6, 1996, Mar. 13, 1996, *Summit County Journal*.	The Honorable Marsha Osborn, Chairperson, Summit County Board of Commissioners, P.O. Box 68, Breckenridge, Colorado 80424.	Feb. 8, 1996	080290
Iowa: Polk (FEMA Docket No. 7185).	City of Des Moines	Apr. 11, 1996, Apr. 18, 1996, *Des Moines Register*.	The Honorable Arthur Davis, Mayor, City of Des Moines, 400 East First Street, Des Moines, Iowa 50309–1891.	Mar. 19, 1996	190227
Kansas: Sedgwick (FEMA Docket No. 7180).	Unicorporated areas	Mar. 1, 1996, Mar. 8, 1996, *Daily Reporter*.	The Honorable Mark Schroeder, Chairman, Board of County Commissioners, Sedgwick County, 525 North Main Street, Suite 320, Wichita, Kansas 67203.	Feb. 12, 1996	200321
Maryland: Montgomery (FEMA Docket No. 7180).	City of Gaithersburg	Mar. 20, 1996, Mar. 27, 1996, *Gaithersburg Gazette*.	The Honorable W. Edward Bohrer, Jr., Mayor, City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877–2098.	Feb. 27, 1996	240050
Montana: Fergus (FEMA Docket No. 7180).	Town of Denton	Mar. 20, 1996, Mar. 27, 1996, *Lewistown News-Argus*.	The Honorable Robert Patterson, Mayor, Town of Denton, Office of the Town Clerk, Denton, Montana 59430.	Feb. 23, 1996	300020
North Dakota: Grand Forks (FEMA Docket No. 7189).	City of Grand Forks	June 4, 1996, June 11, 1996, *Grand Forks Herald*.	The Honorable Michael Polivitz, Mayor, City of Grand Forks, P.O. Box 5200, Grand Forks, North Dakota 58206–5200.	May 10, 1996	385365
Nevada: Clark (FEMA Docket No. 7189).	Unicorporated areas	June 19, 1996, June 26, 1996, *Las Vegas Review Journal*.	The Honorable Yvonne Atkinson Gates, Chairperson, Clark County Board of Commissioners, 225 Bridger Avenue, Sixth Floor, Las Vegas, Nevada 89155.	May 7, 1996	320003

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Oklahoma: Canadian (FEMA Docket No. 7180).	City of Oklahoma City	Mar. 13, 1996, Mar. 20, 1996, *Journal Record*.	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	Feb. 26, 1996	405378
Texas:					
Travis (FEMA Docket No. 7180).	City of Austin	Mar. 13, 1996, Mar. 20, 1996, *Williamson County Sun*.	The Honorable Bruce Todd, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	Jan. 19, 1996	480624
Tarrant (FEMA Docket No. 7180).	City of Bedford	Mar. 22, 1996, Mar. 29, 1996, *Fort Worth Star-Telegram*.	The Honorable Rick D. Hurt, Mayor, City of Bedford, P.O. Box 157, Bedford, Texas 76095–0157.	Mar. 5, 1996	480585
Tarrant (FEMA Docket No. 7189).	City of Bedford	June 5, 1996, June 12, 1996, *Fort Worth Star-Telegram*.	The Honorable Rick D. Hurt, Mayor, City of Bedford, P.O. Box 157, Bedford, Texas 76095–0157.	May 7, 1996	480585
Tarrant (FEMA Docket No. 7189).	City of Colleyville	May 22, 1996, May 29, 1996, *Fort Worth Star-Telegram*.	The Honorable Ed Baker, Mayor, City of Colleyville, P.O. Box 185, Colleyville, Texas 76034.	May 13, 1996	480590
Collin (FEMA Docket No. 7189).	Unicorporated areas	May 22, 1996, May 29, 1996, *Plano Star Courier*.	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, Texas 75069.	May 6, 1996	480130
El Paso (FEMA Docket No. 7180).	City of El Paso	Mar. 7, 1996, Mar. 14, 1996, *El Paso Times*.	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	Feb. 16, 1996	480214
Collin (FEMA Docket No. 7185).	City of Frisco	Apr. 19, 1996, Apr. 26, 1996, *Fisco Enterprise*.	The Honorable Robert Warren, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	Mar. 27, 1996	490134
Lubbock (FEMA Docket No. 7185).	City of Lubbock	Apr. 18, 1996, Apr. 25, 1996, *Lubbock Avalanche Journal*.	The Honorable David R. Langston, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457.	Apr. 1, 1996	480452
Dallas (FEMA Docket No. 7176).	City of Mesquite	Mar. 7, 1996, Mar. 14, 1996, *Mesquite News*.	The Honorable Cathye Ray, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, Texas 75185–0137.	Jan. 31, 1996	485490
Collin (FEMA Docket No. 7185).	City of Plano	Apr. 17, 1996, Apr. 24, 1996, *Plano Star Courier*.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	Mar. 27, 1996	480140
Collin (FEMA Docket No. 7189).	City of Plano	May 22, 1996, May 29, 1996, *Plano Star Courier*.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	May 6, 1996	480140
Collin (FEMA Docket No. 7189).	City of Plano	June 12, 1996, June 19, 1996, *Plano Star Courier*.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	May 22, 1996	490140

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Bexar, Corral, and Guadalupe (FEMA Docket No. 7180).	City of Schertz	Mar. 7, 1996, Mar. 14, 1996, *Herald Newspaper.*	The Honorable Earl W. Sawyer, Mayor, City of Schertz, P.O. Drawer I, Schertz, Texas 78154.	Feb. 14, 1996	480269
Tarrant (FEMA Docket No. 7189).	City of Southlake	June 18, 1996, June 25, 1996, *Fort Worth Star-Telegram.*	The Honorable Gary Fickes, Mayor, City of Southlake, 667 North Carroll Avenue, Southlake, Texas 76092.	May 22, 1996	480612
Tarrant (FEMA Docket No. 7189).	City of Southlake	May 22, 1996, May 29, 1996, *Southlake Journal.*	The Honorable Gary Fickes, Mayor, City of Southlake, 667 North Carroll Avenue, Southlake, Texas 76092.	May 13, 1996	480612
Smith (FEMA Docket No. 7180).	City of Tyler	Mar. 21, 1996, Mar. 28, 1996, *Tyler Morning Telegraph.*	The Honorable Smith T. Reynolds, Jr., Mayor, City of Tyler, P.O. Box 2039, Tyler, Texas 75710–2039.	Feb. 20, 1996	480571
Williamson (FEMA Docket No. 7180).	Unicorporated areas ...	Mar. 13, 1996, Mar. 20, 1996, *Williamson County Sun.*	The Honorable John Doerfler, Williamson County Judge, Williamson County Courthouse, 710 Main Street, Georgetown, Texas 78626.	Jan. 19, 1996	481079

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 96–26908 Filed 10–18–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of

September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
ARKANSAS	
Searcy (City), White County (FEMA Docket No. 7184)	
Deener Creek:	
At confluence with Little Red River	*221
Just upstream of North Main Street	*221
Approximately 100 feet upstream of North Maple (Highway 16)	*225
Approximately 100 feet downstream of Ella Street	*233
Gin Creek:	
At confluence with Deener Creek	*221
Just upstream of Davis Drive	*221
Maps are available for inspection at the City of Searcy, City Hall, 401 West Arch, Searcy, Arkansas.	
Washington County and Incorporated Areas (FEMA Docket No. 7184)	
Middle Fork White River:	
Approximately 0.22 mile upstream of Highway 16	*1,182
Just downstream of Harris Drive (extended)	*1,192
White River:	
Approximately 2.8 miles downstream of Highway 74	*1,181
Just downstream of Highway 74	*1,195
Approximately 0.8 mile upstream of East First Avenue	*1,215
Maps are available for inspection at the Washington County Courthouse, 2 North College, Fayetteville, Arkansas.	
Maps are available for inspection at the City of Fayetteville City Hall, 113 West Mountain Street, Fayetteville, Arkansas.	
Maps are available for inspection at the City of Elkins City Hall, 201 West First Street, Elkins, Arkansas.	
CALIFORNIA	
Grass Valley (City), Nevada County (FEMA Docket No. 7184)	
Wolf Creek:	
At the corporate limits (approximately 4,100 feet downstream of confluence of Little Wolf Creek)	*2,220
At confluence of Little Wolf Creek	*2,312
Just downstream of Freeman Lane	*2,351
Maps are available for inspection at the City of Grass Valley, 125 East Main Street, Grass Valley, California.	
Hesperia (City), San Bernardino County (FEMA Docket No. 7181)	
Antelope Valley Wash:	
At confluence with Mojave River	*2,900
Approximately 150 feet upstream of Lake Arrowhead Road	*2,940
At Peach Avenue	*2,974
Approximately 50 feet upstream of Pico Avenue	*3,035
Approximately 200 feet upstream of Joshua Street	*3,120
At Ash Street	*3,154
At E Avenue	*3,182
Approximately 850 feet upstream of Ranchero Road	*3,206
Maps are available for inspection at the City of Hesperia, 15776 Main Street, Hesperia, California.	
Nevada County (Unincorporated Areas) (FEMA Docket No. 7184)	
Wolf Creek:	
At Allison Ranch Road	*2,041
Just downstream of Marlor Bridge	*2,066
Approximately 2,950 feet upstream of Marlor Bridge	*2,110
Approximately 100 feet upstream of private bridge	*2,206
Approximately 4,050 feet upstream of confluence of Allison Ranch Ditch	*2,300
Just upstream of Brunswick Road	*2,605
Approximately 2,980 feet upstream of Brunswick Road	2,677
Little Wolf Creek:	
Approximately 3,300 feet above confluence with Wolf Creek	*2,451
Approximately 3,740 feet above confluence with Wolf Creek	*2,455
Maps are available for inspection at Nevada County, 950 Maidu Avenue, Nevada City, California.	
Orange County (Unincorporated Areas) (FEMA Docket No. 7177)	
Arroyo Salada:	
At confluence with Salt Creek	None
Just upstream of East Nine Drive	None
Approximately 400 feet upstream of East Nine Drive	None
Approximately 800 feet upstream of East Nine Drive	None
Approximately 1,200 feet upstream of East Nine Drive	None
Approximately 1,600 feet upstream of East Nine Drive	None
Approximately 2,000 feet upstream of East Nine Drive	None
Approximately 2,400 feet upstream of East Nine Drive	None
Approximately 2,800 feet upstream of East Nine Drive	None
Approximately 3,200 feet upstream of East Nine Drive	None
Approximately 3,600 feet upstream of East Nine Drive	None
Approximately 3,900 feet upstream of East Nine Drive	None
Maps are available for inspection at Orange County Flood Programs, EMA, 400 Civic Center, Santa Ana, California.	
San Joaquin County (Unincorporated Areas) (FEMA Docket No. 7184)	
North Fork Mokelumne River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At divergence from South Fork Mokelumne River	*15
Approximately 5,500 feet upstream of divergence from South Fork Mokelumne River	*15
Approximately 14,000 feet upstream of divergence from South Fork Mokelumne River	*18
At Interstate Highway 5	*19
At confluence with Cosumnes River	*19
Maps are available for inspection at the San Joaquin County Flood Control and Water Conservation District, 1810 East Hazelton Avenue, Stockton, California.	
Vacaville (City), Solano County (FEMA Docket No. 7181)	
Ulatis Creek:	
At Leisure Town Road	+85
Approximately 100 feet upstream of Ulatis Drive	+114
Approximately 2,250 feet upstream of Allison Drive	+133
Just downstream of East Monte Vista Drive	+172
Just downstream of Fruitvale Road	+195
At Farrell Road	+233
Laguna Creek:	
At confluence with Alamo Creek	+183
Approximately 100 feet upstream of Highway 80	+205
Alamo Creek:	
Approximately 2,000 feet downstream of Alamo Drive (main channel)	+100
Approximately 2,000 feet downstream of Alamo Drive (west overbank)	+103
Approximately 1,600 feet downstream of Nut Tree Road	+108
Just upstream of Tulare Drive	+125
Just downstream of Crystal Lane	+176
At confluence with Encinosa Creek	+213
Approximately 5,300 feet upstream of confluence of Encinosa Creek	+234
Encinosa Creek:	
At confluence with Alamo Creek	+213
Approximately 3,100 feet upstream of Alamo Drive	+233
Bucktown Creek:	
Approximately 400 feet downstream of Farrell Road	+227
Just downstream of Farrell Road	+229
+Elevation in feet (North American Vertical Datum of 1988).	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Maps are available for inspection at the City of Vacaville Department of Community Development, City Hall, 650 Merchant Street, Vacaville, California.	
COLORADO	
Fort Collins (City), Larimer County (FEMA Docket No. 7142)	
Cooper Slough:	
Approximately 150 feet downstream of the Colorado & Southern Railroad	*4,938
At confluence of East Island Divide	*4,944
At divergence of East Island Divide	*4,951
Just upstream of Vine Drive	*4,957
Sherry Drive Overflow:	
Just upstream of Prospect Road	*4,902
Approximately 1,000 feet upstream of Prospect Road	*4,903
Approximately 3,400 feet upstream of Prospect Road	*4,913
Approximately 4,300 feet upstream of Prospect Road	*4,916
East Island Divide:	
At confluence with Cooper Slough	*4,944
1,000 feet upstream of confluence with Cooper Slough	*4,947
At divergence with Cooper Slough	*4,951
State Highway 14 Overflow:	
Approximately 300 feet above confluence with Lake Canal	*4,914
Approximately 800 feet above confluence with Lake Canal	*4,916
Spring Creek:	
At confluence with Cache La Poudre River	*4,899
Just upstream of East Prospect Road	*4,905
Just upstream of Timberline Road	*4,907
Just downstream of the Union Pacific Railroad	*4,916
Just upstream of Welch Street	*4,937
Just upstream of Lemay Avenue	*4,942
Just upstream of Stover Street	*4,960
Just upstream of Remington Street	*4,980
Approximately 650 feet upstream of South College Avenue	*4,993
Just upstream of South Shields Street	*5,013
Just upstream of West Drake Road	*5,057
Just upstream of South Taft Hill Road	*5,083
Approximately 3,000 feet upstream of South Taft Hill Road	*5,096

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 5,300 feet upstream of South Taft Hill Road	*5,110
Just upstream of West Horsetooth Road	*5,137
Approximately 1,450 feet upstream of West Horsetooth Road	*5,149
Cache La Poudre River South of Burlington Northern Railroad Embankment:	
Approximately 4,300 feet upstream of confluence with Boxelder Creek	*4,872
Cache La Poudre River North of Burlington Northern Railroad Embankment:	
At confluence of Boxelder Creek	*4,866
At confluence of Cache La Poudre Low Flow Channel	*4,873
At confluence of Cache La Poudre Left Flow Path (LPATH)	*4,879
Cache La Poudre River:	
Just downstream of the Burlington Northern Railroad	*4,858
At divergence with Cache La Poudre Low Flow Channel	*4,883
Approximately 3,500 feet downstream of East Prospect Road	*4,886
Just upstream of East Prospect Road	*4,889
At confluence of Spring Creek	*4,900
At confluence of Cache La Poudre Right Flow Path (RPATH)	*4,902
At divergence of Cache La Poudre Left Flow Path (LPATH)	*4,913
At confluence of Lincoln Avenue Overflow (LINC)	*4,918
At divergence of Cache La Poudre Right Flow Path (RPATH)	*4,921
Just upstream of Lemay Avenue	*4,933
At divergence of Lemay Avenue Overflow (Lemayds)	*4,935
Just downstream of Lincoln Avenue	*4,947
At divergence of Lincoln Avenue Overflow (LINC)	*4,951
Just upstream of North College Avenue	*4,965
Approximately 3,300 feet upstream of Lake Canal Diversion Dam	*4,977
Cache La Poudre Low Flow Channel:	
At confluence with Cache La Poudre River	*4,873
Approximately 2,600 feet upstream of confluence with Cache La Poudre River	*4,877
At divergence with Cache La Poudre River	*4,885

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Cache La Poudre Left Flow Path (LPATH):	
At confluence with Cache La Poudre River	*4,879
Approximately 2,000 feet upstream of confluence with Cache La Poudre River	*4,883
Approximately 5,000 feet upstream of confluence with Cache La Poudre River	*4,897
At divergence from Cache La Poudre River	*4,913
Cache La Poudre Right Flow Path (RPATH):	
At confluence with Cache La Poudre River	*4,902
Approximately 3,000 feet upstream of confluence with Cache La Poudre River	*4,905
At divergence from Cache La Poudre River	*4,921
Lincoln Avenue Overflow (LINC):	
Just upstream of North Lemay Avenue	*4,940
Just upstream of Second Street	*4,948
At divergence from Cache La Poudre River	*4,951
Lemay Avenue Overflow (Lemayds):	
Approximately 900 feet downstream of Lemay Avenue	*4,932
At North Lemay Avenue	*4,934
Maps are available for inspection at the City of Fort Collins Stormwater Utilities Department, 235 Mathews, Fort Collins, Colorado.	
Larimer County (Unincorporated Areas) (FEMA Docket No. 7142)	
Cooper Slough:	
Just upstream of State Highway 14	*4,928
Shallow flooding north of State Highway 14	#3
Just upstream of Colorado & Southern Railroad	*4,943
Just downstream of Vine Drive	*4,954
State Highway 14 Overflow:	
Just upstream of Lake Canal	*4,913
Just downstream of State Highway 14	*4,926
Just upstream of State Highway 14	*4,628
At intersection of Weicke Drive and John Deere Road	#3
Sherry Drive Overflow:	
Approximately 80 feet upstream of Prospect Road	*4,902
Approximately 1,600 feet upstream of Prospect Road	*4,904
Approximately 500 feet downstream of Sherry Drive	*4,916
Approximately 750 feet upstream of Sherry Drive	*4,920
Spring Creek:	
Approximately 960 feet upstream of South Taft Hill Road	*5,083
Approximately 2,600 feet upstream of South Taft Hill Road	*5,093
Just downstream of West Horsetooth Road	*5,137
Approximately 1,900 feet upstream of West Horsetooth Road	*5,155
Cache La Poudre River South of Burlington Northern Railroad Embankment:	
At Horsetooth Road	*4,855
Approximately 300 feet upstream of Horsetooth Road	*4,856
Approximately 2,500 feet upstream of Horsetooth Road	*4,860
Approximately 4,000 feet above confluence with Boxelder Creek	*4,872
Cache La Poudre River North of Burlington Northern Railroad Embankment:	
Approximately 300 feet upstream of Horsetooth Road	*4,856
At confluence with Boxelder Creek	*4,866
Approximately 6,000 feet upstream of confluence with Boxelder Creek	*4,876
Cache La Poudre River:	
Approximately 200 feet upstream of Boxelder Ditch Diversion Dam	*4,894
At confluence of Lincoln Avenue Overflow	*4,918
Just upstream of Lemay Avenue	*4,933
Just upstream of Shields Street	*4,986
Approximately 300 feet upstream of Josh Ames Diversion Dam	*4,994
Northeast of intersection of Taft Hill Road and Burlington Northern Railroad	*5,010
Approximately 500 feet upstream of Taft Hill Road	*5,020
Just upstream of Overland Trail	*5,053
Just upstream of N Dam	*5,078
Just upstream of State Highway 28	*5,106
Approximately 1,800 feet upstream of State Highway 28	*5,116
Cache La Poudre Lincoln Avenue Overflow (LINC):	
Approximately 7,900 feet upstream of State Highway 14	*4,940
Lemay Avenue Overflow (Lemayds):	
At intersection of Industrial Drive and Lincoln Avenue	#2
Just downstream of Airpark Road	*4,925
Just upstream of Link Lane	*4,930
Just upstream of Lemay Avenue	*4,935
Cache La Poudre Left Flow Path (LPATH):	
Just upstream of Prospect Road	*4,891
Approximately 5,300 feet upstream of Prospect Road	*4,906
Approximately 6,250 feet upstream of Prospect Road	*4,909
Dry Creek:	
At confluence with Cache La Poudre River	*4,918
Just upstream of State Highway 14	*4,920
Maps are available for inspection at the Larimer County Courthouse, Engineering Department, 218 West Mountain Street, Fort Collins, Colorado.	
MISSOURI	
Poplar Bluff (City), Butler County (FEMA Docket No. 7184)	
Pike Creek:	
Just upstream of the Missouri Pacific Railroad	*336
At confluence of Black Creek	*339
At confluence of Sunset Creek	*340
Approximately 400 feet downstream of confluence of North Branch Pike Creek	*346
North Branch Pike Creek:	
Approximately 350 feet upstream of confluence with Pike Creek	*347
Approximately 2,000 feet upstream of confluence with Pike Creek	*364
At confluence of East Fork Pike Creek	*382
Approximately 100 feet upstream of Russell Road	*410
Just upstream of Oak Grove Road	*427
Hogg Creek:	
At confluence with Pike Creek	*339
Just upstream of Tremont Street	*345
Approximately 150 feet upstream of Pershing Street	*354
Just upstream of Gray Street	*393
Just upstream of North 14th Street	*422
Hogg Creek Tributary:	
At confluence with Hogg Creek	*347
Approximately 500 feet upstream of confluence with Hogg Creek	*351
Just downstream of Highland Road	*358
Park Creek:	
Just upstream of Fifth Street	*338
At Sixth Street	*339
Just upstream of Eighth Street	*340
Just upstream of Oakwood Drive	*346

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Shady Creek:	
Approximately 400 feet downstream of North Main Street	*352
Approximately 150 feet upstream of Montclair Drive	*359
Just upstream of Fox Drive	*379
Just upstream of Shady Lane	*399
Approximately 500 feet upstream of Woodstone Road	*429
Woodlawn Branch:	
Approximately 200 feet downstream of East Avondale Drive	*346
Just upstream of confluence of Clay Creek	*351
Just upstream of South Avondale Drive	*354
Maps are available for inspection at the City of Poplar Bluff, 114 Elm Street, Poplar Bluff, Missouri.	
Butler County (Unincorporated Areas) (FEMA Docket No. 7184)	
Pike Creek:	
Just upstream of U.S. Highway 67 southbound	*339
Approximately 800 feet upstream of Roxie Road	*340
Just upstream of Highway PP	*346
Approximately 800 feet upstream of confluence of North Branch Pike Creek	*347
North Branch Pike Creek:	
Approximately 700 feet downstream of Holly Trail, at the City of Poplar Bluff corporate limits	*411
Just upstream of Holly Trail	*420
At Oak Grove Road	*427
Maps are available for inspection at 114 Elm Street, Poplar Bluff, Missouri.	
OKLAHOMA	
Adair County (Unincorporated Areas) (FEMA Docket No. 7184)	
Caney Creek:	
Approximately 3,900 feet downstream of confluence with Spring Tributary	*976
Approximately 1,600 feet upstream of County Road	*1,042
Approximately 1,850 feet upstream of County Road	*1,044
Approximately 5,500 feet upstream of confluence with Eighth Street Tributary	*1,059
Approximately 300 feet upstream of Oklahoma Avenue	*1,118
Eighth Street Tributary:	
At confluence with Caney Creek	*1,054
Approximately 150 feet downstream of Eighth Street	*1,068
Master Drain Tributary:	
At confluence with Caney Creek	*1,050
Maps are available for inspection at the Adair County Courthouse, Stilwell, Oklahoma.	
Stilwell (City), Adair County (FEMA Docket No. 7184)	
Caney Creek:	
Approximately 3,000 feet downstream of Olive Street (at the corporate limits)	*1,042
Approximately 2,700 feet downstream of Olive Street (at the corporate limits)	*1,044
Approximately 700 feet downstream of Olive Street (at the corporate limits)	*1,059
Just downstream of Elm Street	*1,085
Just upstream of Oklahoma Avenue (at the corporate limits)	*1,118
Eighth Street Tributary:	
Approximately 350 feet downstream of Eighth Street (at the corporate limits)	*1,065
Approximately 100 feet downstream of Eighth Street (at the corporate limits)	*1,068
Maps are available for inspection at the City Clerk's Office, 503 West Division, Stilwell, Oklahoma.	
OREGON	
Keizer (City), Marion County (FEMA Docket No. 7134)	
Willamette River:	
Approximately 900 feet downstream of Riverwood Drive extended, at the City of Keizer corporate limits	*135
Approximately 650 feet upstream of Cummings Lane extended	*136
Approximately 1,000 feet upstream of Way Drive extended, at the City of Keizer corporate limits	*138
Maps are available for inspection at City Hall, 930 Chemawa Road, Northeast, Keizer, Oregon.	
TEXAS	
Aledo (City), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
At the southern corporate limit	*792
At confluence of the unnamed tributary near Hidden Valley Drive	*795
At Old Tunnel Road on the western corporate limit	*798
Maps are available for inspection at the City of Aledo, Aledo City Hall, 200 Old Annetta Road, Aledo, Texas.	
Annetta (Town), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
At eastern corporate limit, south of Annetta Road	*800
Just upstream of Annetta Road	.....
At eastern corporate limit, near South Fork Trinity River	*804
Maps are available for inspection at the Town of Annetta City Office, 405–407 Highway 1187 North, Aledo, Texas.	
Annetta North (Town), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
Just upstream of Union Pacific Railroad Bridge	*808
At eastern corporate limit, approximately 3,000 feet upstream of Underwood Road	*809
Approximately 2 miles upstream of Underwood Road	*816
Maps are available for inspection at the home of the Town Secretary, Town of Annetta North, 457 Quail Ridge Drive, Aledo, Texas.	
Annetta South (Town), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
At the southern corporate limit	*786
At the northern corporate limit	*789
Maps are available for inspection at the home of The Honorable Douglas Koldin, Mayor, Town of Annetta South, 403 Koldin Drive, Aledo, Texas.	
Collin County (Unincorporated Areas) (FEMA Docket No. 7134)	
Lake Ray Hubbard:	
From Collin County-Rockwall County boundary to State Highway 78	*437
Maps are available for inspection at the Collin County Department of Public Works, Collin County Courthouse, 210 South McDonald Street, McKinney, Texas.	
Parker County (Unincorporated Areas) (FEMA Docket No. 7181)	
Clear Fork Trinity River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At Tarrant County-Parker County Line	*734
Just downstream of Armageddon Ranch Road	*752
At Underwood Road	*808
Approximately 150 feet upstream of Crown Road Bridge	*843
At City of Weatherford corporate limits	*856
Stream CF(WP)–1:	
Approximately 1,200 feet downstream of East Bankhead Drive	*827
Approximately 120 feet downstream of East Bankhead Drive	*835
Just upstream of East Bankhead Drive	*841
Maps are available for inspection at the Office of the County Judge, Floodplain Department, One Courthouse Square, Weatherford, Texas.	
Weatherford (City), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
At the corporate limits,.	
Approximately 1,000 feet downstream of West Lake Drive	*856
Approximately 400 feet upstream of West Lake Road	*860
Maps are available for inspection at the City of Weatherford Department of Code Enforcement, City Hall, 303 Palo Pinto Street, Weatherford, Texas.	
Willow Park (City), Parker County (FEMA Docket No. 7181)	
Clear Fork Trinity River:	
At the corporate limits, approximately 400 feet downstream of East Bankhead Highway	*830
Approximately 100 feet upstream of Interstate Highway 20	*834
At the upstream corporate limits, approximately 6,300 feet upstream of Interstate Highway 20 westbound	*843
Maps are available for inspection at the City of Willow Park City Hall, 101 Stage Coach Trail, Willow Park, Texas.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance')

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 96–26911 Filed 10–18–96; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 951116270–5308–02; I.D. 101196C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS issues this notification to announce that the summer flounder commercial quota available to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 1996, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of New York that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in New York.

EFFECTIVE DATE: October 15, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Lucy Helvenston, 508–281–9347.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100. Amendment 7 to the FMP (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, or 849,680 lb (385,408 kg).

Section 648.100(d)(2) provides that any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year. In the calendar year 1995, a total of 1,248,078 lb (566,119 kg) were landed in New York. The amount allocated for New York landings in 1995 was 1,243,374 lb (563,984 kg), creating a 4,704 lb (2,133 kg) overage that was deducted from the amount allocated for landings in that state during 1996 (April 5, 1996, 61 FR 15199). The resulting quota for New York is 844,976 lb (383,275 kg).

Section 625.101(b) requires the Regional Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a document in the Federal Register advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that the State of New York has attained its quota for 1996, the Regional Administrator has determined, based on dealer reports and other available information, that the State's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective October 15, 1996 further landings of summer flounder in New York by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available, effective on October 15, 1996.

Classification

This action is required by 50 CFR Part 648 and is exempt from review under E.O. 12866.

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

Dated: October 15, 1996.

Bruce Morehead,

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

[FR Doc. 96–26848 Filed 10–15–96; 4:33 pm]

BILLING CODE 3510–22–F

50 CFR Part 648

[Docket No. 951116270–5308–02; I.D. 101096C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Connecticut

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS issues this notification announcing that the summer flounder commercial quota available to the State of Connecticut has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Connecticut for the remainder of calendar year 1996, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of Connecticut that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in Connecticut.

EFFECTIVE DATE: October 15, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Lucy Helvenston, 508–281–9347.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648, subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100. Amendment 7 to the FMP (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year was adopted to ensure achievement of the appropriate fishing mortality rate of 0.41 for 1996, and is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percent allocated to vessels landing summer flounder in Connecticut is 2.25708 percent, or 250,791 lb (113,756 kg).

Section 625.101(b) requires the Regional Administrator, Northeast Region (Regional Administrator) to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a notification in the *Federal Register* advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. After reviewing dealer reports and other available information, the Regional Administrator has determined that Connecticut no longer has commercial quota available because the State's commercial quota for 1996 has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective October 15, 1996, further landings of summer flounder in Connecticut by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in Connecticut for the remainder of the calendar year, or until additional quota becomes available, effective on October 15, 1996.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: October 15, 1996.

Bruce Morehead,

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

[FR Doc. 96–26847 Filed 10–15–96; 4:33 pm]

BILLING CODE 3510–22–F

50 CFR Part 648

[Docket No. 951116270–530802; I.D. 101196B]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Rhode Island

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS issues this notification to announce that the summer flounder commercial quota available to the State of Rhode Island has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Rhode Island for the remainder of calendar year 1996, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notice to advise the State of Rhode Island that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in Rhode Island.

EFFECTIVE DATE: October 15, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Lucy Helvenston, 508–281–9347.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100. Amendment 7 to the Fishery Management Plan for the Summer Flounder Fishery (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percent allocated to vessels landing summer flounder in Rhode Island is 15.68298 percent, or 1,742,583 lb (790,422 kg).

Section 648.100(d)(2) provides that any overages of the commercial quota landed in any state well be deducted from that state's annual quota for the following year. In the calendar year

1995, a total of 2,365,465 pounds (1,072,956 kg) were landed in Rhode Island. The amount allocated for Rhode Island landings in 1995 was 2,243,224 lb (1,017,509 kg), creating a 122,241 lb (55,446 kg) overage that was deducted from the amount allocated for landings in that state during 1996 (April 5, 1996, 61 FR 15199). The resulting quota for Rhode Island is 1,620,342 lb (734,974 kg).

Section 625.101(b) requires the Regional Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a document in the Federal Register advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that the State of Rhode Island has attained its quota for 1996, the Regional Administrator has determined based on dealer reports and other available information, that the State's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective October 15, 1996 further landings of summer flounder in Rhode Island by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in Rhode Island for the remainder of the calendar year, or until additional quota becomes available, effective on October 15, 1996.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: October 15, 1996.

Bruce Morehead,

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

[FR Doc. 96–26846 Filed 10–15–96; 4:33 pm]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 960129019–6019–01; I.D. 101596F]

Fisheries of the Exclusive Economic Zone Off Alaska; Inshore Component of Pollock in the Bering Sea Subarea

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the pollock total allowable catch (TAC) allocated to vessels catching pollock for processing by the inshore component in this area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), October 17, 1996, until 2400 hrs, A.l.t., December 31, 1996.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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.

In accordance with § 679.20(c)(3)(iii), the second seasonal allowance of pollock for the inshore component in the BS was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) and subsequent reserve apportionment (61 FR 16085, April 11, 1996) as 225,952 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), established a directed fishing allowance of 224,952 mt and set aside the remaining 1,000 mt as bycatch to support directed fishing for other species in the BS. The Regional Director has determined in accordance with § 679.20(d)(1)(iii), that the second seasonal allowance of pollock TAC for vessels catching pollock for processing by the inshore component in the BS soon will be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the BS.

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

Classification

This action is taken under § 679.20 and is exempt from review under E.O. 12866.

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

Dated: October 16, 1996.

Bruce Morehead,

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

[FR Doc. 96–26934 Filed 10–16–96; 3:19 pm]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 960129019–6019–01; I.D. 101596A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands

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

ACTION: Modification of a closure. Notice of an inseason adjustment; request for comments.

SUMMARY: NMFS has determined that the currently specified bycatch allowances of Pacific halibut allocated to the yellowfin sole and rockfish trawl fishery categories in the Bering Sea and Aleutian Islands management area (BSAI) are incorrect. Therefore, NMFS is re-specifying the bycatch allowances for these categories, and is opening the directed fishery for yellowfin sole by vessels using trawl gear. These actions are necessary to achieve the optimum yield from the groundfish fisheries. They are intended to promote the goals and objectives of the North Pacific Fishery Management Council.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), October 16, 1996, until 2400 hrs, A.l.t., December 31, 1996. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 31, 1996.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Attn: Lori Gravel, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, or be delivered to Room 457, Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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.

Pursuant to § 679.21(e)(1)(iv), the prohibited species catch (PSC) limit of halibut caught while conducting any trawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 3,775 metric tons (mt) of halibut mortality. In accordance with § 679.21(e)(3)(i), the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) apportioned this PSC limit among the trawl gear fishery categories defined at § 679.21(e)(3)(iv) as follows:

(1) Yellowfin sole, 820 mt; (2) Rock sole/flathead sole/other flatfish, 730 mt; (3) Rockfish, 110 mt; (4) Pacific cod, 1,685 mt; (5) Pollock/Atka mackerel/ ''other species,'' 430 mt.

As of October 10, 1996, 50 mt remain of the halibut mortality bycatch allowance to the trawl rockfish fishery category. This fishery category will not reopen during 1996 because of insufficient total allowable catch (TAC) for the rockfish species in the genre *Sebastes* and *Sebastolobus*, leaving the remaining bycatch allowance uncaught. The yellowfin sole fishery category has no halibut bycatch allowance remaining and therefore cannot harvest the 47,000 mt of yellowfin sole remaining in that species' TAC. NMFS has determined that the PSC allowances for Pacific halibut allocated to the rockfish and yellowfin sole fishery categories are incorrectly specified based on the best available scientific information pertaining to bycatch rates reported by NMFS-certified observers. The Pacific halibut bycatch allowance for the yellowfin sole fishery category needs to be augmented to promote achieving the optimum yield from the yellowfin sole fishery.

Under § 679.25(a)(2)(i)(C), the Director, Alaska Region, NMFS (Regional Director), is making an inseason adjustment to prevent the underharvest of the BSAI yellowfin sole TAC increase the Pacific halibut bycatch allowance specified for the yellowfin sole fishery category by 50 mt. The Pacific halibut bycatch allowance for the rockfish fishery category is decreased by 50 mt. In accordance with § 679.25(a)(1)(iii), NMFS is re-specifying the Pacific halibut bycatch mortality allowances of the yellowfin sole and rockfish fishery categories as follows: Yellowfin sole, 870 mt and Rockfish, 60 mt.

As required by § 679.25(b), all information relevant to this inseason adjustment, including the effect of overall fishing effort within the statistical area and economic impacts on affected fishing businesses, was considered. Current halibut bycatch allowances would prevent harvest of the remaining 47,000 mt of yellowfin sole remaining in that species' TAC and, therefore, would not promote optimum yield of groundfish and would result in economic harm to fishermen and processors who would otherwise participate in that fishery.

The directed fishery for yellowfin sole by vessels using trawl gear in the BSAI was closed on October 2, 1996 (61 FR 52385, October 7, 1996) to prevent exceeding the 1996 bycatch allowance of Pacific halibut apportioned to the trawl yellowfin sole fishery catgory in the BSAI.

With the accompanying action the 1996 bycatch allowance has been increased. Therefore, NMFS is terminating the previous closure and is opening directed fishing for yellowfin sole by vessels using trawl gear in the BSAI. All other closures remain in full force and effect.

Classification

This action is taken under § 679.25 and § 679.20 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior public notice and comment on the inseason adjustment. Immediate effectiveness is necessary to prevent foregone revenue to the yellowfin sole fishery, which would otherwise be prevented from conducting operations. Interested persons are invited to submit comment in writing on or before October 31, 1996 (see **ADDRESSES**).

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

Dated: October 16, 1996.

Bruce Morehead,

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

[FR Doc. 96–26939 Filed 10–16–96; 3:19 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 204
Monday, October 21, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–10–AD]

RIN 2120–AA64

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD), which would have superseded AD 81–20–01. That AD currently requires repetitively inspecting the nose landing gear (NLG) actuator support structure and the front pressure bulkhead for cracks on Jetstream Aircraft Limited (JAL) HP137 Mk1 and Jetstream series 200 airplanes, and replacing any cracked part. The previous document would have: retained the repetitive inspections required by AD 81–20–01; required repetitively inspecting the NLG retraction jack upper mounting fitting and attachment hardware for security bolt failure and for bolts with improper torque levels on the HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes; required replacing any failed security bolts and adjusting any bolt with an improper torque level; and required modifying the NLG retraction jack on all affected airplanes as terminating action for the repetitive inspections. As currently written, the document allows continued flight if cracks are found in the front pressure bulkhead membrane and actuator support structure when cracks do not exceed certain limits. Since publication of that proposal, the Federal Aviation Administration (FAA) has established a policy to disallow airplane operation when known cracks exist in primary structure (the affected airplane parts are considered primary structure). The actions specified by the proposed AD are intended to prevent failure of the NLG caused by a cracked NLG actuator support structure or cracked front pressure bulkhead, which could lead to nose gear collapse and damage to the airplane. Since the comment period for the original proposal has closed and the change described above goes beyond the scope of what was originally proposed, the FAA is allowing additional time for the public to comment.

DATES: Comments must be received on or before December 27, 1996.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Rodriguez, Program Manager, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2717; facsimile (32 2) 230.6899; or Mr. Larry D. Malir, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–10–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of Supplemental NPRM

Any person may obtain a copy of this supplemental NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes that do not have an improved design attachment bracket (Modification JM 5285) installed for the nose landing gear (NLG) retraction jack was published in the Federal Register on September 19, 1995 (60 FR 48429). The action proposed to supersede AD 81–20–01 with a new AD that would:

—Retain the requirement contained in AD 81–20–01 of repetitively inspecting (using dye penetrant methods) the NLG actuator support structure and the front pressure bulkhead for cracks on JAL HP137 Mk1 and Jetstream series 200 airplanes that do not have the front

pressure bulkhead strengthened in the area of the NLG jack attachment fitting (Modification No. 5127), and replacing or repairing any cracked NLG actuator support structure or cracked front pressure bulkhead. Accomplishment of the proposed inspections as specified in the notice of proposed rulemaking (NPRM) would be in accordance with Jetstream Service Bulletin (SB) No. 6/5, dated September 4, 1978.

—Require repetitively inspecting the NLG retraction jack upper mounting fitting and attachment hardware for security bolt failure and bolts with improper torque levels on the HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes, and replacing any failed security bolts and adjusting any bolt with an improper torque level. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Jetstream SB 53–A–JA870510, which consists of the following pages and revision levels:

Pages	Revision level	Date
3, 5, 6, 8, 9, and 10.	Original Issue	May 26, 1987.
1, 2, 4, and 7	Revision 1	Nov. 10, 1987.

—Require modifying the NLG retraction jack on the HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes as terminating action for all the repetitive inspections, including the inspections referenced in the Model 3201 maintenance manual. Accomplishment of the proposed modification as specified in the NPRM would be in accordance with Jetstream SB 53–JM 5285, which consists of the following pages and revision levels:

Pages	Revision level	Date
1 and 4	Revision 2	Nov. 12, 1992.
2, 3, and 5 through 26.	Revision 1	May 18, 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received regarding the proposed rule. An analysis of the comment follows:

The commenter provides information on the company's fleet size and the estimated projection on when the proposed replacement would be mandatory on the affected airplanes in the company's fleet, as well as the number of repetitive inspections that would be required during that time. The commenter states that it is more economical for the company to incorporate the modification on its entire fleet immediately rather than continuing to repetitively inspect. The commenter also mentions that parts to modify the NLG retraction jack cost $1,800 instead of $1,600. The economic portion of this supplemental NPRM has been modified to reflect this change.

The FAA's Aging Commuter Aircraft Policy

The actions specified in the NPRM are part of the FAA's aging commuter aircraft policy, which briefly states that, when a modification exists that could eliminate or reduce the number of required critical inspections, the modification should be incorporated. This policy is based on the FAA's determination that reliance on critical repetitive inspections on airplanes utilized in commuter service carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

Events Leading to the Issuance of This Supplemental NPRM

As currently written, the existing NPRM would allow continued flight if cracks are found in the front pressure bulkhead membrane or actuator support structure when the cracks do not exceed certain limits. Since issuing the NPRM, the FAA has established a policy to disallow airplane operation when known cracks exist in primary structure (the front pressure bulkhead and actuator support structure are considered primary structure). For this reason, the FAA has determined that the crack limits contained in the NPRM should be eliminated and that AD action should be taken to require immediate replacement of any cracked front pressure bulkhead membrane or actuator support structure.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes of the same type design, the proposed AD would:

—Retain the requirement contained in AD 81–20–01 of repetitively inspecting (using dye penetrant methods) the NLG actuator support structure and the front pressure bulkhead for cracks on JAL HP137 Mk1 and Jetstream series 200 airplanes that do not have the front pressure bulkhead strengthened in the area of the NLG jack attachment fitting (Modification No. 5127), and replacing or repairing any cracked NLG actuator support structure or cracked front pressure bulkhead prior to further flight. Accomplishment of these proposed inspections would be in accordance with Jetstream Service Bulletin (SB) No. 6/5, dated September 4, 1978;

—Require repetitively inspecting the NLG retraction jack upper mounting fitting and attachment hardware for security bolt failure and bolts with improper torque levels on the HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes, and replacing any failed security bolts and adjusting any bolt with an improper torque level. Accomplishment of these proposed inspections would be in accordance with Jetstream SB 53–A–JA870510; and

—Require modifying the NLG retraction jack on the HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes as terminating action for all the repetitive inspections, including the inspections referenced in the Model 3201 maintenance manual. Accomplishment of this proposed modification would be in accordance with Jetstream SB 53–JM 5285.

Cost Impact

The FAA estimates that 170 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 41 workhours per airplane to accomplish the proposed modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $1,800 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $724,200 or $4,260 per airplane. This figure only takes into account the cost of the proposed inspection-terminating modification and does not take into account the cost of the repetitive inspections. The FAA has no way of determining the number of proposed repetitive inspections each HP137 Mk1, Jetstream series 200, and Jetstream

Model 3101 airplane owner/operator would incur over the life of the airplane.

This figure is also based on the assumption that no affected airplane owner/operator has accomplished the proposed modification. The proposed action would eliminate the need for the repetitive inspections required by AD 81–20–01. The FAA has no way of determining the operation levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspection costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long term.

In addition, JAL has informed the FAA that parts have been distributed to owners/operators to equip approximately 39 of the affected airplanes. Assuming that each set of parts has been installed on an affected airplane, the cost impact of the proposed modification upon the public would be reduced $166,140 from $724,200 to $558,060.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of airplanes that are in commercial service without adversely impacting private operators. Of the approximately 170 airplanes in the U.S. registry that will be affected by this AD, the FAA has determined that approximately 95 percent are operated in scheduled passenger service by 10 different operators.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 81–20–01, Amendment 39–4223, and adding a new AD to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–10–AD. Supersedes AD 81–20–01, Amendment 39–4223.

Applicability: The following airplanes, certificated in any category, that do not have an improved design attachment bracket for the NLG retraction jack (Modification JM 5285) installed in accordance with the Accomplishment Instructions section of Jetstream SB 53–JM 5285:

—HP137 Mk1 airplanes, all serial numbers;
—Jetstream Series 200 airplanes, all serial numbers;
—Jetstream Model 3101 airplanes, all serial numbers; and
—Jetstream Model 3201 airplanes, serial numbers 601 through 840.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the nose landing gear (NLG) caused by a cracked NLG actuator support structure or cracked front pressure bulkhead, which could lead to nose gear collapse and damage to the airplane, accomplish the following:

Note 2: The paragraph structure of this AD is as follows: Level 1: (a), (b), (c), etc.; Level 2: (1), (2), (3), etc.; Level 3: (i), (ii), (iii), etc.; Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) For HP137 Mk1 and Jetstream series 200 airplanes that do not have the front pressure bulkhead strengthened in the area of the NLG jack attachment fitting (Modification 5127), upon accumulating 1,600 landings or within the next 200 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 200 landings until the modification required by paragraph (c) of this AD is incorporated, inspect (using dye penetrant methods) the nose landing gear actuator support structure, part number (P/N) 137139C–13 and P/N 137139C–25, and the membrane of the front pressure bulkhead for cracks. Accomplish the inspection in accordance with British Aerospace (BAe) Service Bulletin (SB) No. 6/5, dated September 4, 1978.

(1) Prior to further flight after any of the inspections required by paragraph (a) of this AD, replace any cracked P/N 137139C–13 NLG actuator support structure. This replacement does not eliminate the repetitive inspection requirement of this AD.

(2) Prior to further flight after any of the inspections required by paragraph (a) of this AD, repair any cracked P/N 137139C–25 NLG actuator support structure in accordance with the applicable maintenance manual. This repair does not eliminate the repetitive inspection requirement of this AD.

(3) Prior to further flight after any of the inspections required by paragraph (a) of this AD, repair any cracked front pressure bulkhead membrane in accordance with the applicable maintenance manual. This repair does not eliminate the repetitive inspection requirement of this AD.

(b) For all HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes, upon accumulating 3,500 landings or within the next 200 landings after the effective date of this AD, whichever occurs later, accomplish the following:

(1) Inspect the NLG retraction jack upper mounting fitting and attaching hardware for correct installation, security bolt failure, and bolts with improper torque levels in accordance with Part A and B of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510, which incorporates the following pages and revision levels:

Pages	Revision level	Date
3, 5, 6, 8, 9, and 10.	Original Issue	May 26, 1987.
1, 2, 4, and 7	Revision 1	Nov. 10, 1987.

Prior to further flight, replace any failed security bolt and adjust any bolt with an improper torque level in accordance with Jetstream SB 53–A–JA870510.

(2) Reinspect the NLG retraction jack upper mounting fitting and attaching hardware for security bolt failure and bolts with improper torque levels in accordance with Part A of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510 at intervals not to exceed 1,600 landings until

the modification required by paragraph (c) of this AD is incorporated. Prior to further flight, replace any failed security bolt and adjust any bolt with an improper torque level in accordance with Jetstream SB 53–A–JA870510.

(3) Reinspect the NLG retraction jack upper mounting fitting security nuts for correct installation in accordance with Part B of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 53–A–JA870510 at intervals not to exceed 200 landings until the modification required by paragraph (c) of this AD is incorporated. If correct installation is not evident, prior to further flight, accomplish the reinspection specified in paragraph (b)(2) of this AD.

(c) For all applicable HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes, upon accumulating 25,000 landings or within the next 2,000 landings after the effective date of this AD, whichever occurs later, install an improved design attachment bracket for the NLG retraction jack (Modification JM 5285) in accordance with the Accomplishment Instructions section of Jetstream SB 53–JM 5285, which incorporates the following pages and revision levels:

Pages	Revision level	Date
1 and 4	Revision 2	Nov. 12, 1992.
2, 3, and 5 through 26.	Revision 1	May 18, 1992.

(1) Incorporating Modification JM 5285 on Jetstream HP137 Mk1, Jetstream series 200, and Jetstream Model 3101 airplanes terminates the repetitive inspection requirement of this AD.

(2) Incorporating Modification JM 5285 on Jetstream Model 3201 airplanes eliminates the need for the repetitive inspections specified in the applicable maintenance manual.

(3) Modification JM 5285 may be accomplished at any time prior to accumulating 25,000 landings or within the next 2,000 landings after the effective date of this AD, whichever occurs later, at which time it must be incorporated.

(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) 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, Brussels Aircraft Certification Division, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division. Alternative methods of compliance approved in accordance with AD 81–20–01 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 81–20–01, Amendment 39–4223.

Issued in Kansas City, Missouri, on October 11, 1996.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–26861 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASO–25]

Proposed Amendment of Class D Airspace; Hollywood, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class D airspace at Hollywood, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for North Perry Airport. Additional controlled airspace extending upward from the surface is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at North Perry Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

DATES: Comments must be received on or before December 7, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–25, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–25.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D airspace at Hollywood, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for North Perry

Airport. Additional controlled airspace extending upward from the surface is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at North Perry Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D airspace

* * * * *

ASO FL D Hollywood, FL [Revised]

Hollywood, North Perry Airport, FL
(Lat. 26°00′05″ N, long. 80°14′26″ W)
Opa Locka Airport
(Lat. 25°54′26″ N, long. 80°16′48″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3.5-mile radius of the North Perry airport; excluding the portion north of the north boundary of the Miami, FL, Class B airspace area and that portion south of a line connecting the 2 points of intersection with a 3.5-mile circle centered on the Opa Locka Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on October 11, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–26905 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ASO–24]

Proposed Amendment to Class E Airspace; Claxton, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Claxton, GA, A NDB RWY 9 Standard Instrument Approach Procedure (SIAP) has been developed for the Claxton-Evans County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport.

DATES: Comments must be received on or before December 7, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–24, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–24.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Claxton, GA. A NDB RWY 9 Standard Instrument Approach Procedure (SIAP) has been developed for the Claxton-

Evans County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

ASO GA E5 Claxton, GA [Revised]

Claxton-Evans Airport, GA

(Lat. 32°11′38″ N, long. 81°52′22″ W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Claxton-Evans County Airport.

* * * * *

Issued in College Park, Georgia, on October 9, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–26903 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ASO–28]

Proposed Amendment to Class E Airspace; Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E5 airspace area at Miami, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for the North Perry Airport at Hollywood, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of this SIAP.

DATES: Comments must be received on or before December 7, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–28, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–28.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E 5 airspace at Miami, FL. A GPS RWY 9R Standard Instrument Approach Procedure (SIAP) has been developed for the North Perry Airport at Hollywood, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will

change from VFR to include IFR operations concurrent with publication of this SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

ASO FL E5 Miami, FL [Revised]

Miami International Airport, FL

(Lat. 25°47′35″ N, long. 80°17′25″ W)

Homestead AFB

(Lat. 25°29′18″ N, long. 80°23′01″ W)

Opa Locka Airport

(Lat. 25°54′26″ N, long. 80°16′48″ W)

Fort Lauderdale-Hollywood International Airport

(Lat. 26°04′19″ N, long. 80°09′13″ W)

Kendall-Tamiami Executive Airport

(Lat. 25°38′52″ N, long. 80°25′58″ W)

TM LOM

(Lat. 25°38′14″ N, long. 80°30′17″ W)

Fort Lauderdale Executive Airport

(Lat. 26°11′50″ N, long. 80°10′14″ W)

Pompano Beach Airpark

(Lat. 26°14′49″ N, long. 80°06′40″ W)

North Perry Airport

(Lat. 26°00′05″ N, long. 80°14′26″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miami International Airport, Homestead AFB, Opa Locka Airport, Fort Lauderdale-Hollywood International Airport and Kendall-Tamiami Executive Airport, and within 2.4 miles each side of the 267° bearing from the TM LOM extending from the 7-mile radius to 7 miles west of the LOM, and within a 6.5-mile radius of Fort Lauderdale Executive Airport, Pompano Beach Airpark and North Perry Airport.

* * * * *

Issued in College Park, Georgia, on October 11, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–26904 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR 658

[FHWA Docket No. 96–12]

RIN 2125–AEO4

Truck Size and Weight; National Network; North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; (NPRM); request for comments.

SUMMARY: The FHWA proposes to modify the National Network for commercial motor vehicles by adding a route in North Carolina. The National Network was established by a final rule on truck size and weight published on June 5, 1984. This rulemaking proposes to add one segment to the National Network as requested by the State of North Carolina.

DATES: Comments on this docket must be received on or before December 20, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 96–12, Federal Highway Administration, Room 4232, HCC–10, Office of Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management and Analysis (202–366–2212), or Mr. Charles Medalen, Office of the Chief Counsel (202–366–1354), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The National Network of Interstate highways and federally-designated routes, on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act (STAA) of 1982, 49 U.S.C. 31111, 31113–31114, may operate, was established by the final rule published in the Federal Register on June 5, 1984 (49 FR 23302). These highways are located in each State, the District of Columbia, and Puerto Rico. Routes on the National Network are listed in appendix A of Part 658.

Procedures for the addition and deletion of routes are outlined in 23 CFR 658.11 and include the issuance of a notice of proposed rulemaking (NPRM) before final rulemaking.

The State of North Carolina, under authority of the Governor, requests the addition of one segment to the National Network. The segment has been reviewed by State and FHWA offices for general adherence to the criteria of 23 CFR 658.9 and found to provide for the safe operation of larger commercial vehicles and for the needs of interstate commerce.

The segment requested is generally described as: US 74 between alternate US 74 near Forest City and I–26 exit 36, in Polk County, approximately 20 miles.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action does not constitute a significant

regulatory action, within the meaning of E.O. 12866, nor is it considered significant under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. This rulemaking proposes technical amendments to 23 CFR 658, adding a certain highway segment in accordance with statutory provisions. This segment represents a very small portion of the National Network and has a negligible impact on the prior system. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FHWA has evaluated the effects of this proposal on small entities. This rulemaking proposes technical amendments to 23 CFR 658, adding a certain highway segment in accordance with statutory provisions. This segment represents a very small portion of the National Network and has a negligible impact on the prior system. This rulemaking would, however, allow motor carriers, including small carriers, access to a highway segment not available to them at the present time.

Based on its evaluation of this proposal, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The Regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities do not apply to this program.

Paperwork Reduction Act

The proposal in this document does not contain information collection requirements for the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environment Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highway and roads, Motor carriers.

Issued on: October 8, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, Chapter I, by amending appendix A to Part 658 for the State of North Carolina as set forth below:

PART 658—TRUCK SIZE AND WEIGHT, ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. The authority citation for 23 CFR Part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 3111–31115; 49 CFR 1.48 (b)(19) and (c)(19).

2. Appendix A to Part 658 is amended for the State of North Carolina by adding a new route listing entry after the listing for US 74, I–277 Charlotte, US 17 W. Int. Wilmington to read as follows:

Appendix A to Part 658—National Network—Federally-Designated Routes

NORTH CAROLINA

Route	From	To
*	*	*
US74	I–26Exit 36	US74 ALT: near Forest City.
*	*	*

* * * * *

[FR Doc. 96–26744 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AB41

Sale and Disposal of National Forest Timber; Indices To Determine Market-Related Contract Term Additions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; request for comments.

SUMMARY: The Forest Service proposes to amend current regulations to require the use of Industry Series Producer Price Indices from the Bureau of Labor Statistics, rather than the currently required indices in the Commodity Series. Use of a different Producer Price Index series requires a change in procedures for determining when market-related contract term additions are needed. In addition to changing the index series, the proposed rule makes technical changes including: Applying the indices on a sale-by-sale basis, based on species and product, rather than a National Forest basis; precluding market-related contract term additions on contracts for sales with a primary objective of harvesting damaged, dead, or dying timber and contracts with provisions for stumpage rate adjustment; and minor changes to clarify or simplify procedures for applying the indices. The intended effect is to grant timber sale contract term additions based on more representative market criteria.

DATES: Comments must be received in writing by November 20, 1996.

ADDRESSES: Send written comments to Director, Timber Management Staff (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this proposed rule in the office of the Director, Timber Management Staff, Forest Service, USDA, Wing 3NW, Auditor's Building, 201 14th Street, S.W., Washington, DC 20250, between the hours of 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead (202–205–0893) to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 205–0855.

SUPPLEMENTARY INFORMATION: .

Background

On December 7, 1990, the Forest Service published a final rule (55 FR

50643) to establish procedures at 36 CFR § 223.52 for extending contract termination dates to prevent contract default or severe financial loss to the purchaser in response to adverse conditions in the timber markets. Experience has indicated that the market declines that would cause a market-related contract term addition generally coincide with substantial economic dislocation in the wood products industry. Such economic distress broadly affects community stability, the ability of the wood products industry to supply construction lumber and other wood products from domestic sources, and threatens the existence of wood manufacturing plants needed to meet future demands for wood products. Accordingly, the 1990 rule provides that if there is a drastic decline in wood product prices sufficient to trigger the market-related contract term addition, there would be a corollary substantial overriding public interest to extend the term of existing timber sale contracts, as required by the National Forest Management Act of 1976 (16 U.S.C. 472a(c)) and existing regulations at 36 CFR 223.115(b).

The 1990 rule requires the use of various wood product Producer Price Indices, prepared by the Department of Labor, Bureau of Labor Statistics, to determine whether a drastic reduction in wood product prices has occurred. Since adoption of the rule, a drastic reduction occurred for Douglas-fir, Dressed Index, during the first quarter of 1991 and, most recently, in the second quarter of 1995. As a result, the Forest Service notified purchasers and, upon the purchasers' written request, added an additional year to timber sale contract terms for qualifying contracts.

Appearing before the House Appropriations Subcommittee on Interior and Related Agencies, on April 28, 1992 (Testimony Report number, T–RCED–92–58), the General Accounting Office (GAO) testified that the Forest Service's timber sale contract extension rule was inconsistent with the way other governmental agencies have addressed the impact of declining markets on timber purchasers. GAO also testified that, in implementing the regulation in 1991, the Forest Service used a formula with inappropriate data to reach a determination that prices for wood products from the Pacific Northwest had drastically declined. Specifically, GAO testified that the Forest Service used a formula developed with data that were not adjusted to account for seasonal fluctuations. GAO noted that if the Forest Service had used the Bureau of Labor Statistics' seasonally adjusted data, the formula would not have indicated a drastic price reduction and would not have triggered contract extensions on the west side of the Pacific Northwest.

GAO further testified that the Bureau of Labor Statistics advises use of seasonally adjusted data which are designed to eliminate the effects of normal market fluctuations that occur at about the same time, and in about the same magnitude, each year, such as price movements resulting from normal weather patterns and regular production and marketing cycles. GAO recommended that the Secretary of Agriculture direct the Chief of the Forest Service to: (1) stop using the Bureau of Labor Statistics' unadjusted indices in reaching determinations that wood product prices have drastically declined, and (2) make eligible only those contracts that do not already reflect falling prices.

The Secretary of Agriculture agreed to re-examine the use of the Bureau of Labor Statistics' unadjusted Producer Price Indices to determine whether wood product prices showed a drastic decline and whether to make eligible only those contracts that do not already reflect falling prices. Subsequently, the Forest Service concurred that seasonally adjusted Producer Price Indices, adjusted to a constant dollar base, could be used to determine whether a drastic reduction in wood product prices has occurred and, therefore, whether a market-related contract term addition should be granted. However, in December 1994, the Bureau of Labor Statistics stopped applying seasonal adjustments to the related Producer Price Indices, since they found insufficient statistical evidence to demonstrate a need to continue adjusting these indices.

The Producer Price Indices currently used by the Forest Service are from the Commodity Series prepared by the Bureau of Labor Statistics. However, the Bureau of Labor Statistics has determined that the Industry Series, rather than the Commodity Series, should be used as the principal series to measure market changes. The Industry Series includes indices for Western Softwood, Eastern Softwood, and Hardwood Lumber and is more representative of the sawmill industry than the indices used with the Commodity Series. The Industry Series is more representative because the Industry Series softwood lumber indices include rough lumber and the Hardwood Lumber Index excludes the secondary industries of dimension stock and flooring.

In order to utilize or maximize use of all resources with the least impact on the environment, many sales consist primarily of chipable material. Current market-related contract term addition procedures do not use an index to reflect market changes in chipable material; however, to fill this need, the Forest Service proposes to apply the Industry Series Wood Chip Index to measure market changes for the price of chips and to address the volatility of the wood chip market.

A review of other readily available indices representing the same wood product markets shows that indices comparable to the Producer Price Indices do not exist. Some regional indices are available; however, the timing, frequency, and procedure for collection of information for these indices varies. Some index services or associations use previous month invoice prices that are provided by their members, while other services use current month negotiated bid prices or sale prices. Reliable indices, prepared nationally and applied consistently, are not available. Therefore, the Forest Service proposes to codify the use of the following Bureau of Labor Statistics (BLS) indices from the Industry Series:

BLS producer price index	Industry code
Hardwood Lumber	2421 #1
Eastern Softwood Lumber	2421 #3
Western Softwood Lumber	2421 #4
Wood Chips	2421 #5

Each Producer Price Index is adjusted to a constant dollar base by dividing it by the Producer Price Index for All Commodities, Commodity Code 00000000. The Forest Service currently monitors the various indices and determines that a drastic reduction in wood product prices has occurred when, for 2 or more consecutive quarters after the contract award, the applicable adjusted price index is less than 80 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. Because the Industry Series indices are less species specific, they are less volatile. Therefore, in order to continue to identify severe market declines, it is necessary to change the triggering percentage to 85 percent when Industry Series indices are used. The indices and the adjustment procedures are set forth in proposed paragraphs (b) (1) and (2).

Other Provisions of the Proposed Rule

Paragraph (a) of § 223.52 is proposed to be revised to clarify the conditions and provisions for adding contract time

to timber sale contracts. Proposed paragraph (a)(1) makes minor non-substantive changes to current paragraph (a) to clarify the conditions for granting a timber sale contract extension.

Currently, Regional Foresters, for those Regions with more than one Producer Price Index, determine the index to be used on each National Forest in that Region. The Forest Service recognizes that applying the Bureau of Labor Statistics' indices on a National Forest basis may not reflect actual sale characteristics. Therefore, in proposed paragraph (a)(2), the Forest Service proposes that Forest Supervisors shall determine the index to be used for each sale. The selected index would then reflect the predominant species and product, by volume, included in the sale area and would be more representative of the species and products actually in the sale area than applying the indices on a National Forest level.

Periodically, catastrophic events severely damage timber. The damaged timber must be harvested within a relatively short time period to avoid substantial losses in both quantity and quality of timber due to deterioration. The critical time period available for harvesting damaged timber and avoiding substantial deterioration varies with the season of the year, the species of timber, the damaging agent, and the location of the damaged timber. In most cases, significant deterioration can be avoided if the damaged timber is harvested within 1 year of the catastrophic event. Accordingly, the proposed rule provides that when the primary objective of a timber sale contract is to harvest damaged, dead, or dying timber, a market-related contract term addition provision will not be included in the contract because such a provision could delay harvest. Therefore, in proposed paragraph (a)(3)(i), the Forest Service proposes not to allow market-related contract term addition on sales that have a primary objective of harvesting damaged, dead, or dying timber.

In the past, contract lengths were relatively long (4 or more years). Most current timber sale contracts have a duration of 3 years or less, and many of the current contracts allow for stumpage rate adjustment, which provides a stumpage price adjustment for the timber sale purchaser as the timber markets change. Under current regulations, the market-related contract term addition provision offers a second and unnecessary method of addressing adverse market conditions, when adequate adjustment may already be provided in many contracts through stumpage rate adjustment. Therefore, in proposed paragraph (a)(3)(ii), the Forest Service proposes not to allow market-related contract term addition on sales with stumpage rate adjustment provisions.

To codify the indices available for use in market-related contract term additions, proposed paragraph (b)(1)(i) of § 223.52 lists the indices available for use in market-related contract term additions. The proposed indices use Bureau of Labor Statistics' Industry Series indices, since the Industry Series is now the principal series supported by Bureau of Labor Statistics. Species specific indices are not available from the Industry Series. The Eastern Softwood Lumber and Western Softwood Lumber Indices reflect the similarity of the markets in each geographic region. These indices also include rough lumber which was not included in the indices used previously from the Commodity Series. The Hardwood Lumber Index now excludes the secondary industries of dimension stock and flooring. The Wood Chip Index is added to provide a better measure of market changes for sales that include primarily chipable material.

The Bureau of Labor Statistics issues preliminary indices and, when data is finalized, issues final indices. The final indices may indicate a qualifying quarter when the preliminary data does not indicate a qualifying quarter or vice versa. The Forest Service wishes to use the most current data, but does not want to redetermine whether past quarters are qualifying quarters. Redetermining whether past quarters are qualifying quarters would sometimes indicate that market-related contract term additions had been granted when they were not justified or that they had not been granted when they were justified. Therefore, in proposed paragraph (b)(1)(ii), the agency proposes to use the most current data, but not to revise the determination of qualifying quarters when final Producer Price Index data is available.

The current regulations designate the Regional Forester as the official who determines when a drastic reduction in wood product prices has occurred. In practice, the Chief makes this determination; therefore, proposed paragraph (b)(2) names the Chief as the determining official.

Paragraph (b)(2) also would be revised to provide that a drastic reduction in wood product prices occurs when, for 2 or more consecutive quarters, the applicable adjusted price index is less than 85 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. The percentage was changed from 80 percent because the indices used from the Industry Series are less species specific and, therefore, less volatile. A higher percentage better identifies drastic reductions in wood product prices.

The Forest Service proposes revising paragraph (b)(2) to clarify that the 8 calendar quarters to be used for calculating market-related contract term additions are the 8 quarters immediately prior to each qualifying quarter. This is the method used in the examples of the operation of the market-related contract term addition published as the proposed rule on November 6, 1987 (52 FR 43020), and is the process that has been used since 1990 for calculating the market-related contract term additions.

Paragraph (c) of § 223.52 would be revised to remove the reference to the Regional Forester to conform to the change in paragraph (b)(2) specifying that the Chief of the Forest Service makes the determination and to make clear that contracts eligible for term addition are those which have been awarded but are not yet terminated.

The current regulation requires that periodic payment dates be recalculated based on the revised contract termination date. Current contract procedures, however, require that the periodic payment dates be delayed by an amount of time equal to the additional contract time. The contract procedure delays periodic payments for more time than the procedure in the current rule allows. Therefore, the Forest Service proposes to revise paragraph (d) of § 223.52 to provide a delay in periodic payment dates equal to the amount of additional contract time. This proposed change will not only make the regulation consistent with current contract procedures, but will also better provide the assistance that is needed during market declines.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. In short, little or no effect on the national economy will result from this proposed rule change. This action consists of administrative changes to regulations affecting timber

sale contract length. The Producer Price Indices selected and revised procedures better reflect the cyclic nature of lumber markets and help the agency determine whether a drastic downturn has actually occurred in these particular markets. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to OMB review under Executive Order 12866.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. Failure to adopt these improved procedures for measuring drastic decline in wood product prices will subject both small purchasers and large purchasers to increased risk of default in those situations where current indices are not as valid as indicators of price decline as those being proposed in this rule. Modifications to timber sale contracts have the intended effect of allowing purchasers of timber sales to complete timber sales when adverse conditions have occurred in the timber market and when no other means of adjustment, such as stumpage rate adjustment, are available.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

This proposed rule deals with business practices related to timber sale contracts and, as such, has no direct effect on the amount, location, or manner of timber offered for purchase. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Comments Invited

The Forest Service invites comments on this proposal to use Producer Price Indices from the Industry Series and to change the operational procedures that apply to market-related contract term additions on timber sales. Comments received will be considered in the development of the final rule, which will be published in the Federal Register.

List of Subjects in 36 CFR Part 223

Administrative practice and procedure, Exports, Forests and forest products, Government contracts, National forests, Reporting and recordkeeping requirements.

Therefore, for the reasons set forth in the preamble, it is proposed to amend Part 223 of Title 36 of the Code of Federal Regulations as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for Part 223 continues to read as follows:

Authority: 90 Stat. 92958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; unless otherwise noted.

2. Revise § 223.52 to read as follows:

§ 223.52 Market-related contract term additions.

(a) *Contract provision*. (1) Except as provided in paragraph (a)(3) of this section, each timber sale contract containing periodic payment requirements shall contain a provision allowing for the addition of time to the contract term, under the following conditions:

(i) The Chief of the Forest Service has determined that adverse wood products market conditions have resulted in a drastic reduction in wood product prices applicable to the sale; and

(ii) The purchaser makes a written request for additional time to perform the contract.

(2) The contract term addition provision must also specify the index to be applied to each sale. The Forest Supervisor shall determine the index to be used for each sale based on the species or product characteristics, by volume, being harvested on the sale. Only one index may apply to a given sale. The Forest Supervisor may select only from the indices listed in paragraph (b) of this section.

(3) A market-related contract term addition provision shall not be included in contracts if either of the following circumstances exist:

(i) The sale has a primary objective of harvesting damaged, dead, or dying timber; or

(ii) The contract has a provision for stumpage rate adjustment.

(b) *Determination of drastic wood product price reductions*. (1) The Forest Service shall monitor and use Producer Price Indices for wood products, as prepared by the Department of Labor, Bureau of Labor Statistics (BLS), adjusted to a constant dollar base, to determine if market related contract term additions are warranted.

(i) The Forest Service shall monitor and use only the following indices:

BLS producer price index	Industry code
Hardwood Lumber	2421#1
Eastern Softwood Lumber	2421#3
Western Softwood Lumber	2421#4
Wood Chips	2421#5

(ii) When final indices are not available, preliminary indices shall be used; however, in such event, determination of a qualifying quarter will not be revised when final indices become available.

(2) The Chief of the Forest Service shall determine that a drastic reduction in wood product prices has occurred when, for 2 or more consecutive quarters, the applicable adjusted price index is less than 85 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. A qualifying quarter is a quarter where the applicable adjusted index is more than 15 percent below the average of such index for the 4 highest of the previous 8 calendar quarters. Qualifying quarter determinations will be made using the Producer Price Indices for the months of March, June, September, and December.

(3) A determination, made pursuant to paragraph (b)(2) of this section, that a drastic reduction in wood product prices has occurred shall constitute a finding that the substantial overriding

public interest justifies the contract term addition.

(c) *Granting market-related contract term additions*. When the Chief of the Forest Service determines, pursuant to this section, that a drastic reduction in wood product prices has occurred, the Forest Service is to notify affected timber sale purchasers. For any contract which has been awarded and has not been terminated, the Forest Service, upon a purchaser's written request, will add 1 year to the contract's term, except as provided in paragraphs (c) (1) through (3) of this section. This 1-year addition includes time outside of the normal operating season.

(1) For each additional consecutive quarter, in which a contract qualifies for a market-related contract term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract.

(2) No more than twice the original contract length or 3 years, whichever is less, shall be added to a contract's term by market-related contract term addition.

(3) In no event shall a revised contract term exceed 10 years as a result of market-related contract term additions.

(d) *Recalculation of periodic payments*. Where a contract is lengthened as a result of market conditions, any subsequent periodic payment dates shall be delayed 1 month for each month added to the contract's term.

Dated: October 8, 1996.

J. Kenneth Myers,

Acting Chief.

[FR Doc. 96–26755 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7194]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Navajo County (Unincorporated areas).	Buckskin Wash	Approximately 0.59 mile downstream of Green Valley Road.	None	*6,481
			Approximately 0.54 mile upstream of South Meadow Road.	None	*6,551
Maps are available for inspection at the Navajo County Public Works Department, County Courthouse, South Highway 77, Holbrook, Arizona.					
Send comments to The Honorable Pete Shumway, Chairman, Navajo County Board of Supervisors, P.O. Box 668, Holbrook, Arizona 86025.					
California	Angels (city) Calaveras County.	Angels Creek	Approximately 2,900 feet downstream of State Highway 49.	None	*1,314
			At Kurt Lane	None	*1,403
		China Gulch	Approximately 1,650 feet downstream of Purdy Way.	None	*1,384
			Approximately 1,650 feet upstream of Purdy Way.	None	*1,475
Maps are available for inspection at City Hall, 585 South Main Street, Angels Camp, California.					
Send comments to The Honorable Tad Folendorf, Mayor, City of Angels, P.O. Box 667, Angels Camp, California 95222.					
California	Blue Lake (city) Humboldt County.	Mad River	Approximately 1,300 feet downstream of confluence with Dave Powers Creek (westernmost corporate limit).	None	*68
			Just downstream of Hatchery Road	*87	*85
		Dave Powers Creek	At confluence with Mad River	*76	*70
			Approximately 2,100 feet upstream of confluence with Mad River.	*78	*75
Maps are available for inspection at the Public Works Department, Blue Lake City Hall, Blue Lake, California.					
Send comments to The Honorable Tom Sheets, Mayor, City of Blue Lake, P.O. Box 458, Blue Lake, California 95525.					
California	Glenn County (unincorporated areas).	Sacramento River (West Overbank at Hamilton).	At dirt road located 3,000 feet north of St. John Road.	None	*139
			Approximately 1.9 miles upstream of State Highway 132.	None	*153
Maps are available for inspection at the Public Works Department, 777 North Colusa Street, Willows, California.					
Send comments to The Honorable Gary Freeman, Chairman, Glenn County Board of Supervisors, 526 West Sycamore Street, Willows, California 95988.					
California	Lompoc (city) Santa Barbara County.	Santa Ynez River	Just upstream of Floradale Avenue	*70	*70
			Approximately 1,530 feet downstream of State Highway 1.	*81	*80
Maps are available for inspection at the Engineering Division, City of Lompoc, 100 Civic Center Plaza, Lompoc, California.					
Send comments to The Honorable Joyce Howerton, Mayor, City of Lompoc, City Hall, P.O. Box 8001, Lompoc, California 93438–8001.					
California	Marin County (unincorporated areas).	Miller Creek	Just upstream of the Southern Pacific Railroad.	*12	*12
			Approximately 3,000 feet upstream of the Southern Pacific Railroad.	*18	*20
			At U.S. Highway 101	*30	*31
		Miller Creek—Left Overbank Channel.	At confluence with Miller Creek, approximately 1,150 feet upstream of the Southern Pacific Railroad.	None	*14
			Approximately 3,500 feet upstream of the Southern Pacific Railroad.	None	*23
		Miller Creek—Right Overbank Channel.	Just upstream of the Southern Pacific Railroad.	None	*10
			Approximately 2,900 feet upstream of the Southern Pacific Railroad.	None	*23
Maps are available for inspection at the Marin County Department of Public Works, 3501 Civic Center Drive, Room 304, San Rafael, California.					
Send comments to The Honorable Harold Brown, Jr., Chairman, Marin County Board of Supervisors, 3501 Civic Center Drive, Suite 315, San Rafael, California 94903.					
California	Mono County (unincorporated areas).	Big Slough	At Larson Lane	None	*5,208
			At the divergence from West Walker River.	None	*5,374

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		West Walker River	At Larson Lane	None	*5,192
			At Eastside Lane	None	*5,446
Maps are available for inspection at the Planning Department, Courthouse Annex, Bridgeport, California.					
Send comments to The Honorable Bill Mayer, Chief Administrative Officer, P.O. Box 696, Bridgeport, California 93517.					
California	Placer County and incorporated areas.	Antelope Creek	At confluence with Dry Creek	*155	*154
			Just upstream of Citrus Colony Road	None	*365
		Antelope Creek Overflow Channel.	At confluence with Antelope Creek	None	*206
			At divergence with Antelope Creek	None	*208
		Antelope Creek Tributary	At confluence with Antelope Creek	*340	*340
			Just upstream of Humphrey Road	*380	*376
		Auburn Ravine	Approximately 800 feet downstream of Lozanos Road.	*667	*668
			Approximately 655 feet upstream of Southern Pacific Railroad crossing.	None	*1,533
		Auburn Ravine Dairy Road Tributary.	At confluence with Auburn Ravine	None	*1,308
			Just downstream of Luther Road	None	*1,476
		Cirby Creek	At confluence with Dry Creek	*139	*133
			Approximately 2,360 feet upstream of Huntington Drive.	*165	*166
		Clover Valley Creek	At confluence of Antelope Creek	*228	*228
			Approximately 17,000 feet upstream of Clover Valley Road.	None	*497
		Dry Creek	Approximately 0.5 mile downstream of Watt Avenue at County limits.	None	*80
			Approximately 4,400 feet upstream of Folsom Road.	*155	*154
		Dry Creek—Antelope North Road Tributary (East Branch).	At confluence with Dry Creek	None	*111
			Approximately 3,620 feet upstream of confluence with Dry Creek.	None	*111
		Dry Creek—Antelope North Road Tributary (West Branch).	At confluence with Dry Creek	None	*111
			Approximately 620 feet upstream of confluence with Dry Creek.	None	*111
		Dry Creek—Billy Mitchell Road Tributary.	At confluence with Dry Creek	None	*96
			Approximately 4,750 feet upstream of Billy Mitchell Road.	None	*119
		Dry Creek—Vineyard Road Tributary.	At confluence with Dry Creek	None	*111
			Approximately 200 feet downstream of Brady Lane.	None	*134
		Dry Creek—Welerga Road	At confluence with Dry Creek	None	*90
			Approximately 4,160 feet upstream of Walerga Road.	None	*104
		Linda Creek	At confluence with Cirby Creek	*137	*139
			Approximately 840 feet upstream of Old Auburn Road.	None	*169
		Markham Ravine	At Nelson Lane	None	*109
			At Fruitvale Road	None	*191
		Markham Ravine Lower Tributary.	At confluence with Markham Ravine	None	*112
			Approximately 9,400 feet upstream of confluence with Markham Ravine.	None	*130
		Markham Ravine Upper Tributary.	At confluence with Markham Ravine	None	*177
			Approximately 0.25 mile upstream of Mulberry Lane.	None	*194
		Miners Ravine	At Harding Boulevard	*158	*154
			Approximately 15,300 feet upstream of confluence with Dry Creek.	*235	*236
		Secret Ravine	At confluence with Miners Ravine	*171	*170

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 800 feet upstream of King Road.	*399	*388
		Secret Ravine—Aguilar Tributary.	At confluence with Secret Ravine	*250	*250
			Approximately 1,480 feet upstream of El Don Road.	*294	*296
		Secret Ravine—Upper Fork.	At confluence with Secret Ravine	*355	*357
			Approximately 0.25 mile upstream of King Road.	None	*405
		Strap Ravine	Just upstream of McClaren Drive	*156	*157
			Approximately 9,500 feet upstream of Sierra College Boulevard.	None	*301
		Sucker Ravine	At confluence with Secret Ravine	*232	*233
			Just upstream of Sopalas Street	None	*370
		Sucker Ravine Overflow Channel No. 1.	At convergence with Sucker Ravine	None	*309
			At divergence with Sucker Ravine	None	*324
		Sucker Ravine Overflow Channel No. 2.	At convergence with Sucker Ravine	None	*322
			At divergence with Sucker Ravine	None	*336
		Sucker Ravine—Loomis Tributary.	At confluence with Sucker Ravine	*293	*300
			Approximately 340 feet upstream of Stonegate Road.	None	*343

Maps are available for inspection at the Placer County Department of Public Works, 11444 B Avenue, Auburn, California.

Send comments to The Honorable Kirk Uhler, Chairman, Placer County Board of Supervisors, 175 Fulweiler Street, Auburn, California 95603.

Maps are available for inspection at the Planning Department, City Hall, 1390 First Street, Lincoln, California.

Send comments to The Honorable Willie Preston, Mayor, City of Lincoln, 1390 First Street, Lincoln, California 95648.

Maps are available for inspection at the City of Rocklin Engineering Department, 3970 Rocklin Road, Rocklin, California.

Send comments to The Honorable George Magnuson, Mayor, City of Rocklin, P.O. Box 1380, Rocklin, California 95677.

Maps are available for inspection at the Engineering Department, 316 Vernon Street, Roseville, California.

Send comments to The Honorable Mel Hamel, Mayor, City of Roseville, 311 Vernon Street, #200, Roseville, California 95678.

Maps are available for inspection at the Town of Loomis Town Hall, 6140 Horseshoe Bar, Suite K, Loomis, California.

Send comments to The Honorable Bruce Lee, Mayor, Town of Loomis, P.O. Box 1327, Loomis, California 95650.

Maps are available for inspection at the City of Auburn Planning Department, 1225 Lincoln Way, Auburn, California.

Send comments to The Honorable Annabell McCord, Mayor, City of Auburn, 1225 Lincoln Way, Auburn, California 95603.

California	Pleasanton (city) Alameda County.	Arroyo Mocho	Just above Santa Rita Road	*337	*336
			At intersection of Stoneridge Drive and Moreno Avenue.	None	*341
			At intersection of Boardwalk Street and West Las Positas Boulevard.	*348	None
			500 feet upstream of confluence of Arroyo Las Positas.	*352	*351
		Arroyo Las Positas	At intersection of Pimlico and Fairlands Drives.	#1	None
			At confluence with Arroyo Mocho	*348	*345

Maps are available for inspection at the City Office, Public Works Department, City of Pleasanton, 200 Old Bernal Avenue, Pleasanton, California.

Send comments to The Honorable Ben Tarver, Mayor, City of Pleasanton, P.O. Box 520, Pleasanton, California 94566–0802.

California	Santa Barbara County. (Unincorporated Areas).	Santa Ynez River	Just upstream of Floradale Avenue	*70	*70
			Approximately 1,530 feet downstream of State Highway 1.	*81	*80
		Romero Creek	Approximately 590 feet upstream of Sheffield Drive.	*90	*92
			Approximately 2,350 feet upstream of Sheffield Drive.	*133	*134
		Buena Vista Creek (East Branch).	Approximately 360 feet downstream of Sheffield Drive.	*109	*110
			Approximately 1,030 feet upstream of Sheffield Drive Bridge.	*145	*144

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Santa Barbara County Flood Control and Water Conservation District, 123 East Anapamu Street, Santa Barbara, California.					
Send comments to The Honorable Jeanne Graffy, Chairperson, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.					
California	Simi Valley (City) Ventura County.	Arroyo Simi	Approximately 2,800 feet downstream of Madera Road.	*680	*680
	Ventura County		Approximately 4,450 feet upstream of Rockingham Drive.	None	*1,118
			At intersection of Tierra Rejada and Madera Roads.	None	#2
			At intersection of Moreland and Madera Roads.	None	#3
			At intersection of Los Angeles Avenue and Sinaloa Road.	None	#1
			At intersection of Royal Avenue and Fourth Street.	None	#2
		Bus Canyon	Approximately 350 feet downstream of Los Angeles.	None	*746
			Approximately 225 feet upstream of Bennet Street.	None	*836
		Bus Canyon Tributary	At Village Court	None	*781
			Approximately 2,000 feet upstream of Dakin Avenue.	None	*809
			At Fourth Street	None	#2
		Dry Canyon	At confluence with Arroyo Simi	None	*832
			Approximately 1,150 feet upstream of Alamo Street.	None	*1,012
		Erringer Creek	At Erringer Road	None	*821
			Approximately 1,600 feet upstream of Fitzgerald Road.	None	*862
		Las Llajas Canyon	At confluence with Arroyo Simi	None	*966
			Approximately 11,100 feet upstream of Alamo Street.	None	*1,141
		North Simi Drain	At confluence with Arroyo Simi	None	*743
			Approximately 300 feet upstream of Simi Valley Freeway.	None	*902
		Tapo Canyon	At confluence with Arroyo Simi	None	*860
			Approximately 700 feet upstream of Simi Valley.	None	*995
		White Oak Creek	At Simi Valley Freeway	None	*1,081
			Approximately 960 feet upstream of Simi Valley Freeway.	None	*1,103
		Arroyo Simi Overflow North of Southern Pacific Railroad.	At confluence with Las Llajas Canyon	None	*978
			Approximately 2,300 feet upstream of Las Llajas Canyon.	None	*986
Maps are available for inspection at the City of Simi Valley Public Works Department, 2929 Tapo Canyon Road, Simi Valley, California.					
Send comments to Mr. Ron C. Coons, Director, Public Works Department, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, California 93063.					
	Sonoma County	Fryer Creek	Just upstream of Leveroni Road	None	*56
	Sonoma County		Approximately 1,200 feet upstream of Andrieux Street.	*74	*74
Maps are available for inspection at City Hall, Community Development Department, #1 The Plaza, Sonoma, California.					
Send comments to The Honorable Richard Dorf, Mayor, City of Sonoma, City Hall, #1 The Plaza, Sonoma, California 95476.					
Louisiana	Caddo Parish	Cross Bayou	Approximately 500 feet downstream of confluence of Twelve Mile Bayou.	None	*167
			Approximately 1,100 feet upstream of confluence of Twelve Mile Bayou.	None	*167
		Twelve Mile Bayou	At confluence with Cross Bayou	None	*167
			Approximately 3,000 feet upstream of confluence with Cross Bayou.	None	*167
		McCain Creek	Approximately 15,000 feet upstream of confluence with Twelve Mile Bayou.	*172	*170
			Just downstream of Pine Hill Road	*181	*178

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Bickham Bayou	Just upstream of Jefferson Paige Road	*186	*188
			Approximately 2,500 feet upstream of Jefferson Paige Road.	*193	*194
		Galaxy Lateral	Approximately 2,200 feet upstream of confluence with Cross Lake.	*176	*177
			Just upstream of Jefferson Paige Road	*196	*197
		Brush Bayou	At confluence with Boggy Bayou	*159	*159
			Approximately 12,500 feet upstream of confluence with Boggy Bayou.	*162	*163
		Ranchmoor Lateral	Approximately 700 feet downstream of Lynwood Avenue.	None	*168
			At Lynwood Avenue	None	*168
		Summer Grove Ditch	At downstream of Williamson Way	None	*170
			Approximately 1,000 feet upstream of Williamson Way.	None	*170
		Boggy Bayou	Just upstream of Mansfield Road	*165	*168
			Approximately 2,400 feet downstream of State Route 525.	*174	*174
		Gilmer Bayou	Approximately 1,500 feet upstream of confluence with Boggy Bayou.	*169	*169
			Just upstream of Bert Kouns Industrial Loop.	*182	*177
			Approximately 1,000 feet downstream of Buncomb Road.	*216	*207
		Industrial Park Lateral	At confluence with Gilmer Bayou	*173	*171
			Approximately 10,000 feet downstream of Bert Kouns Industrial Loop.	*200	*203
			Approximately 2,300 feet upstream of Bert Kouns Industrial Loop.	None	*218
		Lincoln Memorial Lateral	At confluence with Industrial Park Lateral	*184	*186
			Just upstream of Flournoy Lucas Road	*213	*214
			Approximately 7,100 feet upstream of Flournoy Lucas Road.	None	*230
		Southwood High Lateral	At confluence with Gilmer Bayou	*182	*177
			Approximately 1,600 feet upstream of Dean Road Extension.	*195	*196
		Bayou Pierre	At State Highway 175	*153	*144
			Just downstream of Leonard Road	*157	*154
			Approximately 4,200 feet upstream of Flournoy Lucas Road.	*161	*160
		Sand Beach Bayou	At confluence with Bayou Pierre	*158	*156
			At confluence of South Broadmoor Lateral.	*159	*159
		South Broadmoor Lateral	Approximately 1,950 feet upstream of Pomeroy Street.	None	*159
		Old River	Approximately 1,800 feet downstream of Kings Highway.	*162	*160
			Just upstream of Kings Highway	*167	*160
		Page Bayou	At confluence with Cross Lake	*176	*177
			Approximately 500 feet upstream of confluence with Cross Lake.	*177	*177

Maps are available for inspection at 525 Marshall, Suite 200, Shreveport, Louisiana.

Send comments to The Honorable Judy Durham, Chief Executive Officer and Administrator, Caddo Parish, 501 Texas Street, Shreveport, Louisiana 71101.

Nebraska	Dodge County (Unincorporated Areas).	Elkhorn River	Just downstream of Bridge Street	*1,253	*1,254
		Pebble Creek	At confluence with Elkhorn River	None	*1,246
			Approximately 4,350 feet upstream of confluence of Silver Creek.	None	*1,262

Maps are available for inspection at the Dodge County Courthouse, 435 North Park, Fremont, Nebraska.

Send comments to The Honorable Dean T. Lux, Chairman, Dodge County Board of Supervisors, 435 North Park Avenue, Fremont, Nebraska 68025.

Nebraska	Scribner (City) Dodge County.	Elkhorn River	Approximately 9,360 feet downstream of Bridge Street.	*1,244	*1,247
			Approximately 9,140 feet upstream of Bridge Street.	*1,260	*1,260

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City Clerk's Office, 415 Third Street, Scribner, Nebraska. Send comments to The Honorable Dennis Baumert, Mayor, City of Scribner, P.O. Box D, Scribner, Nebraska 68057–0542.					
Nevada	Douglas County (Unincorporated Areas).	East Fork Carson River	At State Highway 88	#2	*4,710
			Just downstream of Cottonwood Diversion Dam.	#2	*4,792
			Just downstream of Washoe Bridge	*4,920	*4,920
		Cottonwood Slough	At State Highway 88	#3	*4,710
			Approximately 4,000 feet upstream of Waterloo Lane.	#2	*4,782
		Henningson Slough	At State Highway 88	#2	*4,720
			At Centerville Lane	#2	#2
		Rocky Slough	At State Highway 88	*4,723	*4,723
			Near Waterloo Lane	#2	*4,730
			At Centerville Lane	#2	*4,768
Maps are available for inspection at the Douglas County Community Development Department, 1594 Esmeralda Avenue, Room 201, Minden, Nevada. Send comments to The Honorable Robert Allgeier, Chairman, Douglas County Board of Commissioners, Minden Inn, 1594 Esmeralda Avenue, Room 307, Minden, Nevada 89423.					
Oklahoma	Blackwell (City) Kay County and Kay County (Unincorporated Areas).	Chikaskia River	Approximately 1.2 miles downstream of Blackwell Avenue.	None	*996
			Approximately 3.9 miles downstream of Blackwell Avenue.	*1,001	*999
			Approximately 2,100 feet upstream of U.S. Highway 177.	None	*1,009
		Tributary 1	At confluence with Chikaskia River	*1,001	*999
			Approximately 150 feet downstream of South Main Street.	*1,001	*1,001
Maps are available for inspection at the City of Blackwell, City Hall, 221 West Blackwell, Blackwell, Oklahoma. Send comments to The Honorable Louis Gose, Mayor, City of Blackwell, P.O. Box 350, Blackwell, Oklahoma 74631. Maps are available for inspection at the Kay County Courthouse, Main Street, Newkirk, Oklahoma. Send comments to The Honorable Dee Schieber, Chairperson, Kay County Board of County Commissioners, P.O. Box 450, Newkirk, Oklahoma 74647.					
Oregon	Aurora (City) Marion County.	Pudding River	Approximately 600 feet downstream of Southern Pacific Railroad.	None	*99
			Approximately 10,000 feet upstream of Southern Pacific Railroad.	None	*99
Maps are available for inspection at the City of Aurora, 21420 Main Street, Aurora, Oregon. Send comments to The Honorable Loretta Scott, Mayor, City of Aurora, P.O. Box 100, Aurora, Oregon 97002.					
Texas	Austin (City) and Travis County (Unincorporated Areas).	Boggy Creek South	At confluence of Onion Creek	*559	*560
			Approximately 150 feet upstream of Cameron Loop.	None	*780
Maps are available for inspection at Travis County Transportation and Natural Resources, 411 West 13th Street, Austin, Texas. Send comments to The Honorable Bill Aleshire, Judge, Travis County, P.O. Box 1748, Austin, Texas 78767–1748. Maps are available for inspection at the City of Austin City Hall, Stormwater Management Division, 505 Barton Springs Road, Suite 908, Austin, Texas. Send comments to The Honorable Bruce Todd, Mayor, City of Austin, 124 West Eighth Street, Austin, Texas 78701.					
	Orange (City) Orange County.	Sabine River	Approximately 23,000 feet downstream of Interstate 10.	*9	*8
			Approximately 69,400 feet above mouth	*11	*8
		Little Cypress	Approximately 1,600 feet downstream of Southern Pacific Railroad.	*13	*10
			Just upstream of State Highway 87	*13	*10

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at 1413 20th Street, Orange, Texas.					
Send comments to The Honorable Dan Cochran, Mayor, City of Orange, P.O. Box 520, Orange, Texas 77630.					
Texas	Orange County (Unincorporated Areas).	Sabine River	Approximately 30,000 feet downstream of Interstate 10.	*9	*8
			Approximately 5,000 feet upstream of Southern Pacific Railroad.	*15	*11
			Approximately 150,820 feet above mouth	*20	*16
		Little Cyrpress Bayou	At confluence with Sabine River	*11	*8
			Approximately 4,500 feet downstream of Little Cypress Road.	*13	*10
			Approximately 3,000 feet upstream of Little Cypress Road.	*14	*14
Maps are available for inspection at the Precinct 1 Community Center, North Highway 87, Orange, Texas.					
Send comments to The Honorable Carl K. Thibodeaux, Orange County Judge, Orange County Courthouse, 801 Division, Orange, Texas 77630.					
Texas	Rowlett (City) Dallas and Rockwall Counties and Dallas (City) Dallas, Denton, Collin, Rockwall, and Kaufman Counties.	Rowlett Creek	Just upstream of Rowlett Road	*437	*437
			Just upstream of State Highway 66	*452	*455
			Approximately 3,800 feet upstream of State Highway 66.	*454	*457
Maps are available for inspection at the City of Rowlett, 3901 Main Street, Rowlett, Texas.					
Send comments to The Honorable Mark Enoch, Mayor, City of Rowlett, P.O. Box 99, Rowlett, Texas 75030.					
Maps are available for inspection at the City of Dallas, 320 Jefferson, Room 321, Dallas, Texas.					
Send comments to The Honorable Steve Bartlett, Mayor at Large, City of Dallas, City Hall, 1500 Marilla, Dallas, Texas 75201.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 96–26910 Filed 10–18–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MM Docket No. 96–16, DA 96–1594]

Revision of Broadcast EEO Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: In *Streamlining Broadcast EEO Rules and Policies,* DA 96–1594, released September 20, 1996, the Commission accepts late-filed comments and, on its own motion, extends the date for filing reply comments concerning the Commission's *Order and Notice of Proposed Rule Making,* MM Docket No. 96–16. A group of organizations (Petitioners) requests the acceptance of their late-filed comments, citing various reasons for the delay, including loss of staff and the failure of three hard drives. Because of these circumstances and in the interest of compiling a full record in this rule making, the Commission will accept these comments. In addition, due to the lateness of Petitioners' comments and their voluminous nature, the Commission believes that the public interest favors an extension of time for filing reply comments.

DATES: Reply comments due October 25, 1996.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 418–1450.

SUPPLEMENTARY INFORMATION: 1. On February 8, 1996, the Commission adopted an *Order and Notice of Proposed Rule Making,* 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996), which vacated the Commission's *EEO Forfeiture Policy Statement* and requested comment on proposals for amending the Commission's EEO Rule and policies. Comment and Reply Comment dates were established for April 30, 1996, and May 30, 1996, respectively.

2. On April 12, 1996, twenty organizations, including the Minority Media and Telecommunications Council (hereinafter ''Petitioners''), filed a Motion for Extension of Time to file comments in response to the above-captioned proceeding.[1] On April 26, 1996, the Commission granted the Petitioners' request for extension of time.[2] The date for filing comments was extended to July 1, 1996, and the date

[1] *Minority Media and Telecommunications Council et al.,* Motion For Extension of Time, MM Docket No. 96–16, filed April 12, 1996. For the names of the twenty organizations, *see* National Council of Churches *et al.,* Petition For Reconsideration and Clarification, MM Docket No. 96–16, filed April 11, 1996, at 1.

[2] FCC 96–198 (released: April 26, 1996), 61 FR 25183 (May 20, 1996).

for filing reply comments was extended to July 31, 1996.

3. Petitioners filed two additional extensions of time[3] which the Commission granted.[4] In response to the last request, the Commission extended the date for filing comments to August 26, 1996, and the date for filing reply comments to September 25, 1996.

4. On August 26, 1996, Petitioners filed Volume III of their comments stating that Volumes I and II were still being edited but would be filed shortly.[5] They stated that they ''experienced additional delay attendant to [their] analysis of the huge volume of data in the two research studies'' contained in Volume III. On September 17, 1996, Petitioners filed Volumes I and II of their comments. Petitioners cite various difficulties that delayed the completion of their comments including loss of staff and the failure of three hard drives. They request acceptance of their late-filed comments.

5. In emergency situations, the Commission will consider motions for acceptance of comments filed after the filing date. *See* Section 1.46(b) of the Commission's Rules, 47 CFR Section 1.46(b). Because of the circumstances cited above and in the interest of compiling a full record in this rule making, we will accept Petitioners' late-filed comments. However, due to the lateness of Petitioners' comments and their voluminous nature, we believe that the public interest favors an extension of the time for filing reply comments. Consequently, on our own motion, we will extend the deadline for filing reply comments to October 25, 1996.

6. Accordingly, it is ordered that the Commission, on its own motion, extends the time for filing reply comments.

7. It is further ordered that reply comments will be accepted through October 25, 1996.

This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303(r), and Sections 0.204(b), 0.283 and 1.46 of the Commission's Rules, 47 CFR Sections 0.204(b), 0.283 and 1.46.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 96–26902 Filed 10–18–96; 8:45 am]

BILLING CODE 6712–01–P

[3] Minority Media and Telecommunications Council *et al.*, Motion For Further Extension of Time, MM Docket No. 96–16, filed June 20, 1996. Minority Media and Telecommunications Council et al., Motion For Further Extension of Time, and For Waiver of Filing Deadline, MM Docket No. 96–16, filed August 5, 1996.

[4] 11 FCC Rcd 7624 (1996), 61 FR 37241 (July 17, 1996); DA 96–1279 (released: August 9, 1996), 61 FR 46755 (September 5, 1996).

[5] On August 12, 1996, Petitioners filed a letter indicating that the National Association for the Advancement of Colored People had joined Petitioners in their comments.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 361, 362, 363, and 364

[FHWA Docket No. MC–96–18]

RIN 2125–AD64

Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); extension of comment period.

SUMMARY: On April 29, 1996, the FHWA published notice of its proposal to amend its rules of practice for motor carrier administrative proceedings. (61 FR 18866). The FHWA now proposes to supplement that notice of proposed rulemaking to make the rules applicable to proceedings arising under section 103 of the ICC Termination Act of 1995 (ICCTA) as well. Before the ICCTA became effective on January 1, 1996, these proceedings fell under the jurisdiction of the Interstate Commerce Commission (ICC) and were implemented and administered pursuant to ICC regulations. But the ICCTA abolished the ICC and gave the Secretary of Transportation responsibility for carrying out the provisions of section 103. The Secretary has delegated that responsibility to the FHWA. By broadening the scope of the proposed rules of practice to include proceedings arising under the ICCTA, the FHWA proposes to adopt uniform and consistent procedures to govern all investigation and civil forfeiture proceedings which it institutes.

DATES: Comments must be received on or before November 20, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–96–18, FHWA, Office of the Chief Counsel, HCC–10, Room 4232, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Judy Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: This supplemental notice of proposed rulemaking addresses procedural changes that will facilitate implementation of the ICCTA, Pub.L. No. 104–88, 109 Stat. 803. Effective January 1, 1996, the ICCTA abolished the Interstate Commerce Commission (ICC) but reenacted various statutory provisions that the ICC previously administered. Among the statutes reenacted are civil and criminal penalty provisions that apply to violations of Part B of Subtitle IV, Title 49, United States Code (49 U.S.C. 13101 *et seq.*). Those provisions appear in Chapter 149 of Part B.

The ICCTA charges the Secretary of Transportation with responsibility for carrying out Part B, including the civil penalty provisions in Chapter 149. The Secretary has delegated that responsibility to the Federal Highway Administration (FHWA). Thus, the FHWA now oversees compliance with Part B of the ICCTA and is authorized to conduct investigations and implement enforcement proceedings to obtain compliance.

Currently, investigation and enforcement proceedings relating to violations of Part B are governed by procedures in former ICC regulations, which the FHWA adopted as an interim measure. (61 FR 14372, April 1, 1996). Those procedures differ from FHWA's procedures that apply to investigations and enforcement proceedings for violations of the safety regulations. For example, civil forfeiture proceedings arising from violations of the motor carrier safety regulations are governed by 49 CFR Part 386, whereas, similar proceedings for violations of Part B of the ICCTA are governed by 49 CFR Part 1021. Although civil forfeiture claims under Part 386 and Part 1021 are asserted the same way—by letter containing prescribed information—only Part 386 requires the respondent to reply to the claim letter in a specified time with prescribed information in order to administratively resolve the claim. (49 CFR 386.14). In contrast, Part 1021 does not require a response to the claim letter and does not establish

administrative procedures for resolving the claims.

While the ICC existed, these procedural differences were inconsequential because the regulations were applied by separate agencies to different violations. The ICC applied Part 1021 procedures to civil penalties it assessed under Subtitle IV, Title 49, U.S. Code, while the FHWA applied Part 386 procedures to civil penalties it assessed under Subtitle VI of Title 49. But now that the FHWA oversees the statutes previously administered by the ICC, having one set of procedures will eliminate confusion and duplicative regulatory provisions.

To establish uniform and consistent procedures for all proceedings, the FHWA intends to adopt new rules of practice. An extensive revision of its rules of practice has already been proposed in a notice of proposed rulemaking (NPRM). (61 FR 18866, April 29, 1996). This supplemental notice of proposed rulemaking contains the amendments that the FHWA considers necessary to unite the separate procedures that now exist.

In this supplemental proposal, the FHWA is adopting the term ''Commercial Regulations'' to refer to the requirements imposed on motor carriers as a result of the transfer of functions from the former Interstate Commerce Commission in the ICCTA. The procedures to be followed by the FHWA in carrying out the transferred functions are integrated into the proposed procedures published in the April 29 Federal Register. Therefore, it would be helpful for commenters to read the two proposals together. No substantive changes are being proposed in this notice.

Part 361—Administrative Enforcement

The changes offered in this proposed Part are principally limited to the insertion of references to the statutory authority for the functions transferred from the ICC. A definition of ''Commercial Regulations'' is included and that term is inserted in the various sections along with the new statutory authority for those regulations.

Part 362—Safety Ratings

No changes are being made to proposed Part 362.

Part 363—Enforcement Proceedings

A reference to enforcement of the commercial regulations is inserted in the authority note and the section headed Nature of the Proceedings.

Part 364—Violations, Penalties and Collections

Substantial additions are made to this proposed part, primarily incorporating the various violations and penalties included in chapter 149 of Title 49, added by the ICCTA. Comments are particularly invited on this Part as it relates to the determinative factors in assessing civil penalties.

In order to provide ample notice and opportunity for comment to the public, the comment period on the April 29, 1996 NPRM was extended 45 days (61 FR _____, August 6, 1996), by which time comments on both the NPRM and this SNPRM must be received.

Rulemaking Analyses and Notices

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The proposal contained in this document would not result in an annual effect on the economy of $100 million or more, lead to a major increase in costs or prices, or have significant adverse effects on the United States economy. This proposal would amend provisions in the proposed Rules of Practice for Motor Carrier Proceedings, Investigations, Disqualifications and Penalties, published at 61 FR 18866, April 29, 1996, to make them applicable to proceedings arising under the ICC Termination Act of 1995. Because the FHWA acquired new statutory responsibilities under the Act, this action will establish one set of procedures that apply to all FHWA proceedings and thereby reduce duplicative regulation. Any economic consequences flowing from the procedures in the proposal are primarily mandated by statute. A regulatory evaluation is not required because of the ministerial nature of this action.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this Supplemental NPRM on small entities. No economic impacts of this rulemaking are foreseen as the rule would impose no additional substantive burdens that are not already required by the statutes and regulations to which these procedural rules apply. Therefore, the FHWA certifies that this proposed action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The rules proposed herein do not preempt State authority or jurisdiction beyond the preemption established by Federal statute, nor do they establish any conflicts with existing State roles in regulating carriers and brokers operating in interstate commerce. It has, therefore, been determined that the SNPRM does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This proposed rule does not require a collection of information for purposes of the Paperwork Reduction Act of 1980. (44 U.S.C. 3501 *et seq.*)

National Environment Policy Act

The agency has analyzed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that the proposed rules would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR 361, 362, 363, and 364

Administrative procedures, Commercial motor vehicle safety, Highways and roads, Highway safety, Motor carriers.

Issued on: October 8, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend the notice of

proposed rulemaking, 61 FR 18866, April 29, 1996, in the manner set forth below:

PART 361—ADMINISTRATIVE ENFORCEMENT

1. The authority citation for Part 361 is revised to read as follows:

Authority: 49 U.S.C. 104, 307, Chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315.

2. In proposed Section 361.101, the introductory text is republished and the section is amended by revising paragraphs (a) and (c) to read as follows:

§ 361.101 Purpose

This part:

(a) Restates the authority of the Department of Transportation (DOT) to regulate and investigate persons, property, equipment, and records relating to commercial motor vehicle transportation, intermodal safe container transportation, the highway transportation of hazardous materials, and carriers and brokers performing, or arranging, transportation subject to the jurisdiction of the Secretary;

(b) * * *

(c) Identifies the DOT officials authorized to enforce motor carrier, broker, freight forwarder, water carrier, and hazardous materials regulations.

3. Section 361.102 is amended by revising the first sentence of paragraph (a) and adding a new second sentence and by revisng paragraph (b) to read as follows:

§ 361.102 Authority and delegation.

(a) The authority of the Secretary of Transportation to regulate and investigate commercial motor vehicle safety, including motor carriers, commercial motor vehicles and drivers, and the highway transportation of hazardous materials, is codified in 49 U.S.C. Chapters 5, 51, 311, 313, and 315, and 42 U.S.C. 4917. The authority of the Secretary to regulate and investigate motor carriers, brokers, freight forwarders, and water carriers is codified in 49 U.S.C. Chapters 131–141 and 145–149. * * *.

(b) The authority of the Secretary listed in paragraph (a) of this section has been delegated to the Federal Highway Administrator (49 U.S.C. 104(c); 49 CFR 1.48), and is codified in 49 CFR part 325 (Noise Control), the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR Parts 350–399), relevant portions of the Hazardous Materials Regulations (HMRs) (primarily 49 CFR Parts 171–173, 177–178, and 180), and the Commercial Regulations (CRs) (49 CFR Parts 370–379). The Federal Highway Administrator has delegated the authority to enforce the FMCSRs, the HMRs, and the CRs to the Associate Administrator for Motor Carriers.

* * * * *

4. In § 361.103, the introductory text of the section and of paragraph (a)(2) is republished and paragraphs (a) introductory text, (a)(1), (a)(2)(i), and (a)(2)(ii) are revised to read as follows:

§ 361.103 Inspection and investigation.

The FHWA may begin an investigation on its own initiative or on a complaint.

(a) Upon a display of official DOT credentials, special agents may enter without delay at reasonable times any place of business, lands, buildings, property, equipment, or commercial motor vehicle of a person subject to the provisions of 49 U.S.C. Chapters 5, 51, 59, 131–141, 145–149, and 42 U.S.C. 4917. Special agents may take the following actions:

(1) Inspect the equipment, land, buildings, and property of a motor carrier, broker, freight forwarder, water carrier, or other person on the premises of the motor carrier, or the equipment of the carrier at any other location, and inspect any commercial motor vehicle of the motor carrier whether or not in operation; and

(2) Inspect and copy any record of—

(i) A carrier, broker, lessor, association, or other person subject to the provisions of 49 U.S.C. Chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315, and 42 U.S.C. 4917; and

(ii) A person controlling, controlled by, or under common control with a carrier or broker if the agent considers inspection relevant to that person's relation to, or transaction with, that carrier.

* * * * *

5. Section 361.104 is amended by revising the introductory paragraph and by adding a definition for ''Commercial Regulations'' in alphabetical order, to read as follows:

§ 361.104 Definitions.

Words or phrases defined in 49 U.S.C. 13102 and in 49 CFR 383.5 and 390.5 of this subchapter apply in parts 361–364. In addition—

* * * * *

Commercial Regulations (CRs) means statutes and regulations that apply to persons providing or arranging transportation for compensation subject to the Secretary's jurisdiction under 49 U.S.C. Chapter 135. The statutes are codified in Part B of Subtitle IV, Title 49, U.S. Code (49 U.S.C. 13101 through 14913). The regulations include those issued by the Federal Highway Administration or its predecessor under authority provided in 49 U.S.C. 13301 or a predecessor statute.

* * * * *

6. Section 361.105 is amended by revising paragraph (d)(3) to read as follows:

§ 361.105 Employer obligations.

* * * * *

(d) * * *

(3) Any equipment, land, buildings, or property used in the transportation of persons or property or to ensure compliance with the Federal Motor Carrier Safety Regulations, the Hazardous Materials Regulations, and the Commercial Regulations.

* * * * *

7. Section 361.109 is amended by adding paragraph (g) to read as follows:

§ 361.109 Depositions and production of records.

* * * * *

(g) A party to a proceeding pending under Part B of Subtitle IV, Title 49, U.S. Code, may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and waiver. If a witness fails to be deposed or to produce records the Associate Administrator may subpoena the witness to take a deposition, produce the records, or both.

PART 363—ENFORCEMENT PROCEEDINGS

8. The authority citation for Part 363 is added as follows:

Authority: 49 U.S.C. Chapters 5, 51, 133, 147, 149, 311, 313, and 315.

9. In § 363.101 the first sentence of the introductory paragraph is revised to read as follows:

§ 363.101 Nature of Proceeding.

Civil penalty proceedings are proceedings pursuant to 5 U.S.C. 554 in which the agency makes a monetary claim or seeks an order against the respondent, based on violation of the FMCSRs, HMRs, or CRs. * * *.

* * * * *

PART 364—VIOLATIONS, PENALTIES, AND COLLECTIONS

10. The authority citation for Part 364 is revised to read as follows:

Authority: 49 U.S.C. Chapters 5, 51, 133, 149, 311, 313, and 315.

11. Section 364.101 is revised to read as follows:

§ 364.101 Purpose.

The purposes of this part are to define the various types of violations of the

Federal Motor Carrier Safety Regulations (FMCSRs), the Hazardous Materials Regulations (HMRs), the Commercial Regulations (CRs), and orders authorized to be issued thereunder; to describe the range of penalties that may be imposed for such violations and how those penalties are assessed; and to identify the means that may be employed to collect those penalties once it has been finally decided by the agency that they are due.

12. Section 364.102 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 364.102 Policy.

(a) Penalties are assessed administratively by the agency for violations of the FMCSRs, HMRs, CRs, and administrative orders at levels sufficient to bring about satisfactory compliance. Criminal penalties are also authorized to be sought in U.S. District Court under certain circumstances. The civil and criminal penalties authorized for violations of the ERs are not exclusive remedies and may be pursued along with a civil action for injunctive relief that is authorized by 49 U.S.C. 14702.

(b) The amounts of civil penalties that can be assessed for regulatory violations subject to the proceedings in this subchapter are established in the statutes granting enforcement powers. The determination of the actual civil penalties assessed in each proceeding is based on those defined limits and consideration of information available at the time the claim is made concerning the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In addition to those factors, a civil penalty assessed under 49 U.S.C. 14901 (a) and (d) concerning the transportation of household goods is also based on the degree of harm caused to a shipper and whether the shipper has been adequately compensated before institution of the civil penalty proceeding. In adjudicating the claims and orders under the administrative procedures in this subchapter, additional information may be developed regarding these factors that may affect the final amount of the claim.

(c) * * *

(d) Criminal penalties for violating the FMCSRs, HMRs, and administrative orders may be sought against a motor carrier, its officers or agents, a driver, or other persons when it can be established that violations were deliberate or resulted from a willful disregard for the regulations. Criminal penalties may be sought against an employee only when a causative link can be established between a knowing and willful violation and an accident or hazardous materials incident or the risk thereof. Criminal penalties for violating the ERs may be sought against a person when it can be established that the person acted with the criminal intent specified in the statute governing the violation.

* * * * *

13. Section 364.201 is amended by revising the first sentence of paragraph (a)(4)(i) and by adding paragraph (f) to read as follows:

§ 364.201 Types of violations and maximum monetary penalties.

(a) * * *

(4) * * *

(i) Owner operators. For purposes of § 364.201(a) which applies to violations of the FMCSRs, an owner operator while in the course of personally operating a commercial motor vehicle is considered an employee. * * *

* * * * *

(f) Violations of the Commercial Regulations (CRs). Penalties for violations of the CRs are specified in 49 U.S.C. Chapter 149. These penalties relate to transportation subject to the Secretary's jurisdiction under 49 U.S.C. Chapter 135. Unless otherwise noted, a separate violation occurs for each day the violation continues.

(1) A person who fails to make a report, to specifically, completely, and truthfully answer a question, or to make, prepare, or preserve a record in the form and manner prescribed is liable for a minimum penalty of $500 per violation.

(2) A person who operates as a carrier or broker for the transportation of property in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of $500 per violation.

(3) A person who operates as a motor carrier of passengers in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of $2,000 per violation.

(4) A person who operates as a foreign motor carrier or foreign motor private carrier in violation of the provisions of 49 U.S.C. 13902(c) is liable for a minimum penalty of $500 per violation.

(5) A person who operates as a motor carrier or broker for the transportation of hazardous wastes in violation of the registration provisions 49 U.S.C. 13901 is liable for a maximum penalty of $20,000 per violation.

(6) A motor carrier or freight forwarder of household goods, or their receiver or trustee, that does not comply with any regulation relating to the protection of individual shippers is liable for a minimum penalty of $1,000 per violation.

(7) A person

(i) That falsifies, or authorizes an agent or other person to falsify, documents used in the transportation of household goods by motor carrier or freight forwarder to evidence the weight of a shipment or

(ii) That charges for services which are not performed or are not reasonably necessary in the safe and adequate movement of the shipment is liable for a minimum penalty of $2,000 for the first violation and $5,000 for each subsequent violation.

(8) A person who knowingly accepts or receives from a carrier a rebate or offset against the rate specified in a tariff required under 49 U.S.C. 13702 for the transportation of property delivered to the carrier commits a violation for which the penalty is equal to 3 times the amount accepted as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset for the 6-year period before the action is begun.

(9) A person that offers, gives, solicits, or receives transportation of property by a carrier at a different rate than the rate in effect under 49 U.S.C. 13702 is liable for a maximum penalty of $100,000 per violation. When acting in the scope of his/her employment, the acts or omissions of a person acting for or employed by a carrier or shipper are considered to be the acts and omissions of that carrier or shipper, as well as that person.

(10) Any person that offers, gives, solicits, or receives a rebate or concession related to motor carrier transportation subject to jurisdiction under subchapter I of 49 U.S.C. Chapter 135, or who assists or permits another person to get that transportation at less than the rate in effect under 49 U.S.C. 13702, commits a violation for which the penalty is $200 for the first violation and $250 for each subsequent violation.

(11) A freight forwarder, its officer, agent, or employee, that assists or willingly permits a person to get service under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $500 for the first violation and up to $2,000 for each subsequent violation.

(12) A person that gets or attempts to get service from a freight forwarder under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $500 for the first

violation and up to $2,000 for each subsequent violation.

(13) A person who knowingly authorizes, consents to, or permits a violation of 49 U.S.C. 14103 relating to loading and unloading motor vehicles or who knowingly violates subsection (a) of 49 U.S.C. 14103 is liable for a penalty of not more than $10,000 per violation.

(14) A person, or an officer, employee, or agent of that person, who tries to evade regulation under Part B of Subtitle IV, Title 49, U.S. Code, for carriers or brokers is liable for a penalty of $200 for the first violation and at least $250 for a subsequent violation.

(15) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under Part B of *Subtitle IV, Title 49, U.S. CODE*, or an officer, agent, or employee of that person, commits a violation if it does not make the report, does not completely and truthfully answer the question within 30 days from the date the Secretary requires the answer, does not make or preserve the record in the form and manner prescribed, falsifies, destroys, or changes the report or record, files a false report or record, makes a false or incomplete entry in the record about a business related fact, or prepares or preserves a record in violation of a regulation or order of the Secretary. Maximum penalty: $5,000 per violation.

(16) A motor carrier, water carrier, freight forwarder, or broker, or their officer, receiver, trustee, lessee, employee, or other person authorized to receive information from them, commits a violation if they disclose information identified in 49 U.S.C. 14908 without the permission of the shipper or consignee. Maximum penalty: $2,000.

(17) A person who violates a provision of Part B, Subtitle IV, Title 49, U.S. Code, or a regulation or order under Part B, or who violates a condition of registration related to transportation that is subject to jurisdiction under subchapter I or III or chapter 135, or who violates a condition of registration of a foreign motor carrier or foreign motor private carrier under § 13902, is liable for a penalty of $500 for each violation if another penalty is not provided in 49 U.S.C. Chapter 149.

(18) A violation of Part B committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier that is a corporation is also a violation by the corporation to which the penalties of Chapter 149 apply. Acts and omissions of individuals acting in the scope of their employment with a carrier are considered to be the actions and omissions of the carrier as well as the individual.

(19) In a proceeding begun under 49 U.S.C. 14902 or 14903, the rate that a carrier publishes, files, or participates in under § 13702 is conclusive proof against the carrier, its officers, and agents that it is the legal rate for the transportation or service. Departing, or offering to depart, from that published or filed rate is a violation of 49 U.S.C. 14902 and 14903.

14. Section 364.202 is amended by revising the sixth sentence of paragraph (a), by revising paragraphs (b)(1), (b)(2), (b)(4), and (b)(5), and by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c), to read as follows:

§ 364.202 Civil penalty assessment factors.

(a) * * * Similarly, when the circumstances in which violations occur are so obvious that any responsible person could easily correct them, the continuation of such violations is an aggravating factor to be considered in assessing the level of civil penalty.

* * * * *

(b) * * *

(1) Degree of culpability. This factor requires an evaluation of blameworthiness on the part of the violator. It will range from the low end, where a person may have had various knowledge of violations but little actual involvement, to the high end, where the person had actual knowledge and disregarded or even promoted noncompliance.

(2) History of prior offenses. This factor reflects a person's commitment to compliance with both economic and safety regulations. Persistent noncompliance with safety regulations reflects a disregard for safety which, in turn, increases the prospect for imminently hazardous conditions leading to accidents. Timely correction of violation patterns should prevent imminent hazards from developing and reduce the likelihood of accidents. Similarly, repeated violations of the economic regulations reflect indifference to the adverse financial impact that noncompliance has on the public and other entities in the transportation industry.

(3) * * *

(4) Effect on ability to continue to do business. Insofar as this factor is distinguishable from paragraph (b)(3) of this section, it relates to the timeliness of payment and abatement of violations. Evidence that immediate payment of even a mitigated civil penalty will effectively terminate a person's business will be considered in determining whether to defer payment or to allow installment payments of the civil penalty assessed.

(5) Other matters as justice and public safety may require. Matters other than those specifically included in the factors listed in this section may also be either aggravating or mitigating in the interest of justice or public safety. These may include such factors as cooperation or lack thereof; general attitude toward compliance; institution or revision of a safety program; hiring or assignment of personnel with specifically defined compliance and safety responsibilities; comprehensiveness of corrective actions; and effectiveness and speed of compliance.

(c) Additional violator factors applying to household goods shipments. In assessing a civil penalty under 49 U.S.C. 14901 (a) or (d) concerning the transportation of household goods, the factors listed in paragraph (b) of this section are considered along with the following factors:

(1) Degree of harm to shipper. A violation of regulations governing the transportation of household goods will be evaluated to determine its effect on shippers. The level of penalty assessed will likely be higher if the violation resulted in direct harm to a shipper. It will range from the low end, where the violation did not harm a shipper, to the high end where the violation caused harm to multiple shippers.

(2) Whether the shipper has been adequately compensated before institution of the civil penalty proceeding. This factor enables a carrier or broker to mitigate the penalty by fairly compensating a shipper for harm caused by a violation before enforcement action is instituted. A carrier or broker that, on its own initiative, accepts responsibility for damage caused by its violations demonstrates a commitment to comply with the economic regulations governing household goods transportation. Consequently, the civil penalty assessed for the violations will likely be lower if the carrier or broker adequately compensates the shipper before the civil penalty proceeding is begun.

(d) * * *

15. Section 364.301 is amended by redesignating paragraphs (d) and (e) as paragraphs (h) and (i), respectively, and by adding new paragraphs (d), (e), (f), and (g), to read as follows:

§ 364.301 Criminal Penalties.

* * * * *

(d) Any person who violates 49 U.S.C. 14903(b) shall be fined under title 18 of the United States Code, imprisoned not more than 2 years, or both.

(e) A person who violates 49 U.S.C.14905 shall be fined under title 18 of the United States Code, imprisoned not more than 2 years, or both.

(f) A person who violates 49 U.S.C. 14909 shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both.

(g) Any person who violates 49 U.S.C. 14912 shall be fined under title 18 of the United States Code, imprisoned not more than 2 years, or both.

(h) * * *

(i) * * *

16. Section 364.302 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 364.302 Injunctions.

(a) The Associate Administrator may file a civil action to enforce or redress a violation of a commercial motor vehicle safety regulation, an economic regulation, or an order of the FHWA under 49 U.S.C. Chapters 5, 51, 131–141, 145–149, 311 (except §§ 31138 and 31139), and 315, in an appropriate District Court of the United States. * * *.

* * * * *

[FR Doc. 96–26671 Filed 10–18–96; 8:45 am]

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Notices

Federal Register
Vol. 61, No. 204
Monday, October 21, 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

Forest Service

Modoc National Forest; Damon Fire Salvage Sales

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to disclose the environmental effects of the proposed salvage of fire killed or damaged timber on the Doublehead, Devil's Garden, and Big Valley Ranger Districts of the Modoc National Forest. The proposed activity will treat acres burnt in the Damon/Long Fire in late August of 1996. The fire burned approximately 23,000 acres. The proposal includes salvage of fire killed or damaged timber on approximately 9,500 acres; all yarding will be ground based with approximately 12 miles of temporary road that will be constructed and then closed after use; place all-weather surface gravel on Roads 44N77 and 43N08; reforest timber sites understocked by the fire on approximately 6,000 acres; remove approximately 8 miles of destroyed rangeland fence; revegetate non-timber sites suitable cover/forage species on approximately 2,000 acres; install 7 watering sites for wildlife; increase snag longevity by removing the tops on 50% of retained snags in order to offset projected snag deficiencies in fire replaced stands; redistribute top soil and deep till in old windrowed plantations; and treat slash adjacent to Highway 139.

Possible Alternatives to this proposal are No Action and Salvage Outside the Released Roadless Area Only. Preliminary issues identified with this project are impacts on big game habitat, impacts on soil productivity, and visual impacts.

The project is located in T42N,R5E&R6E, T43N,R5E,R6E,&R7E, Mount Diablo Meridian.

The purpose of the proposal is to meet the intent of the Modoc National Forest Land and Resource Management Plan. The management emphasis for this area is growth and yield of timber and big game habitat.

DATES: Comments concerning the proposal should be received in writing by December 4, 1996 to receive timely consideration in the preparation of the draft EIS. The draft EIS will be filed with the Environmental Protection Agency in February 1997. The final EIS and Record of Decision is expected to be issued in April 1997.

ADDRESSES: Submit written comments concerning this proposal to James Kaderabek, District Ranger, Devil's Garden Ranger District, 800 W. 12th Street, Alturas, Calif. 96101. Direct questions about the proposed action and environmental impact statement to Paul Bailey, District Timber Mgt. Officer, Devil's Garden Ranger District, 800 W. 12th St., Alturas, Calif. 96101, phone 916–233–5811.

RESPONSIBLE OFFICIAL: The Forest Service is the Lead Agency and the responsible official for decisions regarding this analysis is Diane K. Henderson-Bramlette, Modoc National Forest Supervisor. She will select the preferred alternative based upon the analysis. Her address is 800 W. 12th St., Alturas, Calif. 96101.

SUPPLEMENTARY INFORMATION: The proposal includes harvesting only those trees that are dead or expected to die as a result of the Damon/Long Fire since most of the burned area is classified as marginal or low timber site. Only 9,500 of the 23,000 acres burned are deemed economical to harvest. The topography of the project area is flat with scattered lava reefs. There are no streams in the area, the only permanent water is two small ponds. The project area is not within an identifiable watershed, all water percolates through the soil.

A portion of the project area is within the Released Damon Butte Roadless Area, #05149. Approximately 9,900 acres of this released roadless area burned in the Damon/Long Fire with about 2,750 acres considered suitable for timber harvest. The Released Damon Butte Roadless Area is composed of mostly Juniper/Shrub woodlands with scattered aggregations of ponderosa pine. The main resource value assigned to this area is as a transitory and winter range for deer. The released roadless area is substantially roaded with around 17.5 miles of existing road located in the timbered areas. The portions of the burned area that contained timber have been harvested in the past.

The Damon/Long Fire burned across State Highway 139, the area adjacent to the highway will be managed as a view area and will receive total slash treatment.

The majority of the timbered areas within the fire burned with hot, crown fires resulting in almost total mortality. Most of these areas will require reforestation work to reestablish a forest stand.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February 1997. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental

review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: October 10, 1996.

Diane K. Henderson-Bramlette,

Forest Supervisor.

[FR Doc. 96–26924 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

West Fork Potlatch EIS, Vegetation Management Analysis, Clearwater National Forest, Latch County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service, Clearwater National Forest, will prepare an environmental impact statement (EIS) to disclose effects of alternative decisions it may make to manage vegetation, restore watersheds, and analyze access management in the vicinity of the West Fork of Potlatch Creek. The area is located approximately 2 miles north of the town of Bovill, Idaho. The purpose of the project is to implement the Clearwater Forest Plan within the context of ecosystem management principles; improve forest stand composition and health by reducing crown competition; reestablish western white pine as a major component in the ecosystem; and provide timber from suitable lands in response to human needs for wood products.

This project will tier to the *Clearwater National Forest Environmental Impact Statement Land and Resource Management Plan* and *Forest Plan* (1987), which provides overall guidance of land management activities on the Clearwater National Forest. Analysis will also be conducted in compliance with the Stipulations of Dismissal agreed to in the settlement of the lawsuit between the Forest Service and the Sierra Club, et al. (Signed September 13, 1993).

The agency invites written comments and suggestions on the issues and management opportunities for the area being analyzed.

DATE: Written comments concerning the scope of the analysis should be received on or before December 5, 1996.

ADDRESSES: Send written comments to Carmine Lockwood, District Ranger, Palouse Ranger District, 1700 Highway 6, Potlatch, Idaho 83855.

FOR FURTHER INFORMATION CONTACT: Suzanne Lay, Team Leader, at the same address, (208) 875–1131.

SUPPLEMENTARY INFORMATION: The proposed action is designed to restore terrestrial and aquatic ecosystem health and to provide benefits to people within the capabilities of ecosystems. Vegetation treatments designed to reintroduce western white pine in the forest cover type will be analyzed. Regeneration and intermediate harvest treatments intended to improve the structure composition and function of the forest matrix will be analyzed, along with the use of prescribed fire and mechanical methods to treat fuel loadings. Intermediate treatments will be designed to improve forest health conditions by treating overstocked stressed sites while maintaining desirable serial species such as western white pine, ponderosa pine and western larch. These overstocked stands are highly susceptible to root rot pathogens, bark beetles, defoliators, and dwarf mistletoe. Restoration of the aquatic component will focus on eliminating sediment delivery sources to aquatic and riparian habitats, restoring stream channels, as well as improving the structural components in riparian areas by installing large woody debris where it is lacking. Other fish habitat improvement projects are also included in this analysis. This project area is in intermingled ownership. Much of the National Forest System land in the project area was acquired from Weyerhauser timber company in the 1930's after it had been logged.

The Clearwater National Forest Plan provides guidance to management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management direction. The areas of proposed timber harvest and reforestation would occur only on suitable timber land, Management Areas E1, A4, A5 and M2. Below is a brief description of applicable management direction.

Management Area E1

Timber Management—Provide optimum sustained production of timber products in a cost effective manner while protecting soil and water quality (applies to approximately 15,900 acres on National Forest System land in the project area).

Management Area A4

Visual Travel Corridor—Maintain or enhance an aesthetically pleasing, natural appearing Forest setting surrounding designated roads, trails, and other areas considered important for recreational travel use (applies to approximately 2,900 acres of National Forest System land in the project area).

Management Area M2

Riparian Areas—Manage as areas of special consideration with distinctive values, and integrate with adjacent management areas to the extent that water and other riparian resources are protected (applies to approximately 2,500 acres of National Forest System land in the project area).

PACFISH—The *Interim Strategies for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California* (PACFISH), an amendment to the Clearwater Forest Plan, provides additional guidance in anadromous drainages such as the Palouse River. This EIS will tier to the decisions and direction provided by the PACFISH EA and Decision Notice (2/95).

The West Fork Potlatch project area lies south of the divide between the Potlatch River drainage and the St. Maries River drainage. It is a roaded area with intermingled ownership in the panhandle of Idaho. The planning area consists of approximately 34,000 acres in located in T.41N., R.1W., T.41N., R1E., and T.42N., R.1W., and T.42N., R.1E; Approximately 21,300 acres are on National Forest System land, and proposed actions are entirely on these lands. The decision to be made is what, if anything, should be done in the West Fork Potlatch project area to (1) maintain or enhance forest health and improve the structure and composition

in overstocked stressed stands, and (2) provide multiple benefits to people within the capabilities of ecosystems.

Public participation will be fully incorporated into preparation of the EIS. The first step is the scoping process, during which the Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, the Nez Perce and Coeur D'Alene Tribes, and other individuals or groups who may be interested or affected by the proposed action. This information will be used in preparing the EIS. Interested individuals and organizations should contact the Palouse Ranger District and request to be placed on the project mailing list. Those doing so will receive future information related to this project and notification of public meetings. Scoping will include: inviting participation, determining the project's scope and potential issues, eliminating from detailed study those issues which are not significant, and determining potential cooperating agencies and task assignments. The public will also be invited to participate in developing alternatives, and identifying and/or reviewing the potential environmental effects of the proposed action and its alternatives.

Public meetings will continue to be held in the Potlatch, Idaho, area in the fall and winter of 1996 and 1997. Field trips are also to be held. The exact dates and locations of these meetings will be published in local newspapers at least two weeks in advance.

Proposed Action: Timber Harvest: Approximately 4600 acres of National Forest System lands are proposed for harvest. At this time, we anticipate that the primary proposed treatments will be commercial thinnings (approximately 3500 acres), with some regeneration harvests and overstory removals (1100 acres).

Purpose and Need: To conduct vegetation management activities that will maintain or enhance forest health. Active forest management is needed to ensure ecosystem diversity, integrity, and ability to provide goods and services for people on a sustainable basis. The intermediate treatments and regeneration harvests are proposed to improve the structure and composition in overstocked stressed stands. Active management is needed to reduce susceptibility to root pathogens, bark beetles, defoliators, and dwarf mistletoe.

Timber harvest is needed to make progress toward reestablishing western white pine on this landscape. Intermediate treatments would be used to favor existing white pine that is relatively disease free, and planting of genetically improved disease resistant seedlings would be utilized within regeneration harvest units.

Proposed Action: Road Construction and Access: Approximately 27 miles of proposed road construction is an integral part of the proposed action. Key design features as minimizing road densities, and use of advanced technology in logging systems would help reduce the impacts of these roads over the 34,000 acre project area.

The Forest Service is proposing to develop a comprehensive access management plan for the project area. We intend to seek public input on the development of that plan and give consideration to the needs of various forest users as part of the plan. While the details of the plan have yet to be worked out, it is anticipated that access restrictions would be necessary to achieve resource objectives such as wildlife habitat security and watershed protection.

Purpose and Need: Although this area is thoroughly ''roaded'' with old railroad beds, these lines are in an unsuitable place for using again for timber haul. Management area direction from the Clearwater National Forest Plan for the majority of the project area (75% of the National Forest System Land) calls for optimum sustained production of wood products.

In order to manage for a sustainable production of wood products in the West Fork Potlatch project area a substantial amount of road construction is necessary to provide access. Many of the proposed treatments are intermediate in type (meaning future entries into this area are probable). Therefore, a permanent system of roads is needed.

Proposed Action: Aquatic Restoration—Relocating portions of the West Fork of the Potlatch River to it's original channel; planting riparian areas in Porcupine, Head, and Nat Brown Creeks, (totaling two miles of riparian habitat improvement in the Upper Potlatch, and 1.5 miles in the Potlatch face drainages); dredging in the Potlatch River, Nat Brown and Head Creeks; and installing large woody debris in over 10 miles of streams. Restoration of stream channel meandering is proposed for several tributaries of the West Fork of Potlatch River. The winter/spring of 1996 resulted in four landslides in the Potlatch watershed. While restoration began in 1996 (seeding, mulching, adding debris storage, and falling trees); part of this proposal is to continue the rehabilitation work. Additional woody debris and some dredging would probably be required. Road reconstruction is also proposed, surfacing approximately 10 miles of existing road with the objective of correcting existing sediment sources.

Purpose and Need: The proposed actions for aquatic ecosystems have the following purposes; (1) improve aquatic health by adding structural diversity, (2) improve aquatic health by providing cover for salmonids, (3) provide additional quality pools, (4) remove sediment from the system to accelerate natural recovery rates, (5) reduce sediment sources to restore a more ''natural'' sediment system, (6) provide a source of future woody debris to ensure long term stability, (7) provide a source of future shading to reduce summer stream temperatures, and (8) encourage streams to adjust their form to be more stable and efficient. This will reduce stream energy, channel erosion, and to some extent, the flashy nature of the basin.

Proposed Action: Recreation—A nine mile loop trail is proposed for construction in Upper Feather Creek for non-motorized recreation use. Improvement of dispersed campsites along Feather, West Fork Potlatch, Cougar and Moose Creek roads is also proposed.

Purpose and Need: Currently there are over 85 miles of trails on the Palouse District which are open to motorized vehicles and approximately 4 miles which are non-motorized trails. The proposal for a non-motorized trail will help meet some of the current demand for non-motorized recreation opportunities. The improvement of dispersed camping sites is proposed to help keep roadside camping spots available and prevent rutting and mud from accumulating in these areas.

Proposed Action: Wildlife—Approximately 2200 acres are proposed for old growth/replacement old growth habitat with this project. Some areas adjacent to roads may need to be posted to prevent woodcutting.

Purpose and Need: Old growth habitat is a vital component of the vegetative diversity of the Clearwater Forest. Old growth habitat is vital to the perpetuation of old growth dependent species of wildlife (Clearwater Forest Plan, Appendix H–1).

Proposed Action: Grazing—In the Purdue Creek Allotment a reduction in animal numbers of ten percent is proposed. Reductions in cattle numbers are needed to promote the recovery of riparian areas and continue the current trend of watershed improvement. Riparian fencing and hardened cattle crossings have been shown to restore riparian vegetation and prevent streambank trampling.

Purpose and Need: In order to promote the recovery of riparian areas and continue the current trend of watershed improvement the grazing reductions are proposed. The riparian fencing and hardened cattle crossings should help improve/restore riparian vegetation and prevent streambank trampling.

Preliminary Issues

White Pine Blister Rust

Blister rust is a major cause in the decline of western white pine in the West Fork Potlatch project area. This is an exotic pathogen introduced in the early 1900's which has caused a 60 percent decline in western white pine since 1952 (O'laughlin et al. 1993). As a consequence, forest stands within the planning area are now dominated by tree species which are less resistant to insects, disease, and wildfire (primarily Douglas-fir and grand fir).

Insects and Disease

Forest stands within the project area are generally composed of a diverse species mix of trees which are growing well; but, in many cases are becoming overcrowded. Many of the seral disease resistant larch, western white pine, and ponderosa pine, are being crowded by grand fir, Douglas-fir and other more shade tolerant less disease resistant species. The loss of white pine to blister rust, and the increased presence of susceptible species is inconsistent with historic (pre-european) settlement patterns.

Forest Habitat

Old growth and mature forest structure is an important component for many wildlife species. Timber harvest has the potential to change the amount and distribution of mature forest structure.

Watershed and Fish Habitat Conditions

Management activities (especially those in the earlier part of the century), in the Potlatch River subbasin have delivered large quantities of sediment without allowing for recovery thus altering the natural function of the stream system. Additional activities without allowing for recovery could compound these effects and have adverse effects on channel stability and designated beneficial uses. Management practices that cause fine sediment production to exceed the processing and transporting capability of streams, or that alter the natural timing of sediment transport, would have the greatest potential to impair stream integrity and salmonid populations, and therefore beneficial uses.

Effects Analysis

The direct, indirect, cumulative, short-term, and long-term, aspects of impacts on national forest lands and resources, and those of connected or related effects off-site, will be fully disclosed.

Preliminary alternatives in addition to the proposed action have not been identified. The issues discussed previously, and those provided in public comment, will drive the formulation of alternatives. Minimizing the number of alternatives by incorporating key design features common to all alternatives will help address many concerns while streamlining the environmental analysis.

The Forest Service predicts the Draft EIS will be filed in January of 1997 and the Final EIS in April of 1997. We will seek comments on the Draft EIS for a period of 45 days after its publication. Comments will then be summarized and responded to in the Final EIS.

To assist us in identifying and considering issues and concerns on the proposed action or the effects disclosure, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

We believe it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Argoon* v. *Hodel*, 803 F2d 1016, 1022 (9th Circuit 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

As Forest Supervisor, I am the Responsible Official for this project. My address is Clearwater National Forest, 12730 U.S. Highway 12, Orofino, ID 83544 (208–476–4541).

Dated: October 9, 1996.

Douglas E. Gochnour,

Acting Forest Supervisor.

[FR Doc. 96–26852 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

Summit Fire Recovery, Malheur National Forest, Grant County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a proposal to salvage harvest and reforest burned timber stands, construct and reconstruct roads, and apply herbicides to manage unwanted vegetation. The proposed project will be in compliance with the 1990 Malheur National Forest Land and Resource Management Plan (Forest Plan), as amended, which provides the overall guidance for management of this area. The proposed project is within the Summit Fire area which lies within the Middle Fork John Day Watershed on the Long Creek Ranger District and will occur in fiscal year 1997. The Malheur National Forest invites written comments and suggestions on the scope of the analysis. The agency will give notice of the full environmental analysis and decision making process on the proposal so interested and affected people may participate and contribute in the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by November 20, 1996.

ADDRESSES: Send written comments and suggestions concerning the management of this area to John L. Shoberg, District Ranger, P.O. Box 849, John Day, Oregon 97845.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project and scope of analysis should be directed to: Resource Planner, Robert Hammond; P.O. Box 849; John Day, Oregon 97845; phone 541–575–3000.

SUPPLEMENTARY INFORMATION: The proposed action includes: salvage harvesting fire killed or dying timber; constructing and reconstructing roads; reforestation; and application of herbicides.

Salvage sales are proposed within the Middle Fork John Day River Watershed on the Long Creek Ranger District. This analysis will evaluate a range of alternatives for implementation of the timber sales. The area being analyzed is approximately 28,000 acres.

The salvage sales would be located north of County Road 20 and within the Granite Boulder, Ragged Ruby Beaver, Sunshine Dry, Big Boulder, Balance Dunston Coyote Horse, Jungle Elk Deep, Bear Hawkins Mosquito, and Big subwatersheds. The majority of the salvage harvest would be dead or dying timber. The proposed volume for all sales is estimated to be approximately 145 million board feet from approximately 12,000 acres.

Salvage harvesting is proposed within some Riparian Habitat Conservation Area buffers, the former Greenhorn Mountain and Jumpoff Joe RARE II areas, and the Vinegar Hill-Indian Rock Scenic Area. No new road construction is proposed within these areas. Salvage harvesting is also proposed within two dedicated old-growth stands, their accompanying replacement old-growth stands, and a Wildlife Emphasis Area. The Wildlife Emphasis Area is within the former Jumpoff Joe RARE II area.

Preliminary issues include: effects on former RARE II areas; a Scenic Area; anadromous fish; sensitive fish and wildlife species; fuel loads; water quality; and timber production.

A full range of alternatives will be considered, including a no-action alternative. Issues gathered through scoping may vary action alternatives in (1) the amount and location of acres considered for treatment; (2) the amount of roads constructed for access; and (3) the number, type, and location of other integrated resource projects.

Scoping process will include: (1) identifying potential issues; (2) identifying issues to be analyzed in depth; (3) eliminating insignificant issues or those which have been covered by a previous environmental analysis; (4) explore additional alternatives; and (5) identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The Forest Service is seeking information and comments from: other Federal, State, and Local agencies; Tribes; organizations; and individuals who may be interested in or affected by the proposed action. This input will be used in the preparation of the draft EIS.

Comments will be appreciated throughout the analysis process. The draft EIS is to be filed with the Environmental Protection Agency (EPA) and will be available for public review by March 1997. The comment period on the draft EIS will be 45 days from the date of EPA's Notice of Availability appear in the Federal Register. It is important that those interested in the management of the Malheur National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,*. 803 f. 2d 1016, 1002 (9th Cir, 1986), and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the 45 day comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by July 1997. In the final EIS, the Forest Service is required to respond to substantive comments received (40 CFR 1503.7). The responsible official, Forest Supervisor, F. Carl Pence, will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding the project. The responsible official will document the Summit Fire Recover Project decision and rationale for the decision in the Record of Decision. That decision will be subject to review under Forest Service Appeal Regulations 36 CFR Part 215.

Dated: October 11, 1996.

F. Carl Pence,

Forest Supervisor.

[FR Doc. 96–26878 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

Water Rights Task Force Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Forest Service announces meetings of the Water Rights Task Force established on August 20, 1996, in accordance with the provisions of the Federal Agricultural Improvement and Reform Act of 1996, as amended. The chairman has scheduled the third meeting of the Task Force in Reno, Nevada, on November 11–12; the fourth meeting in Denver, Colorado, on December 16; and the fifth meeting in San Francisco, California, on January 16–17, 1997.

DATES: The third meeting will be held November 11 from noon to 6:00 p.m. and November 12 from 8:00 a.m. until noon. The fourth meeting will be held December 16 from 8:30 a.m. until 5:00 p.m. The fifth meeting will be held January 16 from 1:00 until 5:00 p.m. and January 17 from 8:30 a.m. until noon.

ADDRESSES: The third meeting will be held in the Crystal 5 Conference Room of the Reno Hilton Hotel, 2500 East Second Street, Reno, NV; the fourth meeting will be held in the 1st floor Auditorium of the USDA Forest Service's Rocky Mountain Regional Office, 740 Simms Street, Golden, CO; and the fifth meeting will be held in the Black Oak Room, 5th floor, 630 Sansome Street, San Francisco, CA.

Send written comments to Eleanor Towns, FACA Liaison, Water Rights Task Force, c/o USDA Forest Service, MAIL STOP 1124, P.O. Box 96090, Washington, DC 20090–6090. Telephone: (202) 205–1248; Fax: (202) 205–1604.

FOR FURTHER INFORMATION CONTACT: Stephen Glasser, Watershed & Air Management Staff, Telephone: (202) 205–1172; Fax: (202) 205–1096.

SUPPLEMENTARY INFORMATION: The Water Rights Task Force is composed of seven members appointed by Congress and the Secretary of Agriculture to study and make recommendations on issues pertaining to water rights. At the forthcoming meetings, the Task Force

will develop and begin to implement its work plan for carrying out its assigned responsibilities. All meetings are open to the public and time will be provided at each meeting for the public to address the Task Force, as follows: November 11, 1:30 to 3:00 p.m.; December 16, 1:30 to 3:00 p.m., and January 16, 1:30 to 3:00 p.m.; however, discussion is limited to Task Force members and Forest Service personnel. Persons who wish to bring water rights matters to the attention of the Task Force may also file written statements with the Forest Service liaison at the address listed earlier in this notice either before or after each meeting.

Notice of the establishment of the Water Rights Task Force was published in the Federal Register on September 11, 1996 (61 FR 47858). The Task Force terminates either in August of 1997 or upon submission of a final report.

Dated: October 15, 1996.

Mark A. Reimers,

Acting Chief.

[FR Doc. 96–26900 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

Timber Sale Contracts; Change in Stumpage Rate Adjustment Procedure

AGENCY: Forest Service, USDA.

ACTION: Notice; reopening of public comment period.

SUMMARY: On August 7, 1996, the Forest Service published in the Federal Register a proposed policy to eliminate the stumpage rate adjustment procedure used to adjust timber sale contract tentative rates (bid rates) on most timber sales. The agency requested public comment on the proposed policy (61 FR 41124), with the comment period closing October 7, 1996. The comment period is now being reopened for 90 days to allow consideration of this proposal concurrently with consideration of a proposed rule published elsewhere in this issue of the Federal Register to change the procedures for market-related contract term addition. All comments received between August 7, 1996, and the reopening of the comment period will be considered; therefore respondents do not need to resubmit comments previously submitted.

DATES: The additional comment period will end on January 21, 1997.

ADDRESSES: Send written comments to Director, Timber Management Staff, MAIL STOP 1105, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

Dated: October 8, 1996.

J. Kenneth Myers,

Acting Chief.

[FR Doc. 96–26756 Filed 10–18–96; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and location of the meetings of the Telecommunications Access Advisory Committee.

DATES: The Telecommunications Access Advisory Committee will meet on November 6, 7, and 8, 1996 beginning at 9:30 a.m. each day.

ADDRESSES: The meetings will be held at the American Speech-Language and Hearing Association offices, 10801 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 extension 35 (voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov. This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: On May 24, 1996, the Access Board published a notice appointing members to its Telecommunications Access Advisory Committee (Committee). 61 FR 26155 (May 24, 1996). The Committee will make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment. These recommendations will be used by the Access Board to develop accessibility guidelines in conjunction with the Federal Communications Commission (FCC) under section 255 (e) of the Telecommunications Act of 1996. The Committee is composed of representatives of manufacturers of telecommunications equipment and customer premises equipment; organizations representing the access needs of individuals with disabilities; telecommunications providers and carriers; and other persons affected by the guidelines.

At its first meeting on June 12–14, 1996, the Committee took the following actions:

- The statutory definitions of telecommunications, telecommunications equipment and customer premises equipment are to be construed broadly.
- Providing access is not a ''change in form'' of information within the meaning of the statute's definition of telecommunications and, therefore, not excluded.
- A listserv was created through the Trace Center: taac-l@trace.wisc.edu. To subscribe, send e-mail to listproc@trace.wisc.edu with the message subscribe taac-l <firstname lastname>.

At its second meeting on August 14–16, 1996, the Committee agreed on the following points:

- In customer premises equipment (CPE), it is not always possible to separate the effects of software from hardware and one manufacturer may choose to perform the same function with one or the other. Therefore, the guidelines must cover both.
- It is not always possible to determine whether a particular function resides with the CPE, the telecommunications carrier, or the source material. Therefore, the guidelines will be developed with the assumption that the function resides in the CPE and urge the FCC to apply the same guidelines to entities and services under its jurisdiction.
- The Committee also agreed that the existing definitions of CPE and telecommunications equipment are sufficient.
- While the definition of ''readily achievable'' in the Telecommunications Act is the same as in the Americans with Disabilities Act (ADA), the term is applied differently. In the ADA, the term applies to barrier removal in existing facilities whereas the Telecommunications Act applies the term to the manufacture of new equipment. An ad hoc task group was formed to develop criteria to assess ''readily achievable'' in this new context.
- Subcommittees on Compliance Assessment and Guidelines content were created. Discussions will be conducted primarily by e-mail. To participate in a subcommittee, send e-mail to cannon@access-board.gov.

At its third meeting on September 25–27, 1996, the Committee took the following actions:

- Accepted the application of Microsoft to join the Committee.
- The subcommittee on Compliance Assessment reviewed and revised a draft list of criteria for an effective conformity assessment model, then developed consensus around fifteen of these criteria, with another five criteria needing further clarification or discussion. The subcommittee divided into two work groups: Consumer Information/Verification and Coordination Point/Practitioners' Qualifications.
- The subcommittee on Guidelines Content divided into two work groups: Process Guidelines, and Performance and Design Guidelines. Each work group developed a set of principles and criteria for further discussion. Draft products are posted on a Trace-sponsored Web site. Discussion will be by e-mail (via the main TAAC–L listserv) and by teleconference call. The URL for the Web site is http://trace.wisc.edu/taac/workdoc.htm.

The Committee will meet on the dates and at the location announced in this notice. The meetings are open to the public. There will be a public comment period each day for persons interested in presenting their views to the Committee. Persons attending the meetings are strongly encouraged to use public transportation since parking is extremely limited. The American Speech-Language and Hearing Association offices are located north of the Grosvenor Metro subway station. Persons who must drive should call Dennis Cannon at the Access Board. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real time transcription will be available.

The Committee will meet again on December 16–18, 1996 and January 14–15, 1997. Subsequent meetings will be held at locations to be announced.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 96–26920 Filed 10–18–96; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–602]

Certain Forged Steel Crankshafts From the United Kingdom; 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 June 18, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on certain forged steel crankshafts from the United Kingdom (61 FR 30854). The review covers one producer/exporter of this merchandise to the United States for the review period September 1, 1993 through August 31, 1994.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments and rebuttal comments received, we have corrected certain clerical errors in the margin calculations. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Lyn Johnson, Office of Antidumping Compliance, 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 AND REGULATIONS: Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1996, the Department published the preliminary results of administrative review of the antidumping duty order on certain forged steel crankshafts from the United Kingdom (61 FR 30854). We gave interested parties an opportunity to comment on the preliminary results. There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are certain forged steel crankshafts. The term ''crankshafts,'' as used in this review, includes forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classifiable under item numbers 8483.10.10.10, 8483.10.10.30, 8483.10.30.10, and 8483.10.30.50 of the Harmonized Tariff Schedule (HTS). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or more than 750 pounds are subject to this review. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. On July 18, and 25, 1996, we received case and rebuttal briefs from the petitioner, the Krupp Gerlach Company (KGC), and the respondent, UES Ltd.—Forgings Division (UEF).

Issues Raised by KGC

Comment 1: KGC argues that the Department improperly used the cost of production (COP) of UEF's sister company, UES Steels, for the steel input cost in the calculation of CV. KGC asserts that it was improper to use UES's COP as a measure of UEF's raw material input costs without first obtaining the transfer prices charged to UEF by UES to determine whether they were greater than UES's COP. KGC further claims that the Department failed to follow its own hierarchy as established in Import Administration Policy Bulletin Number 94.4 of March 25, 1994 (PB 94.4) for measuring raw material costs supplied by a related party when performing a CV analysis. KGC argues that, in accordance with this hierarchy, the Department may use the related party's COP ''only'' if it determines that the related party transfer price was below cost. KGC further argues that, if raw material inputs were supplied at transfer prices that exceeded the supplier's COP then, in accordance with PB 94.4, the Department should use those transfer prices, in the absence of any better measure of the market value of those inputs, *e.g.*, arm's length prices to unrelated parties, KGC states that this is consistent with numerous determinations including *Oil Country Tubular Goods From Austria*, 60 FR 33551 (June 28, 1995), *Certain Cold-Rolled Carbon Steel Flat Products from*

Germany, 60 FR 65264 (December 19, 1995); and *Final Results of Antidumping Duty Administrative Review of Antifriction Bearings from France and Other Countries*, 58 FR 39729 (July 26, 1993), where the Department used transfer prices rather than the related party's COP.

UEF argues that, since UES Steels and UEF are both unincorporated operating divisions within a single legal entity, UES Ltd., they are parts of the same company and share a common steel COP. UEF maintains that, although UEF and UES Steels use transfer prices as a bookkeeping convention for internal management purposes, steel provided by UES Steels to UEF is recorded in UES Ltd.'s books at actual cost. UEF also argues that PB 94.4 does not provide a strict hierarchy that the Department must follow in determining whether or not to use transfer prices for related party transactions for the calculation of CV, but instead constitutes a set of discretionary guidelines for calculating CV.

Department's Position: Although respondent describes UEF and UES as ''related'' in various sections of their questionnaire response, the weight of record evidence (*e.g.*, corporate structure charts and audited financial statements) indicate that they are divisions of the same corporation, UES Holdings Limited. The Department has determined that section 773(e)(2) does not apply in such situations:

> Since NSC's steel was manufactured internally by another division of the same company, section 773(e) of the Act is inapplicable. Section 773(e)(2) directs the disregarding, in certain instances, of ''a transaction directly or indirectly between [related] persons.'' A single corporation is not two or more persons; it is legally one. Thus, we have used NSC's actual verified costs rather than Japanese market prices for steel.

Offshore Platform Jackets and Piles From Japan: Final Determination of Sales at Less Than Fair Value, 51 FR 11788, 11791 (Apr. 7, 1986). Because UEF and UES Steels are divisions of the same corporation, UEF's steel cost for producing crankshafts is the COP of the steel manufactured by UES Steels. Sections 773(e)(2) and 773(e)(4), as well as the cases cited by KGC, do not apply. Therefore, we used the COP data provided by UEF in calculating CV.

Comment 2: KGC argues that UEF understated the fixed costs of the crankshafts under review by improperly allocating fixed costs on the basis of weight, as opposed to value. Based on its analysis of UEF's financial statements, KGC maintains that the fixed costs that UEF has reported for individual crankshaft models are disproportionately small compared to UEF's general fixed cost experience. Furthermore, KGC argues that UEF's allocation of fixed costs to the individual crankshaft models in question is inherently suspect because of its reliance on what is designated as an ''Actual Costs System'' (ACS). KGC contends that the ACS does not supply the actual cost data in UEF's accounting system, but only a reconstruction of that cost data for each model. KGC asserts that UEF has not only failed to explain its cost allocation methodology, but has not provided adequate support for its methodology. Finally, KGC argues that UEF not only incorrectly used weight to allocate certain end-of-year accounting adjustments, but also made no effort to quantify or describe these adjustments.

In rebuttal, UEF asserts that its fixed cost allocation methodology was described to, and accepted by, the Department in its Cost Verification Memorandum of August 12, 1993 which was included at Appendix H of UEF's April 11, 1996, submission. UEF also argues that KGC's contention that the fixed cost data for individual crankshafts do not accurately reflect the total fixed and variable costs reported for UEF's forging facilities is completely false in that KGC ignored the fixed costs that UEF identified as general and administrative expenses (G&A) in its calculations. UEF contends that once the fixed costs identified by UEF as G&A are included in these calculations, the total fixed costs are consistent with those reported in UEF's submissions. UEF states that its ACS, which was developed to allocate costs in response to the Department's CV questionnaire and which was verified in previous reviews, properly accounts for all fixed costs. Lastly, regarding minimal end-of-year accounting adjustments, UEF argues that, consistent with its practice in prior reviews, it uses weight to allocate these costs among merchandise produced at its forging sites because this method is as effective as any with respect to such incidental costs.

Department's Position: We agree with UEF. KGC's argument that UEF understated its fixed costs is incorrect, because KGC's allegation failed to include the fixed costs that were reported as part of UEF's G&A expenses. Moreover, there are a number of reasonable methods of allocating costs, and allocation bases can vary from cost center to cost center. Examples of this are the cost centers for the heat treatment operation and the press operations. In the heat treatment cost center, costs are incurred as a direct result of weight, because heat treatment costs increase as weight (and size) increases. Therefore, it is reasonable to allocate heat treatment cost center expenses by weight. In the press cost center, fixed costs are determined on the basis of production time, because costs are incurred in relation to the time it takes to produce a given crankshaft. Other elements in this cost center, such as fuel, are calculated on the basis of production tons, because costs are incurred in relation to the amount of fuel consumed in heating the metal before it is pressed. The Department examined UEF's cost allocation methodology in a prior review and found no discrepancies. Accordingly, we find nothing inherently wrong in allocating certain fixed costs on the basis of weight.

Moreover, in some circumstances, it would be inappropriate to allocate costs on the basis of value. For example, as discussed above, heat treatment costs relate to weight and size, not to value. Small, high-value crankshafts incur lower heat treatment costs than large, low-value crankshafts.

In summary, since we find UEF's fixed cost allocation methodology in this review to be accurate and consistent with the methodology verified and accepted in the previous review, we have continued to accept it for this review.

Comment 3: KGC argues that the Department abused its discretion by declining to initiate a below-cost investigation based on KGC's allegation that reasonable grounds existed to believe or suspect that UEF had engaged in sales below cost in its home market during the POR. According to KGC, the Department's conclusion that KGC's allegation was unrepresentative of the crankshaft models sold by UEF in its home market is inconsistent with the Act, which requires only that there exist reasonable grounds to believe or suspect that sales below cost have been made in the home market. Moreover, KGC argues that the Department's policy for initiating a below-cost investigation of home market sales requires only that the examples used in an allegation be representative of the broader range of foreign models which may be used to determine FMV, not of the home market sales in general. KGC argues that its allegation was representative of the former in that the only home market comparators used for price-to-price comparisons in this review were subjects of KGC's below-cost allegations. KGC concludes that use of these models for comparison purposes improperly skews the review results and that the Department should rectify this by using CV for these comparisons.

In rebuttal, UEF contends that the Department has broad discretion in determining whether to begin a COP investigation and that the Department properly declined to initiate a below-cost investigation of UEF's home market sales in this case.

Department's Position: We agree with the respondent. In general, the Department will initiate a cost investigation whenever it has reasonable grounds to believe or suspect that sales in the HM or third country, if appropriate, have been made at prices below the COP. 19 U.S.C. 1677b(b). An allegation by petitioner of sales below cost will be deemed to have provided reasonable grounds if: (1) a reasonable methodology is used in the calculation of the COP *including* the use of respondent's data if available or, if not available, the petitioner's own data adjusted for any known differences; (2) using this methodology, sales are shown to be made at prices below COP; *and* (3) the sales allegedly made at prices below COP are representative of a broader range of models that may be used as a basis for foreign market value (FMV) (*see* Import Administration Policy Bulletin Number 94.1 of March 25, 1994 (PB 94.1)).

UEF sold both machined and unmachined crankshafts in the U.S. and HM during the POR. Accordingly, both types of crankshaft were subject to review in this case. As petitioners note, however, the Department does not match machined crankshafts to unmachined crankshafts, or vice-versa. Therefore, only HM sales of *machined* crankshafts can be compared to U.S. sales of machined crankshafts.

Thus, for a COP allegation to be representative it must address both machined and unmachined crankshafts. If it does not, then the Department will not initiate a COP inquiry, unless the allegation is model-specific. As the Department explained in its policy bulletin, ''[i]f the allegation examples are not representative, then we would not have reasonable grounds to conclude other models might be sold below cost, and ought not to initiate the inquiry, unless the allegation *specifically requests* a cost investigation of specific models.'' *See* PB 94.1 at 3 (emphasis added).

In this case, KGC's COP allegation neither contained data for machined crankshafts, nor explained how the unmachined models it did contain data for were representative of machined crankshafts. Moreover, KGC did not request a cost investigation of specific models, although it could have done so (as PB 94.1 suggests). Similarly, KGC did not request that the Department's cost investigation be limited to unmachined crankshafts. Rather, KGC requested ''a COP investigation that covers *all* crankshaft models sold by UEF in its home market, at least to the extent that those home market models may potentially be considered as matches for the U.S. sales that are the subject of this review.'' *See* Feb. 10, 1995 COP allegation at 14 (emphasis in original). Because UEF sold both machined and unmachined crankshafts in the U.S. and HM during the POR, both types could have been potential matches for UEF's U.S. sales. Thus, KGC's request, by its plain terms, applied to both types.

KGC's allegation, which only contained data for unmachined crankshafts, was not representative of the HM database as a whole. Therefore, it did not provide reasonable grounds for the Department to believe or suspect that HM sales of machined and unmachined crankshafts had been made at prices below the COP. Accordingly, we did not initiate a COP investigation in this review.

Issues Raised by UEF

Comment 4: UEF claims that it made a clerical error by reporting a shipment of crankshafts using the wrong model number. UEF contends that when the first shipment of a new replacement model was made, its computer system was not set up to recognize the new model number. Therefore, when the shipment data for the new model entered the computer system, it was erroneously recorded under the model number of the crankshaft it replaced. UEF contends that information on the record verifies that the shipment reported is in fact a shipment of the new model number and submitted additional documentation to support its claim. UEF requests that the Department correct this clerical error for the final results.

KGC argues that UEF does not provide sufficient documentation to support its claim that the alleged error is clerical. Petitioner argues that the documentation provided by respondent contains handwritten notes and the Department has no way to verify when those notes were written. KGC also argues that since the payment date for the shipment in question approximates the payment dates for other shipments of the old model number, the record suggests that it was a shipment of the old model rather than of the new replacement model. KGC further argues that because there were at least five other shipments of the old model after the shipment in question, the record again suggests that it was a shipment of the old model rather than of the new replacement model.

Department's Position: We agree with respondent. In the final results on certain fresh cut flowers from Ecuador, we established our policy for correcting clerical errors of respondents. *See Certain Fresh Cut Flowers From Ecuador: Final Results of Antidumping Duty Administrative Review,* 61 FR 37044, 37047 (July 16, 1996) (*Ecuadorian Flowers*). As stated in *Ecuadorian Flowers,* we will accept clerical errors under the following conditions: (1) the error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment, or a substantive error; (2) the Department must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical error allegation, and any corrective documentation, must be submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error must not entail a substantial revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification. We reviewed UEF's alleged clerical error and evaluated it using the above six criteria from *Ecuadorian Flowers* with the following results: (1) Upon examination of UEF's data, we find that the mixup in model numbers was not an error in method, judgment, or substance, since UEF's computer system was not set up to recognize the replacement (new) model number at the time the data for the first shipment of the new model was entered into its computer system. This resulted in the first shipment of the new model being recorded under the old model number. (2) Although the invoice for this shipment indicates that the new customer part number and new model number were entered into the system under the old customer part and UEF model numbers, the invoice contains information, *e.g.,* the cast number, which ties to the cast record. The cast record (which records the production data for the batch of the steel alloy used to produce the new replacement model) corresponds with the cast number on the invoice as well as the new model number. In addition, a letter from UEF's customer, included in UEF's original submission, stated that UEF was authorized to produce the new model starting with the next scheduled shipment. The letter was dated October

27, 1993, which was two weeks before the date on the cast record, and four weeks before the shipment date on the invoice for the first shipment of the new model. The letter referenced the part and model numbers and the steel alloy to be used to produce the new model. Information on the record indicates that this alloy would not have been used for making the old crankshaft model. The payment date for the shipment corresponds with payment dates for other shipments of the new model. We find this documentation to be supportive and reliable. (3) and (4) The respondent notified the Department and submitted corrective documentation no later than the due date for its case brief. (5) Correcting the alleged error does not entail a substantial revision of the response. (6) Since we did not conduct a verification, the information does not contradict verified information. Therefore, we have made this correction for our final results of review.

We disagree with the petitioner that UEF has not substantiated its clerical error claim. The fact that the shipment in question occurred four weeks before the next shipment of that model indicates only that it was the first shipment of the new model. Similarly, KGC's observation that there were five shipments of the old model after the first shipment of the new model suggests that UEF was shipping the remaining balance of the orders for the old model. Significantly, the October 27, 1993 letter did not instruct UEF to cease production of the old model, only that it was authorized to begin production of the new model. Moreover, petitioner's observation that the payment date for the shipment in question corresponds with the payment date for the old models does not defeat UEF's claim, because there is no evidence suggesting that these old models had been phased out of production. Finally, the last payment for the old model took place approximately three weeks before the payment date for the shipment in question.

Comment 5: UEF alleges that, as a result of a data input error, it reported an incorrect value for imputed credit. KGC does not contest UEF's assertion.

Department's Position: We agree with the respondent. UEF's data input error was clerical, not methodological, and its questionnaire response supports its clerical error claim. Therefore, we have made this change for our final results of review.

Comment 6: UEF contends that it made a clerical error in calculating the cost of manufacturing (COM) for one of its models. Instead of actual number of units produced from a die, UEF argues that it used the standard number of units produced from a die to calculate the allocated, per-unit die cost for making this model. Because UEF planned to terminate production of this particular model during the POR, it produced substantially more than the standard number of units from the die. Respondent contends that the use of actual rather than the standard cost for computing COM in this situation would be in accordance with the Department's preference.

KGC argues that respondent's request is not clerical but methodological. KGC also argues that UEF does not provide documentary evidence to support its claim.

Department's Position: We agree with petitioner. UEF has not met either criterion one or two of our established policy regarding the correction of clerical errors. First, this is a substantive allegation that is based on information that was not submitted until after the Department's preliminary determination. Second, the respondent has provided no documentation to support its allegation. Therefore, we have not made this change for our final results of review.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists for the period September 1, 1993 through August 31, 1994:

Producer/exporter	Margin (percent)
UEF	0.48

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be zero because the margin for this company is *de minimis, i.e.,* less than 0.5 percent); (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 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) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 6.55 percent, the ''all others'' rate from 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 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 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 notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice is in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (19 CFR 353.22(c)(5)).

Dated: October 11, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–26834 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–504]

Notice of Final Results of Antidumping Duty Administrative Review: Porcelain-on-Steel Cookware From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On March 6, 1996 the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on porcelain-on-steel (POS) cookware from Mexico. The review covers shipments of this merchandise to the

United States during the period December 1, 1991 through November 30, 1992.

Based on our analysis of the comments received and the correction of certain clerical and computer program errors, we have changed the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or James Terpstra, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone, (202) 482–4929 and (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1996, the Department of Commerce (the Department) published in the Federal Register the preliminary results of its administrative review of the Antidumping Duty Order on Porcelain-on-Steel Cookware from Mexico (61 FR 8911). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookware, including tea kettles, that do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) item number 7323.94.00. Kitchenware currently entering under HTSUS item number 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

The review covers two manufacturers/exporters, Acero Porcelanizado, S.A. de C.V. (APSA) and Cinsa, S.A. de C.V. (Cinsa) of Mexican POS cookware. The period of review (POR) is December 1, 1991 to November 30, 1992.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

United States Price

A. APSA

We based United States price (USP) on both exporter's sales price (ESP) and purchase price (PP), in accordance with section 772 of the Act, because the subject merchandise was sold both before and after importation into the United States. We based ESP and PP on the packed, ex-factory price to unrelated purchasers in the United States.

For both PP and ESP sales we made deductions from USP, where appropriate, for foreign and U.S. inland freight and insurance, Mexican and U.S. brokerage and U.S. import duties and user fees, in accordance with section 772(d)(2) of the Act. We also made deductions for discounts and rebates. We added an amount to account for the countervailing duty assessment on entries of the subject merchandise entered during the instant review period. (*See*, Comment 3).

We made further deductions from ESP, where applicable, for commissions, credit expenses and indirect selling expenses, pursuant to section 772(e) (1) and (2) of the Act.

B. Cinsa

We based USP on PP, in accordance with section 772 of the Act, because the subject merchandise was sold before importation into the United States. We based PP on the packed, ex-factory price to unrelated purchasers in the United States.

We made deductions from USP, where appropriate, for foreign and U.S. inland freight and insurance, Mexican and U.S. brokerage and U.S. import duties, in accordance with section 772(d)(2) of the Act.

We added to USP the amount of import duties which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.

C. Cinsa and APSA

For both Cinsa and APSA we made an adjustment to USP for the value-added tax (VAT) paid on the comparison sales in Mexico.

In light of the Federal Circuit's decision in *Federal Mogul v.* United States, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the USP the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith v.* United States, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul v.* United States, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to USP by multiplying the adjusted USP by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the GATT. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to USP, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to USP rather than subtracted from home

market price, it does result in tax-neutral duty assessments. In sum, the Department treats consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Also, for both APSA and Cinsa, the Department verified in the original investigation and in previous reviews that both companies incur the same packing expenses for sales of the subject merchandise in the United States and in Mexico. Therefore, as in previous reviews, no adjustment was made for packing.

Foreign Market Value

A. APSA

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Act. Home market price was based on the packed, ex-factory price to certain related and unrelated purchasers in the home market. In our margin calculations, we used sales to related parties which we found were at arm's length. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Antidumping Duty Administrative Review,* 60 FR 44012 (August 24, 1995).

We made deductions from the home market price for discounts and rebates. For comparison to PP sales, pursuant to section 773(a)(4)(B) and 19 CFR 353.56(a)(2), we made a circumstance-of-sale (COS) adjustment, where appropriate, for differences in credit expenses. For comparison to ESP sales, we also deducted credit expenses from FMV.

We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2) (1994).

Regarding indirect selling expenses, APSA calculated inventory carrying costs based on sales price. We recalculated these costs based on APSA's cost of goods sold.

We adjusted for VAT in accordance with our practice. (*See* the ''United States Price'' section of this notice, above.)

For three U.S. products, we found no identical home market products sold in contemporaneous periods, and APSA did not provide an adjustment for differences in merchandise or CV information, as we had repeatedly requested. Therefore, we used BIA for these sales pursuant to Section 776(C) of the Act. As partial BIA, we used the weighted-average dumping margin of 8.75 percent from *Porcelain-On-Steel Cookware From Mexico; Final Results of Antidumping Duty Administrative Review (3rd Administrative Review),* 58 FR 32095 (June 8, 1993), because it is the highest rate ever determined for APSA. This is consistent with the Department's general application of partial BIA (*see, e.g., Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.,* 60 FR 10900, 10907 (February 28, 1995)).

B. Cinsa

We also used home market price for Cinsa, when sufficient quantities of such or similar merchandise were sold in the home market, at or above the COP, to provide a basis for comparison (*See* COP section of this notice). Home market price was based on the packed, delivered and ex-factory price to certain related and unrelated purchasers in the home market. In our margin calculations, we used sales to related parties which we found were at arm's length. We made deductions from home market price for discounts, where applicable.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States,* 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the COS provision of 19 CFR 353.56(a). Accordingly, in the present case, we adjusted for post-sale home market inland freight charges under the COS provision of 19 CFR 353.56(a). We did not deduct pre-sale inland freight charges because, as in the fifth administrative review, Cinsa did not demonstrate to the Department's satisfaction that these expenses are directly related to sales of the subject merchandise. Because Cinsa did not report warehousing as a direct selling expense, we concluded that Cinsa's inland freight to the warehouse is also not directly related to sales. *See Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand,* 60 FR 29553, 29563 (June 5, 1995) for a complete discussion on the Department's policy concerning pre-sale movement charges.

Pursuant to section 773(a)(4)(B) and 19 CFR 353.56(a)(2), we made a COS adjustment, where appropriate, for differences in credit expenses. We recalculated home market credit using the revised interest rate reported in the May 2, 1994, supplemental response. Also, we did not calculate credit expenses for sales in the home market that were missing pay dates. Furthermore, we determined that the bank fees associated with the letter of credit transactions for certain U.S. customers are a direct selling expense and have made a COS adjustment for these fees. We deducted home market commissions and added U.S. indirect selling expenses capped by the amount of home market commissions.

We adjusted for VAT in accordance with our practice. (See the ''United States Price'' section of this notice, above.)

Cost of Production

With regard to Cinsa, we disregarded sales below cost in the most recent administrative review. Therefore, in accordance with Department practice, we determined that there were reasonable grounds to believe or suspect sales below cost in the current review period. In order to determine whether home market prices were below COP within the meaning of section 773(b) of the Act, we performed a product-specific cost test, in which we examined whether each home market product sold during the POR was priced below the COP of that product. For Cinsa's models for which there were insufficient home market sales at or above the COP, we compared USP to CV.

Regarding APSA, petitioner's June 18, 1993, letter requested an extension for filing a sales below cost allegation; however, no such allegation was filed with the Department. Therefore, we did not perform a sales below cost analysis of APSA.

A. Calculation of COP

We calculated COP based on the sum of respondent's cost of materials, fabrication, general expenses and packing costs, in accordance with 19 C.F. R. 353.51(c). In our COP analysis, we relied on COP information submitted by Cinsa, except in the following instances where COP was not appropriately quantified or valued: (1) We included expenses related to employee profit sharing in the cost of manufacture; (2) we revised Cinsa's submitted interest costs to exclude the calculation of negative interest expense; and (3) we increased depreciation expense to account for the revaluation of its fixed assets.

B. Test of Home Market Sales Prices

As required by section 773(b) of the Act, we tested whether a substantial quantity of respondent's home market sales of subject merchandise was made at prices below COP over an extended period of time. We also tested whether

such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP (net of selling expenses) to the reported home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater 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.'' If between 10 and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, and sales of that product were also found to be made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POR in which that product was sold. If a product was sold in three or more months of the POR, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POR. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.,* where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom*, 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain products, between 10 and 90 percent of Cinsa's home market sales were sold at below COP prices over an extended period of time. Because Cinsa provided no indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b) of the Act, we based FMV on CV for all U.S. sales left without a home market sales match as a result of our application of the COP test.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, general expenses, packing costs, and profit. In accordance with section 773(e)(1)(B) (i) and (ii), we used: (1) The actual amount of general expenses because those amounts were greater than the statutory minimum of ten percent and (2) the actual amount of profit where it exceeded the statutory minimum of eight percent.

We recalculated the respondent's CV based on the methodology described in the calculation of COP above. In addition, we revised CV profit based upon the calculation provided by Cinsa.

Price-to-CV Comparisons

Where we made CV to PP comparisons, we made a COS adjustment for direct selling expenses.

Interested Party Comments

Comment 1: Inclusion of Revalued Depreciation in the Calculation of Cinsa's COP and CV

Petitioner asserts that Cinsa's revalued depreciation expense, as reported on the Company's audited financial statements, must be included in COP and CV. Petitioner contends that failure to use Cinsa's revalued depreciation in COP and CV would significantly understate and distort Cinsa's actual costs. Furthermore, the petitioner states that the inclusion of the revalued depreciation expense is consistent with the final results of Cinsa's fourth and fifth administrative reviews. (See, *Final Results of Antidumping Duty Administrative Review: Porcelain-On-Steel Cooking Ware From Mexico*, 60 FR, 2378, 2378 (January 9, 1995) and 58 FR, 43327, 43331 (August 16, 1993), respectively.)

Cinsa contends that increasing the Company's depreciation expense for the effects of the revaluation of its assets is contrary to law because it distorts the actual COP of the subject merchandise. Cinsa argues that the revaluation of its assets has no fiscal effect on the Company and is only required for financial statement purposes. Thus, the inclusion of revalued depreciation overstates the actual depreciation expense incurred in producing subject merchandise. However, Cinsa points out that the submitted cost database provided the necessary information to revalue the Company's depreciation expense.

DOC Position: We agree with petitioner and included Cinsa's revalued depreciation expense in the Company's COP and CV. We disagree with Cinsa's assertion that this inclusion distorts the actual production costs of subject merchandise. It is the Department's policy to adhere to the home market Generally Accepted Accounting Principles (GAAP) as long as they reflect actual costs. In this case, we find the use of revalued depreciation reasonably reflects Cinsa's actual costs. Mexican GAAP require Cinsa to use revalued depreciation in its financial statements. Thus, Mexican GAAP recognizes the effect of inflation upon the value of assets and requires companies to revalue assets to compensate for the change. Depreciation enables companies to spread large expenditures on purchases of machinery and equipment over the expected useful lives of these assets. Not adjusting for the deflation of currency due to inflation results in the depreciation deferred to future years being understated in constant currency terms, and therefore, distorts the Department's COP and CV calculations. Thus, in light of the rate of inflation in Mexico, it would be distortive to use historical depreciation in this case.

The Department's determination to use revalued rather than historical depreciation in accordance with home market GAAP was most recently upheld by the Court of International Trade in *Laclede Steel Co. v. United States* Slip op. 91–160 at 29 (October 12, 1994). In *Laclede Steel*, the Court found that depreciation expense based on the historical method rather than depreciation expense based on the revalued method would distort the production costs of the company because such a methodology would overlook the significant impact that revaluing the assets had on the company. We find the Court's analysis in *Laclede Steel* instructive with respect to the instant review. Due to the revaluation of assets as reflected on Cinsa's financial statements, Cinsa would enjoy an increase to its equity values reflected on the Company's balance sheet, a potentially enhanced stock value resulting from greater equity, and an improved ability to borrow or acquire capital. Therefore, the Department followed Mexican GAAP and adjusted CINSA's COP data to

reflect the revalued depreciation. We note, although it is not binding precedent, a NAFTA Panel has affirmed the Department's use of revalued depreciation for Cinsa in the fifth administrative review in *In the Matter of Porcelain-on-Steel Cookware From Mexico,* USA–95–1904–01 (April 30, 1996) (*POS Cookware*), at 31.

Comment 2: Inclusion of Home Market Sales of Second-Quality Merchandise in the Cost Test

Petitioner argues that the Department's exclusion of sales of second-quality merchandise from the preliminary cost test was inappropriate, and that such sales should be included in the cost test for purposes of the final results. Petitioner contends that the Department's preliminary results in this regard are inconsistent with its standard practice, including its previous practice in reviews of imports subject to this order. In addition, petitioner argues that the exclusion of second-quality cookware from the cost test had a significant impact on the number of home market products the Department preliminarily found to be sold below cost in significant quantities over an extended period of time. Finally, according to petitioner, because there is no evidence on the record of this review to support the Department's exclusion of these sales, they should be included in the cost test for the final results.

Cinsa argues that the Department properly limited the cost test to first quality merchandise. Cinsa asserts that the practice of comparing U.S. sales of first quality POS cookware to an FMV based on home market sales of first quality POS cookware dates from the original investigation. According to respondent, because the product matching criteria used by the Department already excluded second quality merchandise from the pool of home market sales upon which FMV could be based, the cost test was properly applied to those sales eligible for inclusion in the calculation of FMV (*i.e.*, first quality home market sales). Moreover, Cinsa contends that petitioner would have the Department include Cinsa's home market sales of second quality merchandise only for purposes of the cost test, but would continue to insist that the Department exclude such sales from the FMV calculation, even if these sales pass the cost test.

DOC Position: We agree with petitioner that all home market sales of both first and second quality merchandise should be included in the cost test. However, we disagree with both petitioner and respondent that the Department failed to include these sales in the cost test performed in the preliminary results. The cost test covered all home market sales of such or similar merchandise covered by the scope of the order (*i.e.*, both first and second quality merchandise). Petitioner and respondent apparently misinterpreted the computer program the Department used for the preliminary results. *See,* Memorandum from Analyst to The File dated May 20, 1996, for a more detailed discussion of this issue.

Cinsa is correct in its assertion that the Department's margin program compared U.S. sales of first quality cookware to home market sales of first quality cookware, as was done in the original investigation as well as in previous reviews. As we stated in the fourth review of *Porcelain-on-Steel Cooking Ware From Mexico: Final Results of Antidumping Duty Administrative Review,* 58 FR 43327 (August 16, 1993), ''We agree that we should compare first quality merchandise sold in the U.S. market with only first quality merchandise sold in the home market . . .'' We did not compare sales of second quality merchandise in the instant review because there were no sales of second quality merchandise in the United States, unlike in the fourth review where second quality merchandise sold in the United States was compared with second quality merchandise sold in the home market.

Comment 3: Addition of Countervailing Duties to APSA's USP

Respondent argues that for purposes of the final results, the Department should recalculate APSA's USP and margin calculations to include the countervailing duty (CVD) assessments as required by law, because the future CVD assessment on entries of the subject merchandise entered during the instant review period has already been determined. Accordingly, respondent contends that for the final results APSA's USP should be increased by the amount of CVD that will be assessed once these entries are subject to liquidation.

DOC Position: We agree with respondent and have increased APSA's USP by the amount of these CVD, in accordance with section 772(d)(1)(D) of the Act. *See,* ''United States Price'' section of this notice.

Comment 4: Inclusion of Profit Sharing Payments in Cinsa's COP and CV

Cinsa asserts that the inclusion of employee profit-sharing payments as a direct labor expense is contrary to law because the Department's regulations expressly exclude profit-based expenses from the calculation of COP (19 CFR, 353.51(c)). According to Cinsa, this payment is similar to dividend distributions or income tax payments which are not included in COP and CV. Cinsa also asserts that the Company's profit-sharing expense is derived from the Company's profits. Therefore, including the profit-sharing expense results in the double counting of profit because profit is already included in CV.

Petitioner contends that the Department should include profit-sharing expenses in Cinsa's COP and CV. Petitioner points out that Cinsa cites no case in which the Department has treated profit sharing expenses as anything other than labor costs and included these expenses in COP and CV. Petitioner also contends that profit-sharing expenses do relate to production and that the inclusion of these expenses in the calculation of CV does not double count profit.

DOC Position: We disagree with respondent and have included Cinsa's profit-sharing expense in COP and CV because it relates to the compensation of direct labor, a factor of production. We treat profit-sharing distributions to employees in a manner similar to bonuses. Furthermore, we disagree with Cinsa's argument that the profit-sharing expense is similar to profit, dividends, and income tax.

Profit-sharing is not profit because it is an expense which is a reduction to profit. Therefore, profit-sharing is not explicitly excluded from COP calculations under 19 CFR 353.51 (c). As for Cinsa's concern that we doubled counted profit in its CV, we note that profit-sharing expense is not part of the Company's ''profit'' included in CV. The ''profit'' that is included in Cinsa's CV represents the amount that remains after reductions to income, such as the profit-sharing expense.

Cinsa's profit-sharing expense is distinct from dividends in two key respects. First, Cinsa's profit-sharing payments represent a legal obligation to a productive factor in the manufacturing process and not a distribution of profits to the owners of Cinsa. Second, the right to participate in profit-sharing conveys no ownership rights in Cinsa.

Cinsa's profit-sharing expense is unlike an income tax because it is paid to labor. Thus, unlike income taxes paid to the government, profit sharing payments flow directly to a factor of production. Also, Cinsa's income tax is based on taxable income that is net of Cinsa's profit-sharing expense.

We note that, although it is not binding precedent, a NAFTA Panel has

affirmed the Department's inclusion of Cinsa's profit-sharing in COP and CV in the fifth administrative review. *See POS Cookware,* at 37–39.

Comment 5: Calculation of Cinsa's Profit Sharing Expense

Cinsa states the Department's computer program mistakenly overstated the Company's profit-sharing expense in calculating COP and CV.

Petitioner agrees with Cinsa.

DOC Position: We agree with both Cinsa and petitioner and have corrected our calculation of Cinsa's COP and CV for the final results.

Comment 6: Inclusion of the Full Amount of Short-term Interest Income Earned by Cinsa's Corporate Parent in COP and CV

Cinsa contends that the Department's practice of allowing short-term interest income only up to the amount of reported interest expenses is subjective because there is no difference between the short-term interest that was recognized and that which was disregarded. Cinsa further argues that this methodology distorts the actual financial position of the parent and does not reflect the economic reality of the information on the financial statements.

Petitioner argues that it is correct to limit Cinsa's short-term interest income to the amount of interest expense. Petitioner states that interest income in excess of interest expense does not reduce production cost because it is unrelated to a company's operating costs. (See *e.g., Final Results of Antidumping Administrative Review: Porcelain-On-Steel Cooking Ware From Mexico,* 60 FR 2378, 2379, (January 9, 1995); *Final Results of Antidumping Administrative Review: Porcelain-On-Steel Cooking Ware From Mexico,* 58 FR 43327, 43332, (August 16,1993); *Final Determination of Sales at Less Than Fair Value: Steel Wire Rope from Korea,* 58 FR, 11029, 11038 (February 23, 1993).)

DOC Position: We agree with petitioner. It is the Department's normal practice to allow short-term interest income to offset financing costs only up to the amount of such financing costs. (*See, Final Results of Antidumping Administrative Review: Porcelain-On-Steel Cooking Ware From Mexico,* 60 FR 2378, 2379, (January 9, 1995); *Final Results of Antidumping Administrative Review Porcelain-On-Steel Cooking Ware From Mexico,* 58 FR 43327, 43332, (August 16,1993); *Final Determination of Sales at Less Than Fair Value: Steel Wire Rope from Korea,* 58 FR, 11029, 11038 (February 23, 1993); *Final Results of Antidumping Administrative Review Frozen Concentrated Orange Juice from Brazil;* 55 FR 26721 (June 29, 1990); *Final Results of Antidumping Administrative Review: Brass Sheet and Strip from Canada,* (55 FR, 31414, (August 2, 1990); and, *Final Determination of Sales at less than Fair Market Value; Sweaters from Taiwan,* 55 FR, 34585, (August 23, 1990).) The Department reduces interest expense by the amount of short-term income to the extent finance costs are included in COP. Using total short-term interest income to reduce production cost, as suggested by Cinsa, would permit companies with large short-term investment activity to sell their products below the COP. The application of excess interest income to production costs would distort a company's actual costs. Interest income does not lessen the burden of other costs, regardless of how much excess interest income there is; labor will still have its cost, as will materials and factory overhead. Accordingly, we limited the amount of the offset to the amount of the expense from the related activity.

We note that, although it is not binding precedent, a NAFTA Panel has affirmed the Department's calculation of interest expense in COP and CV in the fifth administrative review. *See POS Cookware,* at 42–45.

Final Results of Review

As a result of our review, we determine that the following margins exist for the period December 1, 1991, through November 30, 1992:

Manufacturer/exporter	Review period	Margin (percent)
APSA	12/1/91–11/30/92	1.44
Cinsa	12/1/91–11/30/92	5.40

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed companies will be as outlined above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, an earlier review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the LTFV investigation, whichever is the most recent; (4) the cash deposit rate for all other manufacturers or exporters will be 29.52 percent, the ''all others'' rate established in the original LTFV investigation by the Department.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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 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 notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 9, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–26833 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–DS–P

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

ACTION: Notice of binational panel decision.

SUMMARY: On September 13, 1996 the Binational Panel issued its decision in the review of the final antidumping duty administrative review made by the International Trade Administration (ITA) respecting Gray Portland Cement and Cement Clinker from Mexico, Secretariat File No. USA–95–1904–02. The Binational Panel unanimously affirmed the final determination. A copy of the complete Panel decision is available from the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686). The Binational Panel review in this matter was conducted in accordance with these Rules.

Background

On June 16, 1995 Cemex, S.A. de C.V. filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination that was published in the Federal Register on January 9, 1995 (60 FR 2378) and Amended on May 19, 1995 (60 FR 26,865). Briefs were filed by all participants and oral argument was held in accordance with the Rules.

Panel Decision

In its September 13 decision, the Binational Panel unanimously affirmed the Commerce Department's final determination in all respects.

Dated: September 26, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–26853 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of binational panel decision.

SUMMARY: On September 12, 1996 the Binational Panel issued its decision in the review of the final antidumping duty administrative review made by the Secretaria de Comercio y Fomento Industrial de Mexico (SECOFI) respecting Solid and Crystal Polystyrene from the Federal Republic of Germany and the United States of America, Secretariat File No. MEX–94–1904–03. A majority of the Binational Panel affirmed the final determination. A copy of the complete Panel decision in Spanish is available from the NAFTA Secretariat, and an English translation of the majority opinion is also available.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

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Background

On December 9, 1994 Muehlstein International, Ltd. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination that was published in the *Diario Oficial* on November 11, 1994. Briefs were filed by all participants and oral argument was held in accordance with the Rules.

Panel Decision

In its September 12 decision, the Binational Panel majority affirmed the final determination in all respects. One panelist wrote a concurring opinion agreeing in the result but differing in several areas from the majority's reasoning. One panelist dissented completely from the majority opinion.

Dated: September 26, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–26854 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–GT–M

Patent and Trademark Office

[Docket #: 950411100–6267–02]

RIN 0651–XX01

Extension of the Payor Number Practice (Through ''Customer Numbers'') to Matters Involving Pending Patent Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of change in procedure.

SUMMARY: The Patent and Trademark Office (PTO) is extending the Payor Number practice to matters involving pending patent applications. Payor Numbers are currently used to establish a ''fee address'' for receipt of maintenance fee correspondence. Through the use of ''Customer Numbers,'' the PTO will extend the Payor Number practice to matters involving patent applications. Under this Customer Number practice, an applicant (or patentee) will be able to use a Customer Number to: (1) designate the address associated with the Customer Number as the correspondence address for an application (or patent); (2) designate the address associated with the Customer Number as the fee address (37 CFR

1.363) for a patent; and (3) submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number. The change of either the address or practitioners having a power of attorney in multiple patent applications through a single paper directed to the Customer Number should result in savings to the attorney, agent, or law firm, as well as the PTO.

EFFECTIVE DATE: November 1, 1996. Any request to change the correspondence address of a pending application to the address associated with a currently assigned Payor Number filed *before* November 1, 1996 will *not* be effective until November 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr by telephone at (703) 305–9285 or by facsimile at (703) 308–6916, or by mail addressed to Box Comments—Patents, Assistant Commissioner for Patents, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Payor Numbers are currently used to establish a ''fee address'' for receipt of maintenance fee correspondence. Such Payor Numbers permit, *inter alia,* an attorney, agent or law firm to file a single change of address paper for the Payor Number, and this change of address is effective for every patent designating the address associated with the Payor Number as the correspondence address for the patent. This Payor Number practice avoids the filing of a separate change of address paper for every patent affected by the change of address.

In a Notice entitled ''Extension of the Use of Payor Numbers to Matters Involving Pending Patent Applications'' (Payor Number Notice), published in the Federal Register at 60 FR 26026–28 (May 16, 1995), and in the PTO *Official Gazette* at 1175 *Off. Gaz. Pat. Office* 14–15 (June 6, 1995), the PTO proposed to extend the current Payor Number practice to matters involving pending patent applications. In view of the comments received in response to the Payor Number Notice, the PTO is adopting the following ''Customer Number'' practice.

Currently assigned ''Payor Numbers'' will be redesignated as ''Customer Numbers'' to avoid requiring persons or organizations currently assigned a Payor Number to request a ''new'' Customer Number. Thus, persons or organizations currently assigned a ''Payor Number'' should not request a new ''Customer Number.'' Persons or organizations not currently assigned a Payor Number can request assignment of ''new'' Customer Numbers.

The PTO has created a box designation for correspondence related to a Customer Number (''Box CN''), and all correspondence related to a Customer Number (*e.g.,* requests for a Customer Number) should be addressed to this box designation.

The PTO will provide standard forms to: (1) request a Customer Number (PTO/SB/125); (2) request a change in the data (address or list of practitioners) associated with an existing Customer Number (PTO/SB/124); (3) change the correspondence address of an individual application (PTO/SB/122) or patent (PTO/SB/123) to the address associated with a Customer Number; or (4) change the correspondence address of a list of applications or patents to the address associated with a Customer Number (PTO/SB/121). The PTO is also modifying its current standard forms (*e.g.,* the declaration form) to permit: (1) the designation of the address associated with the Customer Number as the correspondence address for an application; (2) designation of the address associated with the Customer Number as the fee address for a patent; and (3) the submission of a power of attorney in the application to the practitioners associated with the Customer Number. The forms provided by the Office may be obtained by contacting the Customer Service Center of the Office of Initial Patent Examination at (703) 308–1214. Also, many standard forms have been loaded on the PTO's Internet Website and may be electronically copied *via* the Internet through anonymous file transfer protocol (ftp) (address: ftp.uspto.gov). While using the standardized forms provided by the PTO is encouraged, it is not mandatory.

This notice of change in procedure contains a collection of information subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This collection of information is currently approved by the Office of Management and Budget under Control No. 0651–0035. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of System Quality and Enhancement, Data Administration Division, Patent and Trademark Office, Washington, D.C. 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: Paperwork Reduction Act Project 0651–0035).

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

The PTO will also accept requests submitted electronically *via* a computer-readable diskette to: (1) change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number; and (2) submit a power of attorney in a list of applications or patents to the registered practitioners associated with the Customer Number. Persons electronically submitting such a request *must* submit an IBM-compatible diskette containing a Microsoft Excel spreadsheet, or a comma separated text file which can be imported into Microsoft Excel spreadsheet, formatted as follows: (1) row 1, column B containing the six-digit Customer Number; (2) row 2 being blank; (3) rows 3 through 9 containing the address associated with the Customer Number; (4) rows 10 through 15 being blank; and (5) row 16 starting with the list of patents or applications with column A containing the patent number (if appropriate), column B containing the application number, column C containing the patent date (if appropriate), column D containing the application filing date, column E indicating ''YES'' or ''NO'' to designate assignment of the address associated with the Customer Number as the correspondence address of the application or patent, column F indicating ''YES'' or ''NO'' to designate assignment of the registered practitioners associated with the Customer Number as the list of persons having a power of attorney in the applications or patents, and column G indicating ''YES'' or ''NO'' to designate assignment of the address associated with the Customer Number as the fee address of the patent.

The patent number (if appropriate), application number, patent date (if appropriate), and application filing date are being required as redundant identifiers to avoid changing the correspondence or fee address or entering a power of attorney in the wrong patent or application due to a typographical error in the patent or application number. The PTO will enter a change in correspondence or fee address or power of attorney in a listed application or patent only if the following identifiers are provided: (1) the patent number and the corresponding application number; (2) the patent number and the corresponding patent date; (3) the

application number and the corresponding filing date; (4) the patent number and the corresponding application filing date; and (5) the application number and the corresponding patent date.

A sample spreadsheet is included as an Appendix A to this notice of change in procedure. The phrase ''Customer Number'' in row 1, column A, and ''Requester (Attorney/Firm) Information'' in row 3, as well as the information provided in rows 10 through 15, are provided on the sample spreadsheet for explanatory purposes only, and should *not* be included on any spreadsheet submitted to the PTO.

The diskette must be accompanied by a paper copy of the spreadsheet and a cover letter requesting entry of the changes contained on the spreadsheet into PTO records for the listed applications or patents. In addition, for any application or patent listed on such spreadsheet, the cover letter must be signed by the applicant or patentee, assignee in compliance with 37 CFR 3.73(b), or registered practitioner of record in the patent or application. The PTO will issue a written confirmation of the list of applications or patents indicating the change(s) entered into PTO records.

Through the use of ''Customer Numbers,'' the PTO is extending the ''fee address'' practice to matters involving pending patent applications to permit: (1) the designation of the correspondence address of a patent application by a Customer Number such that the correspondence address for the patent application would be the address associated with the Customer Number; (2) the designation of the fee address of a patent by a Customer Number such that the fee address for the patent would be the address associated with the Customer Number; and (3) the submission of a list of practitioners by a Customer Number such that an applicant may in a Power of Attorney appoint those practitioners associated with the Customer Number. While this notice discusses this new Customer Number practice as it regards patent applications and applicants, it will apply equally to patents and patentees.

The designation in a patent application of a specific Customer Number as the correspondence address for such application will permit an attorney, agent or law firm to file a single paper containing a change of address, rather than a separate paper in each application, and this change of address paper will be applicable to all applications designating the Customer Number as the correspondence address for such application. The designation of a Customer Number as the correspondence address for a patent application is optional, in that any application not designating a Customer Number as the correspondence address will not be affected by a change of address filed for a Customer Number, even if the correspondence address provided for such application is that of an attorney, agent, or law firm associated with a Customer Number. The change of address in multiple patent applications through a single paper directed to the Customer Number, rather than through individual letters directed to each application, will result in savings to the attorney, agent or law firm, as well as the PTO.

This new Customer Number practice will not affect the current practice of permitting a patentee to provide a ''fee address'' for the receipt of maintenance fee correspondence. A patentee will be able to designate a ''fee address'' for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a ''fee address'' by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the PTO will send maintenance fee correspondence to the address associated with the Customer Number designated as the ''fee address'' and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.

The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (*i.e.,* without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number will be optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application.

Currently, the PTO must individually enter into the Patent Application Location and Monitoring (PALM) system the registration number for each practitioner appointed to represent the applicant in a patent application. The change of persons authorized to represent applicants in multiple patent applications through a single paper directing the PTO to change its records concerning the Customer Number will require only a single entry into the PALM system, where the change of persons authorized to represent applicants in multiple patent applications through individual letters directed to each application require a separate entry into the PALM system for each affected application. Thus, the use of Customer Numbers in a Power of Attorney will significantly reduce the amount of data which must be entered into the PALM system, and would thus result in savings to the PTO. In addition, permitting a change of persons authorized to represent applicants in multiple patent applications through a single paper directing the PTO to change its records concerning the Customer Number would result in similar savings to the attorney, agent, or law firm.

As the PTO will not recognize more than one correspondence address (37 CFR 1.34(c)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number. Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources.

The following are examples of language effective to provide as the correspondence address the address of, and appoint those practitioners associated with, a Customer Number:

1. The following language would be effective to appoint those practitioners individually listed, and provide as the correspondence address the address of Customer Number 99,999:

I hereby appoint the following practitioners to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John Doe, Registration No. 99,991, Jane Doe, Registration No. 99,992 and Richard Doe, Registration No. 99,993.

Address all correspondence to: Customer Number 99,999.

2. The following language would be effective to appoint those practitioners associated with, and provide as the correspondence address the address of, Customer Number 99,999:

I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:
Customer Number 99,999.

Response to Comments

Eleven comments were received in response to the Payor Number Notice. The written comments have been analyzed, and responses to the comments follow.

Comment (1): Ten comments supported the proposed extension of use of the Payor Number practice to matters involving pending patent applications.

Response: In view of the positive response to this proposed extension of use of the Payor Number practice to matters involving pending patent applications, the PTO is extending the Payor Number practice to matters involving pending patent applications.

Comment (2): One comment opposed combining the maintenance fee Payor Number with the practitioner responsible for the application or patent. The comment argued that, in many instances, a client instructs a practitioner that a particular service organization is responsible for the payment of maintenance fees, and, while the practitioner continues as counsel of record and receives correspondence unrelated to maintenance fees (*e.g.*, reexamination or interference notices), the client advises that the practitioner is no longer responsible for payment of the maintenance fees or even reminding the client of the due date for paying such fees.

Response: As discussed *supra*, the implemented ''Customer Number'' practice will not affect the current practice of providing a ''fee address'' for correspondence relating to the payment of maintenance fees. While the current ''Payor Numbers'' will be redesignated as ''Customer Numbers,'' a patentee will be permitted to specify a ''fee address'' by reference to one Customer Number (*e.g.*, the Customer or Payor Number of a maintenance fee service organization) and a correspondence address by reference to another Customer Number (*e.g.*, the Customer Number of the attorney or agent of record). Designating a ''fee address'' for maintenance fee payment purposes, by Customer Number or otherwise, will not affect the correspondence address for correspondence unrelated to maintenance fees, regardless of whether the correspondence address is also specified by a Customer Number. Likewise, providing a ''fee address'' for maintenance fee payment purposes, by Customer Number or otherwise, will not affect any previous appointments of practitioners.

Comment (3): One comment cautioned that sufficient safeguards be built into the system to avoid errors. Specifically, the comment cautioned that: (1) a data entry error in the Customer Number in one application (a key field error) would result in correspondence for that application being sent to an entirely different address; (2) a single error in the look-up data base would result in correspondence for every application designating a particular Customer Number being sent to an entirely different address; and (3) an indexing or programming error affecting the entire look-up data base could result in correspondence for every application designating any Customer Number being sent to an entirely different address.

Response: Currently, the application number is entered into the PALM data base to look-up the actual address (*i.e.*, the application number is a key field). Thus, the risk of error in the improper entry of a Customer Number is no greater than the current risk of error in the improper entry of an application number. Nevertheless, the PTO endeavors to reduce such errors by requiring that employees check the returned application data.

To avoid errors in information associated with a Customer Number, the PTO will double enter the Customer Number anytime there is a change to the information associated with the Customer Number. In addition, the PTO is in the process of developing Customer Number bar code labels for use on incoming requests for changes to the information associated with a Customer Number to permit scanning and reduce data entry errors.

In any event, errors in the look-up data base would result in correspondence for every application designating a particular Customer Number being sent to an entirely different address, and indexing or programming errors affecting the entire look-up data base could result in correspondence for every application designating any Customer Number being sent to an entirely different address. These errors would result in mismailings of such magnitude that it would be readily apparent to the attorney, agent or law firm of the Customer Number, if not the PTO, that an error has occurred.

Comment (4): Three comments suggested that registration numbers be used as Customer Numbers.

Response: The suggestion has not been adopted. The PTO currently has a data base of addresses (*i.e.*, fee addresses) associated with the current Payor Numbers that will be redesignated as ''Customer Numbers.'' To avoid an adverse impact on the current fee address practice, the Customer Number practice is being implemented using the existing fee address data base. Thus, the PTO cannot use registration numbers as Customer Numbers since newly assigned Customer Numbers must be compatible with the existing Payor Numbers.

Comment (5): One comment suggested that a Power of Attorney be permitted to include the practitioners associated with a Customer Number and no more than one additional practitioner. The comment argued that clients will desire to name a responsible person in the Power of Attorney, and that this would also be helpful in the event that a practitioner withdraws from a law firm and the client continues with that practitioner. The comment cautioned that if this is not permitted, each practitioner will establish his or her own Customer Number, resulting in the appointment of a large number of Customer Numbers.

Response: The comment is adopted only to the extent indicated. To accommodate the desire of a client to see the responsible person mentioned by name in the Power of Attorney, a Power of Attorney appointing the practitioners associated with a specific Customer Number may also specifically mention any of the practitioners associated with such Customer Number. This mention may designate the responsible practitioner(s) as the principal attorney(s) or agent(s) in the application. In a Power of Attorney appointing those practitioners associated with a Customer Number, the specific mentioning of practitioner(s) will be ineffective to appoint a practitioner not associated with the Customer Number.

As discussed *supra*, the entry of a single Customer Number, rather than the individual registration number of each practitioner, into the PALM system is a primary benefit of permitting the appointment of a list of practitioners by Customer Number. As the individually listed practitioner is ostensibly among those practitioners associated with the Customer Number provided in the

Power of Attorney, requiring the PTO to enter the individual registration numbers of a list of practitioners associated with a Customer Number, as well as the Customer Number, would frustrate this benefit. Thus, the PTO will treat such an appointment as an appointment of *only* those practitioners associated with the Customer Number.

Customer Numbers are designed to serve the dual purpose of providing a correspondence address, and providing the list of practitioners appointed with a power of attorney. Due to the prohibition against dual correspondence (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number, and thus correspondence address, for the application. In an instance in which an applicant provides more than one Customer Number, the last provided Customer Number is controlling.

Thus, the appointment of a plurality (much less a large number) of Customer Numbers will result in the PTO recognizing only the last mentioned Customer Number. Applicants are strongly cautioned not to attempt to appoint more than one Customer Number in a single communication, as such action will *not* have a cumulative effect.

Comment (6): Three comments suggested that in this new context, the term ''Payor Number'' could cause confusion, and would be demeaning to applicants and their representatives.

Response: In view of these comments, the term ''Customer Number'' has been used to describe the number having an address or a list of practitioners associated with such number. The term ''Payor Number'' was used in the Payor Number Notice as this term had a specific meaning with regard to the ''fee address'' for maintenance fee correspondence, and thus served to provide a frame of reference for the extension of such practice.

Comment (7): One comment suggested that the form of appointment refer to registered practitioners, rather than attorneys and agents.

Response: The PTO does not require any specific form of appointment (*i.e.*, the forms of appointment in the Payor Number Notice were merely exemplary). Nevertheless, the phrase ''practitioner'' is defined in 37 CFR 10.1(r), and ''registered practitioners'' is considered preferable to ''attorneys or agents'' or ''attorneys and agents.'' As such, the PTO will change its standardized forms of appointment to refer to ''registered practitioners.''

Comment (8): One comment questioned the form and effect of an appointment of all practitioners associated with a Customer Number. The comment specifically questioned whether the practitioner would have to obtain a new power of attorney in a situation in which: (1) a practitioner is associated with the Customer Number of a law firm, and is thus appointed in every application appointing the practitioners associated with that Customer Number; (2) the practitioner subsequently leaves the law firm; and (3) an applicant in an application appointing the practitioners associated with the law firm's Customer Number continues with the practitioner leaving the law firm.

Response: The practitioner should obtain a new power of attorney to continue to have a power of attorney in the application. An appointment in an application of the practitioners associated with a particular Customer Number is the appointment of each of the practitioners associated with that Customer Number at the time any practitioner associated with such Customer Number seek to act for the applicant. With such an appointment, a practitioner is of record until removed from the Customer Number (*i.e.*, until the practitioner is no longer associated with the Customer Number). As the practitioner's former law firm should promptly remove such practitioner from the list of practitioners associated with the law firm's Customer Number, a new power of attorney will be necessary for the practitioner to continue to have a power of attorney in the application.

In an instance in which a particular practitioner in a law firm has a significant number of clients who are clients of the practitioner rather than the law firm (*i.e.*, clients who would prefer to be represented by the practitioner, rather than the law firm, in the event that the practitioner left the law firm), such practitioner should consider establishing a Customer Number separate from the law firm's Customer Number. This would permit the clients of the practitioner to appoint a power of attorney to the practitioners associated with the practitioner's, rather than the law firm's, Customer Number. The practitioner can list any or all of the practitioners in the law firm as practitioners associated with the Customer Number, and can change the practitioners associated with the Customer Number in the event that the practitioner left the law firm. This would avoid the necessity for a new power of attorney in the event that the practitioner leaves the law firm.

Comment (9): One comment suggested that the proposed practice be extended to trademark applications.

Response: The suggestion has been forwarded to the Assistant Commissioner for Trademarks for consideration.

Comment (10): One comment suggested that procedures be adopted such that this number could be utilized informally to identify the source of documents such as drawings, certified copies, *etc.*, by including this number on the back of the document.

Response: There is no prohibition against using a Customer Number on the back of a document to informally identify the source of the document. That is, while 37 CFR 1.52(b) and 1.84(e) provide that the application papers contain writing or drawings only on one side of a sheet, these provisions are directed to the writing and drawings forming the application papers. Thus, the inclusion of identifying information on the back of a sheet simply results in that information not being considered part of the application papers. However, the inclusion of a Customer Number to informally identify the source of a document is not a substitute for the inclusion on the document of the application number to which the document is directed. In addition, a telephone number should also be provided on such document, as the Customer Number will not provide the telephone number (but only the address) of the source of the document.

Comment (11): One comment suggested that the PTO update the address of all registered practitioners in the Office of Enrollment and Discipline (OED) index by a change in the Customer Number address.

Response: The suggestion has been forwarded to OED for consideration.

Dated: October 15, 1996.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 96–26845 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–16–P

Announcement of Membership of the Patent and Trademark Office Performance Review Board

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), the Patent and Trademark Office announces the appointment of persons to serve as members of its Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Alethea Long-Green, Director, Office of Human Resources, Patent and

Trademark Office, One Crystal Park, Suite 700, Washington, DC 20231 or telephone (703) 305–8062.

SUPPLEMENTARY INFORMATION: The new membership of the Patent and Trademark Office Performance Review Board is as follows:

Bradford R. Huther, Chairman, Associate Commissioner and Chief Financial Officer, Patent and Trademark Office, Washington, DC 20231, Term—expires September 30, 1998

Richard V. Fisher, Director, Patent Examining Group, Patent and Trademark Office, Washington, DC 20231, Term—expires September 30, 1998

Jin F. Ng, Deputy Director, Patent Examining Group, Patent and Trademark Office, Washington, DC 20231, Term—expires September 30, 1998

Frederick T. Alt, Principal Associate Director and Chief Financial Officer, Bureau of the Census, Washington, DC 20233, Term—expires September 30, 1998

Robert M. Anderson, Deputy Assistant Commissioner for Trademarks, Patent and Trademark Office, Washington, DC 20231, Term—expires September 30, 1997

Karl E. Bell, Deputy Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899, Term—expires September 30, 1997

Virginia B. Robinson, Executive Director, Joint Financial Management Improvement Program, Washington, DC 20548, Term—expires September 30, 1998

Tina Sung, Director, Federal Quality Institute Consulting Group, National Performance Review,Washington, DC 20006, Term—expires September 30, 1998

Dated: October 10, 1996.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 96–26841 Filed 10–18–96; 8:45 am]

BILLING CODE 3510–16–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, November 22, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–27016 Filed 10–17–96; 10:10 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, November 15, 1996.

PLACE: 1155 21st St., NW., Washington, DC, 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–27017 Filed 10–17–96; 10:10 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, November 8, 1996.

PLACE: 1155 21st St., NW., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–27018 Filed 10–17–96; 10:10 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, November 1, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–27019 Filed 10–17–96; 10:10 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, November 29, 1996.

PLACE: 1155 21st ST., NW., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–27020 Filed 10–17–96; 10:10 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Navy Planning and Steering Advisory Committee

ACTION: Notice.

SUMMARY: The Navy Planning and Steering Advisory Committee (NPSAC) has been renewed in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.''

The NPSAC provides objective advice and recommendations to the Secretary of Defense, the Secretary of the Navy, and the Chief of Naval Operations on matters relating to ballistic missile security and anti-submarine warfare. The committee establishes a technical dialogue between experts from the public and private sectors on matters of national security involving the ballistic missile program.

The NPSAC will be composed of approximately 25 members, from government and private academic, scientific, and intelligence communities who are experts in the disciplines of ballistic missile security and anti-submarine warfare, thus ensuring a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

For further information regarding the JACNWS, contact: Joyce Moore, Department of the Navy, telephone: 703–602–4039.

Dated: October 10, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–26938 Filed 10–18–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

ARMS Initiative Implementation

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national emergency. This meeting will update attendees on the status of ongoing actions with decisions being made to close out or continue these actions. Goals will be set for the future of the PPTF. This meeting is open to the public.

DATES OF MEETING: December 9–10, 1996.

PLACE OF MEETING: Radison Quadcity Plaza, 111 E. 2nd Street, Davenport, Iowa 52801.

TIME OF MEETING: 8:00 AM–5:00 PM, December 9, 1996 and 8:00 AM–12:30 PM, December 10, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Elwood H. Weber, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria Virginia 22333; Phone (703) 617–9788.

SUPPLEMENTARY INFORMATION: Reservations must be made directly with the Radisson Quadcity Plaza; telephone (319) 322–2200. Please be sure to mention that you will be attending the ARMS PPTF meeting to assure occupancy in the block of rooms set aside for this meeting. Shuttle bus service is available from the Quadcity Airport to the hotel. Request you contact Trudy Halgren in the ARMS Team Office at Rock Island Arsenal; telephone (309) 782–6877, if you will be attending the meeting, so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–26873 Filed 10–18–96; 8:45 am]

BILLING CODE 3710–08–M

Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, West Point, New York.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

NAME OF COMMITTEE: Board of Visitors, United States Military Academy.

DATE OF MEETING: November 8, 1996.

PLACE OF MEETING: Superintendent's Conference Room, Taylor Hall, United States Military Academy, West Point, New York.

START TIME OF MEETING: 8:00 a.m.

PROPOSED AGENDA: Review of USMA Response to 1995 Report Recommendations, Review and approval of Annual Report, Discussion and Planning for 1997 Organizational Meeting and Related Issues. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John J. Luther, United States Military Academy, West Point, NY 10996–5000, (914) 938–5078.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–26869 Filed 10–18–96; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive, or Partially-Exclusive Licensing of Acoustic Monitoring Technology

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 announcement is made of the availability of U.S. Patent 5,515,865, ''Sudden Infant Death Syndrome (SIS) Monitor and Stimulator, and U.S. Patent Applications RL 95–9 ''Acoustic Monitoring System'' and ARL 96–33a ''Motion and Sound Monitor and Stimulator'' for non-exclusive, exclusive or partially exclusive licensing. This patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent involves a movement and sound monitor and stimulator which is particularly useful for preventing death in human infants from sudden infant death syndrome and other uses. The two related U.S. patent applications concern this and other uses of this invention and some improvements thereto.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the Army Research Laboratory wishes to license this U.S. patent and related applications in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using and/or selling devices or processes covered by this patent.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Vaught, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Adelphi, MD 20783–1197; tel: (301) 394–2952; fax: (301) 394–5815; e-mail: nvaught@arl.mil

SUPPLEMENTARY INFORMATION: Written objections must be filed within 3 months from the date of publication of this notice in the Federal Register.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–26871 Filed 10–18–96; 8:45 am]

BILLING CODE 3710–08–M

Exclusive License Announcement

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7(a)(I)(i), announcement is made of a prospective exclusive license of U.S. Patent 5,515,865, ''Sudden Infant Death Syndrome (SIS) Monitor and Stimulator,'' and two related pending U.S. patent applications entitled ''Acoustic Monitoring System'' and ''Motion and Sound Monitor and Stimulator'' for the purpose of manufacturing, using, and selling a product for monitoring and stimulating infants as well as others afflicted with apnea.

This invention is described as a movement and sound monitor and stimulator which is particularly useful for preventing death in human infants from sudden infant death syndrome and other uses. The two related U.S. patent applications concern this and other uses of this invention and some improvements thereto.

The rights to these United States Patents and related Patent Applications are owned by the United States of America, as represented by the Secretary of the Army. Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and section 207 of title 35 United States Code, the Department of the Army, as represented by the U.S. Army Research Laboratory, intends to grant a limited term exclusive license of the above mentioned patent and applications to Vestaguard Corporation, Waukeegan, IL, for infant SIDS and adult apnea monitor and stimulation purposes.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Vaught, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Adelphi, MD 20783–1197; tel: (301) 394–2952; fax: (301) 394–5815; e-mail: nvaught@arl.mil.

SUPPLEMENTARY INFORMATION: Pursuant to 37 CFR 404.7(a)(I)(i), any interested party may file written objections to this prospective exclusive license arrangement. Written objections should be directed to the above address on or before 60 days from the publication of this notice.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–26872 Filed 10–18–96; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Notice of Availability of Surplus Land and Buildings in Accordance With Public Law 103–421 Located at Charles E. Kelly Support Facility, Gater Sage Site, Collier Township, PA

AGENCY: Corps of Engineers, DOD.

ACTION: Public notice of availability.

SUMMARY: This notice identifies Army surplus real property located at the Gater Sage Storage Site, Charles E. Kelly Support Facility, Oakdale, PA. The Storage Site is located in Allegheny County, Collier Township just south of the Community of Oakdale by way of east on Seminary Avenue, south on Steen Hollow Road, and east on SFC Sitman Road.

FOR FURTHER INFORMATION CONTACT: For more information regarding the particular property identified in this Notice (i.e. acreage, floor plans, existing sanitary facilities, exact location), contact Mr. Gerry Bresee, Real Estate Division, Army Corps of Engineers, P.O. Box 1715, Baltimore, MD 21203 (telephone 410–962–5173, fax 410–962–0866).

SUPPLEMENTARY INFORMATION: This surplus is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Mr. Michael B. Kaleugher, Solicitor, Collier Township, 8 Arlington Avenue, Carnegie, Pennsylvania 15106, telephone 412–276–6216, fax 412–276–0567.

The surplus real property totals approximately 5.79 acres and contains 1 building totaling 2938 square feet of space. Current range of uses include storage and administrative. Future uses may include administrative, storage, residential, or park and recreation.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–26870 Filed 10–18–96; 8:45 am]

BILLING CODE 3710–01–M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 3:00 p.m., November 4, 1996.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open-under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. MEETING–BOARD OF REGENTS

(1) Approval of Minutes—August 5, 1996
(2) Faculty Matters
(3) Granting of Degrees
(4) Departmental Reports
(5) Financial Report
(6) Report—President, USUHS
(7) Report—Dean, School of Medicine
(8) Report—Dean, Graduate School of Nursing
(9) Comments—Chairman, Board of Regents
(10) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: October 17, 1996.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–27074 Filed 10–17–96; 2:34 pm]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 20, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: October 16, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Under Secretary

Type of Review: New.

Title: Study of Changes in How Public School Districts Provide Title I Services to Eligible Students Attending Private Schools.

Frequency: One time only.

Affected Public: Not-for-profit institutions; State, Local or Tribal Governments, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 840.

Burden Hours: 1,260.

Abstract: ED proposes to survey local Title I directors and representatives of private-school organizations in their districts. The purpose of the survey is to determine how changes in Chapter 1/ Title I legislation has affected (1) the number of private-school students receiving Title I services; (2) consultation between public-school and private-school administrators; and (3) the educational services provided to private-school students. ED will use this information to prepare mandated reports to Congress and to provide effective technical assistance and information to state and local education agencies providing Title I services to private-school students.

[FR Doc. 96–26931 Filed 10–18–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.177A]

Independent Living Services for Older Individuals Who Are Blind; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of program: This program supports projects that—

(a) Provide independent living services to older individuals who are blind;

(b) Conduct activities that will improve or expand services for these individuals; and

(c) Conduct activities to help improve public understanding of the problems of these individuals.

Eligible applicants: Any designated State agency that does not currently have a project funded under this program (in accordance with the priority identified in this notice) and that is authorized to provide rehabilitation services to individuals who are blind is eligible to apply for an award under this competition.

Deadline for transmittal of applications: January 15, 1997.

Deadline for intergovernmental review: March 17, 1997.

Applications available: November 6, 1996.

Available funds: $290,000.

Estimated range of awards: $40,000–$170,000.

Estimated average size of award: $72,500.

Estimated number of awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project period: Up to 36 months.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 367.

Priority: The priority in the notice of final priority for this program, published in the Federal Register on December 27, 1994 (59 FR 66616), applies to this competition.

For applications or information contact: Raymond Melhoff, U.S. Department of Education, 600 Independence Avenue, SW., Room 3327 Switzer Building, Washington, DC 20202–2741. Telephone: (202) 205–9320. Individuals who use a telecommunications device for the deaf (TTD) may call (202) 205–9362.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov/); or on the World Wide Web (at http://gcs.ed.gov/). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program authority: 29 U.S.C. 796f.

Dated: October 11, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–26936 Filed 10–18–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.128G]

Vocational Rehabilitation Service Projects Program for Migratory Agricultural Workers and Seasonal Farmworkers With Disabilities Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of program: To provide grants for vocational rehabilitation services for migratory agricultural workers or seasonal farmworkers with disabilities.

Eligible applicants: State Vocational Rehabilitation Agencies (SVRAs); nonprofit agencies working in collaboration with the SVRAs; and local agencies administering vocational rehabilitation programs under written agreements with SVRAs.

Deadline for transmittal of applications: December 9, 1996.

Deadline for intergovernmental review: February 10, 1997.

Applications available: October 25, 1996.

Available funds: $639,274.

Estimated range of awards: $150,000–$175,000.

Estimated average size of award: $160,000.

Estimated number of awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project period: Up to 60 months.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 369 and 375.

For applications or information contact: Mary Winkler-Chambers, U.S. Department of Education, 600 Independence Avenue, SW., Switzer Building, Washington, DC 20202–2740. Telephone: (202) 205–8435. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov/); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program authority: 29 U.S.C. 777b.

Dated: October 11, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–26935 Filed 10–18–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.129A through R]

Rehabilitation Training: Rehabilitation Long-Term Training Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency

training programs in the specialty of physical medicine and rehabilitation.

Eligible applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for transmittal of applications: December 20, 1996.

Deadline for intergovernmental review: February 18, 1997.

Applications available: October 23, 1996.

Estimated range of awards: $60,000 to $150,000.

Estimated average size of award: $95,000.

Available funds: $5,250,000.

Estimated number of awards: 53.

Note: The Department is not bound by any estimates in this notice.

Project period, maximum number of awards, maximum level of awards, and absolute priorities: The Secretary is conducting a single competition to select a total of 53 awards across the 15 priority areas. The project period and maximum level of awards to be made in each priority area are listed in the following chart. The maximum number of awards to be made are listed in parentheses following each priority area. Applicants shall submit a separate application for each area in which they are interested. Under 34 CFR 75.105(c)(3) and 34 CFR 386.1, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that propose to provide training in one of the following areas of personnel shortage:

CFDA No.	Priority area	Project period	Maximum level of awards
84.129A1	Rehabilitation nursing (2)	Up to 60 months	$100,000
84.129A5	Rehabilitation medicine (4)	Up to 60 months	100,000
84.129A7	Prosthetics and orthotics (2)	Up to 60 months	150,000
84.129C1	Rehabilitation administration (3)	Up to 60 months	100,000
84.129D1	Physical therapy (3)	Up to 36 months	100,000
84.129D3	Occupational therapy (4)	Up to 36 months	100,000
84.129E1	Rehabilitation technology (4)	Up to 36 months	100,000
84.129F1	Vocational evaluation and work adjustment (5)	Up to 36 months	100,000
84.129H1	Rehabilitation of individuals who are mentally ill (5)	Up to 36 months	100,000
84.129J1	Rehabilitation psychology (3)	Up to 36 months	100,000
84.129L1	Undergraduate education in rehabilitation services (6)	Up to 60 months	70,000
84.129M1	Independent living (3)	Up to 36 months	100,000
84.129N1	Speech pathology and audiology (2)	Up to 36 months	70,000
84.129P1	Specialized personnel for rehabilitation of individuals who are blind or have vision impairments (8).	Up to 36 months	100,000
84.129Q1	Rehabilitation of individuals who are deaf or hard of hearing (9)	Up to 36 months	100,000
84.129R1	Job development and job placement services to individuals with disabilities (4).	Up to 36 months	100,000

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, and (b) The regulations for this program in 34 CFR Parts 385 and 386.

For Applications Contact: Joyce R. Jones, U.S. Department of Education, 600 Independence Avenue, SW., Room 3038, Switzer Building, Washington, DC 20202–2649; or call the following telephone number: (202) 205–8351.

For Information Contact: Ellen Chesley, U.S. Department of Education, 600 Independence Avenue, SW., Room 3318, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9481.

For information on a specific training category, please contact the following: For Rehabilitation medicine, Rehabilitation psychology, and Rehabilitation nursing, contact Beverly Brightly, U.S. Department of Education, 600 Independence Avenue, SW., Room 3322, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9561; For Rehabilitation administration, Vocational evaluation and work adjustment, Undergraduate education in rehabilitation services, Independent living, and Job development and job placement services to individuals with disabilities, contact Beverly Steburg, U.S. Department of Education, Region IV, P.O. Box 1691, Atlanta, Georgia 30301. Telephone: (404) 331–0530; For Physical therapy, Occupational therapy, Rehabilitation technology, Speech pathology and audiology, Specialized personnel for rehabilitation of individuals who are blind or have vision impairments, and Rehabilitation of individuals who are deaf or hard of hearing, contact Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, SW., Room 3320, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9481; and, For Rehabilitation of individuals who are mentally ill, contact Ellen Chesley, U.S. Department of Education, 600 Independence Avenue, SW., Room 3322, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9481.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov/); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 774.

Dated: October 16, 1966.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–26937 Filed 10–18–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–358–001]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 15, 1996.

Take notice that on October 9, 1996, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to be effective on October 1, 1996:

Sub. Eighteenth Revised Sheet No. 5

On August 30, 1996, National Fuel filed in Docket No. RP96–358–000 a revised Transportation and Storage Cost Adjustment Surcharge (TSCA) which also reflected an Annual Charge Adjustment (ACA) Surcharge of $.0023 per Dth. This revised ACA Surcharge was filed by National Fuel on August 30, 1996 in docket No. TM97–1–16–000. By Order issued September 20, 1996, the Commission approved the TSCA filing. By Order issued September 27, 1996 in Docket No. TM97–1–1–000, et al., the Commission accepted National Fuel's ACA filing subject to the condition that it refile the $.0023 per Dth ACA to reflect the authorized Commission rate of $.0020 per Dth. National Fuel has made that ACA compliance filing. National Fuel hereby is submitting for filing in Docket No. RP96–358–001, the corrected ACA surcharge of $.0020 per Dth.

National Fuel states that copies of this filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26866 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–16–001]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 15, 1996.

Take notice that on October 9, 1996, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to be effective on October 1, 1996:

Sub. Seventeenth Revised Sheet No. 5
Sub. Twelfth Revised Sheet No. 5A
Sub. Fourteenth Revised Sheet No. 6
Sub. Alt. Eighth Revised Sheet No. 6A

National Fuel states that this filing is made in compliance with the Commission's order of September 27, 1996. That Order accepted, subject to conditions, National Fuel's refiling the Annual Charge Adjustment (ACA) unit surcharge to reflect the authorized Commission rate for Fiscal 1997 of $.0020 per Mcf or $$.0020 per Dth when converted to National Fuel's measurement basis.

National Fuel states that copies of this filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26867 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–16–001]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 15, 1996.

Take notice that on October 9, 1996, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to be effective on October 1, 1996:

Sub. Thirteenth Revised Sheet No. 5A

On September 30, 1996, National Fuel filed in Docket No. TM97–2–16–000 a revised quarterly Gathering Amortization Surcharge which also reflected an Annual Charge Adjustment (ACA) Surcharge of $.0023 per Dth. This ACA Surcharge was filed by National Fuel on August 30, 1996 in Docket No. TM97–1–16–000. By Order dated September 27, 1996 in Docket No. TM97–1–1–000, et al., the Commission accepted National Fuel's ACA filing subject to the condition that it refile the $.0023 per Dth ACA to reflect the authorized Commission rate of $.0020 per Dth. National Fuel has made that compliance filing.

Therefore, National Fuel is submitting for filing in Docket No. TM97–2–16–001, the corrected ACA surcharge of $.0020 per Dth.

National Fuel states that copies of this filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154. 210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26868 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL96–27–000, et al.]

Gulf Power Company, et al.; Electric Rate and Corporate Regulation Filings

October 15, 1996.

Take notice that the following filings have been made with the Commission:

1. Gulf Power Company

[Docket No. EL96–27–000]

Take notice that on October 9, 1996, Gulf Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Howell Power Systems, Inc., Valero Power Services Company, Western Power Providers, Inc., American Power Exchange, Inc., Kaztex Energy Ventures, Inc., Peak Energy, Inc., and J.L. Walker and Associates

[Docket Nos. ER94–178–011, ER94–1394–008, ER95–1459–005, ER94–1578–008, ER95–295–008, ER95–379–006, ER95–1261–005 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On October 8, 1996, Howell Power Systems, Inc. filed certain information as required by the Commission's January 14, 1994, order in Docket No. ER94–178–000.

On October 1, 1996, Valero Power Services Company filed certain information as required by the Commission's August 24, 1994, order in Docket No. ER94–1394–000.

On October 4, 1996, Western Power Providers, Inc. filed certain information as required by the Commission's October 10, 1995, order in Docket No. ER95–1459–000.

On October 8, 1996, American Power Exchange, Inc. filed certain information as required by the Commission October 19, 1994, order in Docket No. ER94–1578–000.

On October 7, 1996, Kaztex Energy Ventures, Inc. filed certain information as required by the Commission February 24, 1995, order in Docket No. ER95–295–000.

On October 7, 1996, Peak Energy, Inc. filed certain information as required by the Commission February 24, 1995, order in Docket No. ER95–379–000.

On October 7, 1996, J.L. Walker and Associates filed certain information as required by the Commission August 7, 1995, order in Docket No. ER95–1261–000.

3. Cook Inlet Energy Supply Limited

[Docket No. ER96–1410–001]

Take notice that on October 1, 1996, Cook Inlet Energy Supply Limited tendered for filing a notification of change in its status.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas Corporation

[Docket No. ER96–2206–001]

Take notice that on September 19, 1996, New York State Electric & Gas Corporation tendered for filing a compliance filing in the above-referenced docket.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Dayton Power & Light Company

[Docket No. ER96–2274–000]

Take notice that on October 1, 1996, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. AEP Power Marketing

[Docket No. ER96–2495–001]

Take notice that on October 7, 1996, AEP Power Marketing filed amendments to its Code of Conduct in compliance with the Commission's September 20, 1996, Order Conditionally Accepting For Filing Proposed Market-Based Rates.

AEP Power Marketing, Inc. requests an effective date of September 20, 1996. Copies of the filing were served upon the parties to this docket and the public service commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Power & Light Company

[Docket No. ER96–2789–000]

Take notice that on October 2, 1996, Sierra Pacific Power Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company

[Docket No. ER96–2941–000]

Take notice that on October 8, 1996, Carolina Power & Light Company supplemented the original filing made in this docket on September 6, 1996.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Union Electric Company

[Docket No. ER97–41–000]

Take notice that on October 4, 1996, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated September 6, 1996 between Jpower, Inc. and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to Jpower, Inc. pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Union Electric Company

[Docket No. ER97–42–000]

Take notice that on October 4, 1996, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated September 6, 1996 between PanEnergy Power Services, Inc. (PPS) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to PPS pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Union Electric Company

[Docket No. ER97–43–000]

Take notice that on October 4, 1996, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated September 10, 1996 between Western Power Services, Inc. (WPS) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to WPS pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Union Electric Company

[Docket No. ER97–44–000]

Take notice that on October 4, 1996, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated September 13, 1996 between Williams Energy Services Company (WES) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to WES pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Great Bay Power Corporation

[Docket No. ER97–46–000]

Take notice that on October 4, 1996, Great Bay Power Corporation (Great Bay), tendered for filing three service agreements between Bangor Hydro-Electric Company and Great Bay, PECO Energy Company and Great Bay, and

Orange and Rockland Utilities, Inc. and Great Bay for service under Great Bay's revised Tariff for Short-Term Sales. This Tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The service agreement with Bangor Hydro-Electric Company is proposed to be effective September 23, 1996, the service agreement with PECO Energy Company is proposed to be effective September 24, 1996, and the service agreement with Orange and Rockland Utilities, Inc. is proposed to be effective September 25, 1996.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Southwestern Public Service Company

[Docket No. ER97–47–000]

Take notice that on October 4, 1996, Southwestern Public Service Company (SPS), submitted an Agreement between SPS and Golden Spread Electric Cooperative, Inc. (Golden Spread), dated August 7, 1996, related to and amending the rates, terms, and conditions of SPS's wholesale requirements service to Golden Spread.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Potomac Electric Power Company

[Docket No. ER97–48–000]

Take notice that on October 4, 1996, the Potomac Electric Power Company (Pepco), submitted an agreement for the sale of short-term firm power from Pepco to GPU Service Corporation (GPU) extendable through May 31, 1997. An effective date of October 5, 1996 is requested, with waiver of notice.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER97–49–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 17, 1996 with City of Vineland, New Jersey (Vineland) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Vineland as a customer under the Tariff.

PECO requests an effective date of September 17, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Vineland and to the Pennsylvania Public Utility Commission.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. PECO Energy Company

[Docket No. ER97–50–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996 with AYP Energy, Inc. (AYP) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds AYP as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to AYP and to the Pennsylvania Public Utility Commission.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. PECO Energy Company

[Docket No. ER97–51–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996, with Western Power Services, Inc. (WPS) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds WPS as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to WPS and to the Pennsylvania Public Utility Commission.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. PECO Energy Company

[Docket No. ER97–52–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996 with Wisconsin Electric Power Company (WEPCO) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds WEPCO as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to WEPCO and to the Pennsylvania Public Utility Commission.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER97–53–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996 with USGen Power Services, L.P. (USGen) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds USGen as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to USGen and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. PECO Energy Company

[Docket No. ER97–54–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO), filed a Service Agreement dated September 24, 1996 with Vermont Public Power Supply Authority (VPPSA) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds VPPSA as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to VPPSA and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER97–55–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO), filed a Service Agreement dated September 17, 1996 with Morgan Stanley Capital Group, Inc. (Morgan Stanley) under PECO's FERC Electric Tariff, Original Volume No. 5 (Tariff). The Service Agreement adds Morgan Stanley as a customer under the Tariff.

PECO requests an effective date of September 17, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Morgan Stanley and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. PECO Energy Company

[Docket No. ER97–56–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996 with AYP Energy, Inc. (AYP) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The

Service Agreement adds AYP as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to AYP and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. PECO Energy Company

[Docket No. ER97–57–000]

Take notice that on October 7, 1996, PECO Energy Company (PECO) filed a Service Agreement dated September 24, 1996, with USGen Power Services, L.P. (USGen) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds USGen as a customer under the Tariff.

PECO requests an effective date of September 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to USGen and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Illinois Power Company

[Docket No. ER97–58–000]

Take notice that on October 7, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Morgan Stanley Capital Group, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1996.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Illinois Power Company

[Docket No. ER97–59–000]

Take notice that on October 7, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Madison Gas and Electric Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1996.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Illinois Power Company

[Docket No. ER97–60–000]

Take notice that on October 7, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which QST Energy Trading Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1996.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Niagara Mohawk Power Corporation

[Docket No. ER97–61–000]

Take notice that on October 7, 1996, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and Baltimore Gas and Electric Company (BG&E). This Service Agreement specifies that BG&E has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and BG&E to enter into separately scheduled transactions under which NMPC will sell to BG&E capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of September 20, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC is serving copies of the filing upon the New York State Public Service Commission and BG&E.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Niagara Mohawk Power Corporation

[Docket No. ER97–62–000]

Take notice that on October 7, 1996, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and The Cincinnati Gas & Electric Company, PSI Energy, Inc. (collectively the Cinergy Operating Companies), and Cinergy Services, Inc. as agent for and on behalf of the Cinergy Operating Companies (Cinergy). This Service Agreement specifies that Cinergy has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and Cinergy to enter into separately scheduled transactions under which NMPC will sell to Cinergy capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of September 20, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC is serving copies of the filing upon the New York State Public Service Commission and Cinergy.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Kansas City Power & Light Company

[Docket No. OA97–1–000]

Take notice that on October 1, 1996, Kansas City Power & Light Company tendered for filing an informational filing summarizing the breakdown of the capacity charges pursuant to Order No. 888.

Comment date: November 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26926 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC97–1–000, et al.]

Kincaid Generation, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

October 11, 1996.

Take notice that the following filings have been made with the Commission:

1. Kincaid Generation, L.L.C.

[Docket No. EC97–1–000]

Take notice that on October 8, 1996, Kincaid Generation, L.L.C. filed an application pursuant to Section 203 of the Federal Power Act and Section 33 of the Commission's Regulations for authority to acquire certain facilities located in Sangamon and Christian Counties, Illinois from Commonwealth Edison Company.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Delmarva Power & Light Company

[Docket No. EL97–1–000]

Take notice that on October 1, 1996, Old Dominion Electric Cooperative (''ODEC'') submitted a Motion and Request for Hearing and Refunds with respect to new rates for partial requirements service provided to ODEC by Delmarva Power & Light Company (''DP&L''), effective on June 1, 1996. DP&L is required to calculate new partial requirements rates to ODEC, pursuant to a Rate Formula in a Settlement Agreement that was approved by the Commission in Docket Nos. ER94–1319–000 and TX94–5–000. ODEC requests a hearing on DP&L's lack of adherence to the requirements in that Rate Formula with respect to the mandated utilization of subsidiary account balances to reflect cost of service treatments approved previously by the Commission for DP&L wholesale ratemaking purposes.

Comment date: October 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. NorAm Energy Services, Inc.

[Docket No. ER94–1247–010]

Take notice that on September 30, 1996, NorAm Energy Services, Inc. filed a notice of change in status with respect to the proposed merger between NESI's parent, NorAm Energy Corporation, Houston Industries, Incorporated and Houston Lighting & Power Company. NESI states in the notice that this change in status should not affect NESI's authority to make sales at market-based rates pursuant to its Rate Schedule FERC No. 1, as revised, pending and following the merger.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Progress Power Marketing, Inc.

[Docket No. ER96–2648–000]

Take notice that on September 25, 1996, Progress Power Marketing, Inc. tendered for filing a Notice of Withdrawal of Service Agreement.

Comment date: October 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Oneok Power Marketing Company

[Docket No. ER96–3090–000]

Take notice that on October 3, 1996, Oneok Power Marketing Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Company

[Docket No. ER97–19–000]

Take notice that on October 3, 1996, Carolina Power & Light Company (Carolina), tendered for filing an executed Service Agreement between Carolina and the following Eligible Entities Illinova Power Marketing, Inc., South Carolina Electric & Gas Company, AVP Energy, Inc., American Electric Power Service Corporation, Duke Power Company, Entergy Services, Inc., and Tenaska Power Services Co., Services to each Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Power Company

[Docket No. ER97–20–000]

Take notice that on October 3, 1996, Duke Power Company (Duke), tendered for filing a Market Rate Service Agreement between Duke and Seminole Electric Cooperative, Inc. (Seminole). Duke requests that the Agreement be made effective as of September 3, 1996.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER97–21–000]

Take notice that on October 3, 1996, Duke Power Company (Duke), tendered for filing a Market Rate Service Agreement between Duke and South Carolina Electric & Gas Company (SCE&G). Duke requests that the Agreement be made effective as of September 20, 1996.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–22–000]

Take notice that on October 3, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to LG&E Power Marketing, Inc. (LG&E).

Con Edison states that a copy of this filing has been served by mail upon LG&E.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–23–000]

Take notice that on October 3, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Williams Energy Service Company (WES).

Con Edison states that a copy of this filing has been served by mail upon WES.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–24–000]

Take notice that on October 3, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Western Power Services, Inc. (WPS).

Con Edison states that a copy of this filing has been served by mail upon WPS.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. San Diego Gas & Electric Company

[Docket No. ER97–25–000]

Take notice that on October 3, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and E Prime, Inc., (''E Prime'').

SDG&E requests that the Commission allow the Agreement to become effective on the 2nd of December 1996 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and E Prime.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. San Diego Gas & Electric Company

[Docket No. ER97–26–000]

Take notice that on October 3, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Nordic Electric, L.L.C. (Nordic).

SDG&E requests that the Commission allow the Agreement to become effective on the 2nd of December 1996 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Nordic.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Company

[Docket No. ER97–27–000]

Take notice that on October 3, 1996, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Coral Power, L.L.C. for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on October 4, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Texas-New Mexico Power Company

[Docket No. ER97–28–000]

Take notice that on October 3, 1996, Texas-New Mexico Power company (TNP), tendered for filing, pursuant to Section 205 of the Federal Power Act and 18 CFR 35.15, a notice of cancellation of its Excess Power Service Rate Schedule.

TNP asserts that the filing has been served on the utility regulatory commissions of Texas and New Mexico.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER97–29–000]

Take notice that on October 3, 1996, Southern Company Services, Inc. (SCE), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed two (2) service agreements between SCS, as agent of the Southern Companies, and (i) Morgan Stanley Capital Group Inc. and (ii) Coral Power, L.L.C. for non-firm point-to-point transmission service under Part II of the Open Access Transmission Tariff of Southern Companies.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Kincaid Generation, L.L.C.

[Docket No. ER97–30–000]

Take notice that on October 4, 1996, Kincaid Generation, L.L.C. (KGL), tendered for filing its FERC Electric Rate Schedule No. 1 and requested certain waivers of the Commission's Regulations.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Arizona Public Service Company

[Docket No. ER97–31–000]

Take notice that on October 4, 1996, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS-FERC Electric Tariff Original Volume No. 1 (APS Tariff) with the following entity:

Williams Energy Services Company

A copy of this filing has been served on the above listed party and the Arizona Corporation Commission.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Southern Company Services, Inc.

[Docket No. ER97–32–000]

Take notice that on October 4, 1996, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed service agreements under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entities: (i) Tennessee Power Company; and (ii) Central Louisiana Electric Company, Inc. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate transactions with these entities.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania Power & Light Company

[Docket No. ER97–33–000]

Take notice that on October 4, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement, dated September 13, 1996, with Western Power Services, Inc. (Western) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds Western as an eligible customer under the Tariff.

PP&L requests an effective date of September 5, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Western and to the Pennsylvania Public Utility Commission.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Columbus Southern Power Company

[Docket No. ER97–34–000]

Take notice that on October 4, 1996, Columbus Southern Power Company (CSP), tendered for filing with the Commission a Facilities and Operations Agreement dated August 6, 1996, between CSP, Buckeye Power, Inc. (Buckeye) and South Central Power Company (SCP). SCP is an Ohio electricity cooperative and a member of Buckeye Power, Inc.

SCP has requested CSP provide a new 12–Kv deliver point pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968. CSP requests an effective date of October 31, 1996, for the tendered agreements.

CSP states that copies of its filing were served upon the South Central Power Company, Buckeye Power, Inc. and the Public Utilities Commission of Ohio.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. UtiliCorp United, Inc.

[Docket No. ER97–35–000]

Take notice that on October 4, 1996, UtiliCorp United, Inc. (UtiliCorp) filed service agreements with JPowers, Inc. for service under its interruptible open access transmission service tariff for its operating divisions, Missouri Public Service and WestPlains Energy-Kansas.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Duke Power Company

[Docket No. ER97–36–000]

Take notice that on October 4, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and MidCon Power Services Corp. (MidCon). Duke states that the TSA sets out the transmission arrangements under which Duke will provide MidCon non-firm point-to-point transmission service under its Pro Forma Open Access Transmission Tariff.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Power Company

[Docket No. ER97–37–000]

Take notice that on October 4, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and SCANA Energy Marketing, Inc. (SCANA). Duke states that the TSA sets out the transmission arrangements under which Duke will provide SCANA non-firm point-to-point transmission service under its Pro Forma Open Access Transmission Tariff.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Puget Sound Power & Light Company

[Docket No. ER97–38–000]

Take notice that on October 4, 1996, Puget Sound Power & Light Company, tendered for filing proposed changes to its Rate Schedule FERC No. 78 relating to the Centralia Transmission Agreement executed on September 22, 1980 between Puget and Seattle City Light (Seattle). A copy of the filing was served on Seattle.

Puget states that the proposed changes would increase revenues for service provided under this schedule.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Puget Sound Power & Light Company

[Docket No. ER97–39–000]

Take notice that on October 4, 1996, Puget Sound Power & Light Company, tendered for filing an amendment to its agreement with the Bonneville Power Administration (Bonneville) filed in Docket No. ER94–1111–000. A copy of the filing was served on Bonneville.

Puget states that the amendment is intended to continue the interconnection, on a temporary, non-firm basis, for non-firm transmission for Bonneville to the City of Blaine's customers until no later than October 6, 1996.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Union Electric Company

[Docket No. ER97–40–000]

Take notice that on October 4, 1996, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated September 10, 1996 between Delhi Energy Services, Inc. (DES) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to DES pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Southern Illinois Power Cooperative

[Docket No. NJ97–1–000]

Take notice that on October 8, 1996, Southern Illinois Power Cooperative (SIPC) submitted for filing an Open Access Transmission Tariff and a request for a declaratory order which would find the SIPC's Transmission Tariff meets the Federal Energy Regulatory Commission's comparability standards and is therefore an acceptable reciprocity tariff pursuant to the provisions of Order No. 888.

Comment date: November 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Lockhart Power Company

[Docket No. OA96–232–000]

Take notice that on September 20, 1996, Lockhart Power Company tendered for filing information regarding its unbundled power and transmission rates inadvertently omitted from its compliance filing submitted July 9, 1996.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Empire District Electric Company

[Docket No. OA96–233–000]

Take notice that on September 23, 1996, the Empire District Electric Company (EDE) tendered for filing copies of EDE Schedule W–1 and EDE Schedule W–2 to its unbundled power and transmission rates which was inadvertently omitted from EDE's July 9, 1996, compliance filing.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

31. Midwest Energy, Inc.

[Docket No. OA96–234–000]

Take notice that on September 25, 1996, Midwest Energy, Inc. (Midwest) tendered for filing with the Federal Energy Regulatory Commission, pursuant to the requirements of Order No. 888, Midwest's Information filing setting forth the unbundled power and transmission rates reflected in all existing requirements contracts and tariffs and provide the bundled rates.

Midwest states that it is serving copies of the instant filing to its customers, state commissions and other interested parties.

Comment date: October 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

32. Northern Indiana Public Service Company

[Docket No. OA96–235–000]

Take notice that on September 30, 1996, Northern Indiana Public Service Company tendered for filing an informational filing to identify a transmission component of bundled wholesale requirements rates.

Comment date: October 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26925 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–696–000]

East Tennessee Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed ETNG 1997 Open Season Expansion Project and Request for Comments on Environmental Issues

October 15, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the ETNG 1997 Open Season Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

East Tennessee Natural Gas Company (ETNG) wants to expand the capacity of its facilities in Tennessee to transport an additional 31,902 Dekatherms per day to various shippers along its system. ETNG's facilities would be constructed in Tennessee and would consist of:

- About 2.52 miles of 12-inch-diameter pipeline loop in Sullivan County, commencing at the discharge side of Compressor Station No. 3309 at milepost (MP) 3308–1+17.18 and ending at MP 3308–1+19.70;
- About 2.00 miles of 20-inch-diameter pipeline loop in Bedford County, commencing at MP 3207–2+3.25 and ending at MP 3207–2+5.25;
- About 1.54 miles of 20-inch-diameter pipeline loop in Franklin County, commencing at the discharge side of Compressor Station No. 3209 at MP 3209–1+0.00 and ending at MP 3209–1+1.54;
- A new meter station in Franklin County, at MP 3209–1+6.28;
- A new meter station in Marion County, at MP 3211–1+0.001;
- Four new valve stations in Bedford, Franklin, and Sullivan Counties, as appurtenances to the loop segments;
- Three modified valve stations in Franklin and Sullivan Counties, as appurtenances to the loop segments;
- A 360-horsepower (hp) uprate of existing compressor units at ETNG's Compressor Station No. 3107 in Putnam County, Tennessee;
- A 650-hp uprate of existing compressor units at ENTG's Compressor Station No. 3201 in Perry County, Tennessee;
- A 340-hp uprate of existing compressor units at ETNG's Compressor Station No. 3206 in Marshall County, Tennessee;
- A 230-hp uprate of existing compressor units at ETNG's Compressor Station No. 3209 in Franklin County, Tennessee; and
- A 240-hp uprate of existing compressor units at ETNG's Compressor Station No. 3217 in Monroe County, Tennessee.

The general location of the project facilities and specific locations for facilities on new sites are shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 138.8 acres of land. Following construction, about 45.4 acres of existing right-of-way (ROW) would continue to be maintained as permanent ROW. An additional 0.4 acre of new ROW would be maintained for new aboveground facility sites. The remaining 93 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public Safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by ETNG.

This preliminary list of issues may be changed based on your comments and our analysis.

- Two federally listed endangered or threatened species may occur in the proposed project area.
- Two cultural resource sites that may be eligible for inclusion on the National Register of Historic Places may be affected by the project.
- One wetland (palustrine broad-leaved deciduous forest) and three small perennial streams would be affected.
- There are 31 residences located within 50 feet of the Loop 3309 construction ROW.

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[1] East Tennessee Natural Gas Company's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

• There may be additional noise impact on nearby noise-sensitive areas from the uprate in compression at the five compressor stations.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instruction below to ensure that your comments are received and properly recorded:

• Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426;

• Reference Docket No. CP96–696–000;

• Send a *copy* of your letter to: Mr. Rafael Montag, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., NE., [PR–11.1], Washington, DC 20426; and

• Mail your comments so that they will be received in Washington, DC on or before November 14, 1996.

If you wish to receive a copy of the EA, you should request one from Mr. Montag at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Rafael Montag, EA Project Manager, at (202) 208–0985.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26864 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–776–000]

Williams Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Southwest Missouri Expansion Project and Request for Comments on Environmental Issues

October 15, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Southwest Missouri Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Williams Natural Gas Company (WNG) wants to expand the capacity of its facilities in Kansas and Missouri to transport an additional 20,316 dekatherms per day (Dth/d) of natural gas to five customers. WNG seeks authority to construct and operate:

• A 3.2-mile-long extension of the Springfield Loop Line HS in Christian County, Missouri (looping its 16-inch-diameter Line HQ); and

• A 9.5-mile-long extension of the Southern Trunk Loop Line FR in Montgomery and Labette Counties, Kansas (looping its 20-inch-diameter Line F).

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 154 acres of land. Following construction, land would be restored and about 38 acres would be maintained as new permanent right-of-way along with about 63 acres of existing permanent right-of-way that was used during construction. The remaining 53 acres of land would revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

• Geology and soils.
• Water resources, fisheries, and wetlands.
• Vegetation and wildlife.
• Endangered and threatened species.
• Public safety.
• Land use.
• Cultural resources.
• Air quality and noise.
• Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention

[1] Williams Natural Gas Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

based on a preliminary review of the proposed facilities and the environmental information provided by WNG. This preliminary list of issues may be changed based on your comments and our analysis.

- Two perennial and 13 intermittent streams would be crossed.
- At least one perennial stream, the Verdigris River, would be crossed by directional drilling.
- Two wetlands would be crossed by the project.
- Three domestic water wells would be located within 200 feet of the construction right-of-way.
- One residence would be located within 50 feet of the construction right-of-way.
- Additional temporary workspace may be needed at stream, road, and utility crossings and for equipment/materials storage.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 20426.
- Reference Docket No. CP96–776–000;
- Send a *copy* of your letter to: Ms. Jennifer Goggin, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., N.E., PR–11.2, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before November 14, 1996.

If you wish to receive a copy of the EA, you should request one from Ms. Goggin at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Ms. Jennifer Goggin, EA Project Manager, at (202) 208–2226.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26865 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

Notice

October 15, 1996.

The members of the Commission will be attending the DOE/NARUC National Electricity Forum to be held October 20–22, 1996 in Santa Fe, New Mexico at the Sweeney Convention Center. The Forum is open to the public. Further information about registering may be obtained from Ann Thompson at NARUC, (202) 898–2210.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26863 Filed 10–18–96; 8:45 am]

BILLING CODE 6717–01–M

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: October 15, 1996, 61 FR 53730.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 16, 1996, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number and company has been to the Agenda scheduled for the October 16, 1996 meeting.

Item No., Docket No., and Company

CAG–23—OR93–3–000, Canadian Association of Petroleum Producers and the Alberta Department of Energy

Lois D. Cashell,

Secretary.

[FR Doc. 96–27098 Filed 10–17–96; 3:46 pm]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Cases Filed; Week of July 22 Through July 26, 1996

During the Week of July 22 through July 26, 1996, the appeals, and applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: October 10, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 22 through July 26, 1996]

Date	Name and location of applicant	Case No.	Type of submission
July 22, 1996	Southwest Research and Information Center, Albuquerque, New Mexico.	VFA–0195	Appeal of an Information Request Denial. If granted: The May 16, 1996 Freedom of Information Request Denial issued by the Office of Environmental Management would be rescinded and Southwest Research and Information Center would receive access to certain Department of Energy information.
July 23, 1996	Central Valley Cooperative, O'Neil, Nebraska.	VEE–0031	Exception to the Reporting Requirements. If granted: Central Valley Cooperative would not be required to file Form EIA–782B Reseller's/Retailer's Monthly Petroleum Products Sales Report.
July 24, 1996	National Security Archive, Washington, D.C.	VFA–0196	Appeal of an Information Request Denial. If granted: The June 14, 1996 Freedom of Information Request Denial issued by the Department of the Air Force would be rescinded, and the National Security Archive would receive access to certain DOE information.
July 25, 1996	David L. Anderson, Granite Falls, Washington.	VFA–0197	Appeal of an Information Request Denial. If granted: The May 30, 1996 Freedom of Information Request Denial issued by the Bonneville Power Administration Office would be rescinded, and David L. Anderson would receive access to certain Department of Energy information.
July 26, 1996	Idaho Operations Office, Idaho Falls, Idaho.	VSO–0106	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at Idaho Operations Office would receive a hearing under 10 CFR 710.

[FR Doc. 96–26892 Filed 10–18–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed; Week of July 29 Through August 2, 1996

During the Week of July 29 through August 2, 1996, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: October 10, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 29 through August 2, 1996]

Date	Name and location of applicant	Case No.	Type of submission
July 29, 1996	Georgia-Pacific Corporation, Atlanta, Georgia	VFA–0198	Appeal of an Information Request Denial. If granted: The Freedom of Information Request Denial. issued to Georgia-Pacific Corporation would be rescinded, and the firm would receive access to certain DOE information.
July 30, 1996	Oak Ridge Operations Office, Oak Ridge, Tennessee	VSO–0107	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual employed at Oak Ridge Operations Office would receive a hearing under 10 C.F.R. Part 710.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of July 29 through August 2, 1996]

Date	Name and location of applicant	Case No.	Type of submission
July 31, 1996	Maria Elena Torano Associates, Inc	VWZ-0006	Motion to Dismiss. If granted: C. Lawrence Cornett's Whistleblower Complaint would be dismissed.
August 2, 1996	ALM Antillean Airlines, Memphis, Tennessee	RR272–243	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The June 11, 1996, Decision and Order, Case No. RF272–98262, issued to ALM Antillean Airlines would be modified and the firm would receive an additional refund in the Crude Oil refund proceeding.
August 2, 1996	Diane C. Larson, Kennewick, Washington	VFA–0199	Appeal of an Information Request Denial. If granted: The July 25, 1996 Freedom of Information Request Denial issued by Richland Operations Office would be rescinded, and the appellant would receive access to certain DOE information.

[FR Doc. 96–26893 Filed 10–18–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed; Week of September 16 Through September 20, 1996

During the Week of September 16 through September 20, 1996, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: October 10, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 16 through September 20, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 16, 1996	Daniel A. Poston, Lorton, Virginia	VFA–0218	Appeal of an Information Request Denial. If granted: The August 27, 1996 Freedom of Information Request Denial would be rescinded, and Daniel A. Poston would receive access to certain DOE information.
Sept. 16, 1996	Italiano & Plache, L.L.P., Washington, DC	VFA–0219	Appeal of an Information Request Denial. If granted: The July 29, 1996 Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and Italiano & Plache, L.L.P. would receive access to certain Department of Energy information.

REFUND APPLICATIONS RECEIVED

[Week of September 16 through September 20, 1996]

Date received	Name of refund proceeding/name of refund applicant	Case No.
9/16 thru 9/20/96.	Crude Oil Supplemental Applications.	RK272–3907 thru RK272–3918.

[FR Doc. 96–26894 Filed 10–18–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed; Week of September 23 Through September 27, 1996

During the week of September 23 through September 27, 1996, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: October 10, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 23 through September 27, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 23, 1996	Idaho Operations Office, Idaho Falls, Idaho	VSO–0114	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual employed at Idaho Operations Office would receive a hearing under 10 C.F.R. Part 710.
Sept. 23, 1996	Radian International, Oak Ridge, Tennessee.	VFA–0220	Appeal of an Information Request Denial. If granted: The September 6, 1996 Freedom of Information Request Denial issued by Oak Ridge Operations Office would be rescinded, and Radian International would receive access to certain DOE information.
Sept. 24, 1996	Perkins Coie, Seattle, Washington	VFA–0221	Appeal of an Information Request Denial. If granted: The August 20, 1996 Freedom of Information Request Denial issued by Bonneville Power Administration would be rescinded, and Perkins Coie would receive access to certain DOE information.
Sept. 26, 1996	Energy Market & Policy Analysis, Inc., Reston, Virginia.	VFA–0222	Appeal of an Information Request Denial. If granted: The June 29, 1996 Freedom of Information Request Denial issued by the Department's Freedom of Information Act Office would be rescinded, and Energy Market & Policy Analysis, Inc. would receive access to certain Department of Energy information.
Sept. 26, 1996	Idaho Operations Office, Idaho Falls, Idaho	VSO–0115	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual employed at Idaho Operations Office would receive a hearing under 10 C.F.R. Part 710.
Sept. 27, 1996	Action & Associates, Inc., Augusta, Georgia	VFA–0224	Appeal of an Information Request Denial. If granted: The Freedom of Information Request Denial issued by Savannah River Operations Office would be rescinded, and Action & Associates, Inc. would receive access to certain DOE information.
Sept. 27, 1996	Albuquerque Operations Office, Albuquerque, New Mexico.	VSA–0084	Request for Review of Opinion under 10 C.F.R. Part 710. If granted: The August 23, 1996 Opinion of the Office of Hearings and Appeals Case, No. VSO–0084, would be reviewed at the request of an individual employed at Albuquerque Operations Office.
Sept. 27, 1996	Harold Bibeau, Troutdale, Oregon	VFA–0223	Appeal of an Information Request Denial. If granted: The September 12, 1996 Freedom of Information Request Denial issued by the Office of Human Radiation Experiments would be rescinded, and Harold Bibeau would receive access to certain DOE information.

REFUND APPLICATIONS RECEIVED

[Week of September 23 through September 27, 1996]

Date received	Name of refund proceeding/name of refund applicant	Case No.
9/23 thru 9/27/96.	Crude Oil Supplemental Refund Applications.	RK272–3919 thru RK272–3926

[FR Doc. 96–26895 Filed 10–18–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5638–2]

SES Performance Review Board; Membership

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the EPA Performance Review Board.

DATES: May 30, 1996.

FOR FURTHER INFORMATION CONTACT: Zandra Kern, Executive Resources and Special Programs Division, Office of Human Resources and Organizational Services, Office of Administration and Resources Management, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–2975.

SUPPLEMENTARY INFORMATION: Section 4314 (c) (1) through (5) of Title 5, U.S.C., requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Members of the EPA Performance Review Board are:

William M. Henderson (Chair), Director, Office of Administration and Resources Management-Cincinnati, Office of Administration and Resources Management

Robert D. Brenner, Director, Office of Policy Analysis and Review, Office of Air and Radiation

Thomas A. Clark, Deputy Director for Management, National Exposure Research Laboratory-RTP, Office of Research and Development

Deborah Y. Dietrich, Director, Office of Resources Management and Administration, Office of Research and Development

William Finister, Deputy Chief of Staff, Office of the Administrator

Maryann B. Froehlich, Director, Office of Policy Development, Office of Policy, Planning and Evaluation

Patricia D. Hull, Assistant Regional Administrator for Office of Technical and Management Services, Region VIII

Kenneth A. Konz, Assistant Inspector General for Audits, Office of Inspector General

Thomas J. Maslany, Director, Air Management Division, Region III
John W. Meagher, Director, Wetlands Division, Office of Water
Joseph J. Merenda, Director, Health and Environmental Review Division, Office of Prevention, Pesticides and Toxic Substances
Nora L. McGee, Assistant Regional Administrator for Policy and Management, Region IX
James C. Nelson, Associate General Counsel (Pesticides and Toxics Substances), Office of General Counsel
John B. Rasnic, Director, Manufacturing, Energy and Transportation Division, Office of Enforcement and Compliance Assurance
Dan J. Rondeau, Director, Office of Civil Rights, Office of the Administrator
Alan B. Sielen, Deputy Assistant Administrator for International Activities, Office of International Activities
William A. Spratlin, Director, Air, RCRA and Toxics Division, Region VII
David W. Ziegele, Director, Office of Underground Storage Tanks, Office of Solid Waste and Emergency Response
David J. O'Connor (Executive Secretary), Director, Office of Human Resources and Organizational Services, Office of Administration and Resources Management

Members of the Inspector General Subcommittee to the EPA Performance Review Board are:

Donald Mancuso, Assistant Inspector General for Investigations, Department of Defense
Everett L. Mosley, Deputy Inspector General, Agency for International Development
Thomas D. Roslewicz, Deputy Inspector General for Audit Services, Department of Health and Human Services

Dated: October 9, 1996.

Alvin M. Pesachowitz,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 96–26919 Filed 10–18–96; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 22, 1996, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business Regulations

—Federal Agricultural Mortgage Corporation Receiver/Conservator Regulation [12 CFR Part 650] (Proposed).

Dated: October 17, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–27058 Filed 10–17–96; 2:27 pm]

BILLING CODE 6705–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS96–1]

Appraisal Subcommittee; Appraisal Policy; Temporary Practice and Reciprocity

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Proposal of policy statement and request for comments.

SUMMARY: The Appraisal Subcommittee (''ASC'') of the Federal Financial Institutions Examination Council is proposing for public comment a new policy statement (''Statement'') regarding temporary practice and reciprocity. The Statement is intended to implement section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''CDRIA'').

DATES: Comments must be received on or before December 5, 1996.

ADDRESSES: Persons wishing to submit written comments should file them with Ben Henson, Executive Director, or Marc L. Weinberg, General Counsel, Appraisal Subcommittee, 2100 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20037. Comments may be forwarded via fax to (202) 634–6555. All comment letters should refer to Docket No. AS96–1. All comment letters will be available for public inspection and copying at the ASC's offices.

FOR FURTHER INFORMATION CONTACT: Ben Henson, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 634–6520, Appraisal Subcommittee, 2100 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20037.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Since January 1, 1993, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (''Title XI''), as amended,[1] has required all federally regulated financial institutions to use State licensed or certified real estate appraisers, as appropriate, to perform appraisals in federally related transactions. *See* Section 1119(a) of Title XI, 12 U.S.C. 3348(a). In response to Title XI, each State, territory and the District of Columbia (''State'') has established a regulatory program for certifying, licensing and supervising real estate appraisers. In turn, the ASC has been monitoring State programs to ensure their compliance with Title XI.

While Title XI authorizes each State to certify, license and supervise real estate appraisers within its jurisdiction, the Title also provides a means for appraisers licensed or certified in one State to practice on a temporary basis in another State. Section 1122(a)(1) of Title XI, 12 U.S.C. 3351(a)(1), specifically requires ''[a] State appraiser certifying or licensing agency [('State agency') to] recognize on a temporary basis the certification or license of an appraiser issued by another State if—(A) the property to be appraised is part of a federally related transaction, (B) the appraiser's business is of a temporary nature, and (C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.''

Reciprocity provides appraisers certified or licensed in one State with a means to practice in another State on a permanent basis. While Title XI, until recently, did not specifically mention reciprocity, the ASC encouraged States

[1] Pub. L. 101–73, 103 Stat. 183 (1989), as amended by Pub. L. 102–233, 105 Stat. 1792 (1991), Pub. L. 102–242, 105 Stat. 2386 (1991), Pub. L. 102–550, 106 Stat. 3672 (1992), Pub. L. 102–485, 106 Stat. 2771 (1992), Pub. L. 103–325, 108 Stat. 2222 (1994); and Pub L. 104–208, 110 Stat. 3009 (1996).

to enter into reciprocal appraiser licensing and certification agreements and arrangements.

In September 1994, Section 315 of CDRIA was enacted. Public Law 103–325, 108 Stat. 2160, 2222 (1994). CDRIA amended Section 1122(a) of Title XI by adding new subparagraph (2) (12 U.S.C. 3351(a)(2)) pertaining to temporary practice and new paragraph (b) (12 U.S.C. 3351(b)) regarding reciprocity:

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

* * * * *

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

The Senate Report to accompany S. 1275, issued on October 28, 1994, by the Senate Committee on Banking, Housing, and Urban Affairs, said:

The Committee's intent is to enable qualified appraisers to practice in a number of States without anticompetitive restrictions. S. Rep. No. 103–169, 103d Cong., 2d Sess. 53 (1994), *reprinted in* 1994 U.S. Code Cong. & Admin. News 1937.

Using this statement and the wording of the amendments, the ASC can define the ambiguous terms, ''excessive fees'' or ''burdensome requirements,'' in new section 1122(a)(2), and can interpret how they fit into the ASC's existing enforcement powers in Title XI. The ASC also may determine the meaning and application of new paragraph (b) regarding reciprocity. The paragraph's language, however, limits the ASC's range of interpretation because it only requires the ASC to ''encourage'' the States to develop reciprocity agreements.

II. The September 1995 Notice Soliciting Comment

On September 12, 1995, the ASC published a notice in the Federal Register soliciting public comments on how it should implement section 315 of CDRIA. See 60 FR 47365. This notice, among other things, described Statements 5 and 6 of the ASC's August 4, 1993 Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers, which respectively discussed temporary practice and reciprocity, described the then-current status of temporary practice and reciprocity and presented several alternatives for discussion and comment. Temporary practice alternatives included the ''universal drivers license approach,'' ''specific standards'' and ''general standards.'' Reciprocity alternatives also included the drivers license approach, but separately discussed creating a Federal duty and requesting States to create and file plans with the ASC. For details regarding these approaches, see 60 FR 47365 (September 12, 1995). The ASC additionally requested comments on all aspects of implementing the new legislation and welcomed variations or combinations of the discussed alternatives or other alternatives. Finally, the ASC asked the following questions:

(1) In your view, what are the most serious impediments to temporary practice or reciprocity? Please provide your best estimates of their costs in time and money, if possible.

(2) Do you believe that these impediments warrant ASC action?

(3) Are any of the alternatives presented * * * especially well suited to removing the impediments, and what are your reasons for your choice?

(4) Do other alternatives exist? If so, please describe them.

The ASC received 46 comment letters in response to the Notice: 24 from individual appraisers; eight from trade associations; six from State agencies; five from financial institutions; two from individual real estate professionals; and one from a Federal agency.

The commenters agreed that serious impediments to temporary practice and reciprocity exist, and that those impediments warrant ASC action. In connection with temporary practice, the commenters noted that the most significant impediments were: the need for an out-of-State appraiser to obtain, and pay for, a ''letter of good standing''; the need for States to obtain from out-of-State appraisers signed consent to local service forms; short time limits on the length of permits; the inability to receive extensions of time on permits; the granting of permits on a per property or time basis, rather than on a per assignment basis; and a general ''protectionist'' attitude on the part of some State agencies. Respecting reciprocity, the commenters pointed to the widespread lack of uniformity in State agency-approved education courses for initial certification or licensing and for continuing education purposes and the significant length of time often needed by States to process reciprocity applications.

A majority of the commenters supported adoption of the drivers license approach. Adopting this approach, however, would necessarily require the ASC to pre-empt conflicting State statutes, regulations and practices. The ASC concluded that pre-emption would be inappropriate. Instead, the ASC has decided to propose for public comment, and perhaps subsequently adopt, this policy statement.

III. Conclusion

On the basis of the foregoing, the ASC is proposing for public comment a new policy entitled, *Policy Statement Respecting Temporary Practice and Reciprocity,* as set forth in the following appendix. If adopted, this Policy Statement would amend and supersede previous ASC guidance respecting temporary practice and reciprocity in ASC Policy Statements 5 and 6, which were published in August 1993.

Dated: October 15, 1996.

By the Appraisal Subcommittee.

Diana L. Garmus,

Chairperson.

Appendix A—Proposed Policy Statement

_____, 1996.

Policy Statement Respecting Temporary Practice and Reciprocity

This Policy Statement implements amendments to Section 1122(a) of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The amendments added subparagraph (2) (12 U.S.C. 3351(a)(2)) pertaining to temporary practice and paragraph (b) (12 U.S.C. 3351(b)) regarding reciprocity, which state:

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

* * * * *

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

The Policy Statement amends and supersedes previous ASC guidance respecting temporary practice and reciprocity in ASC Policy Statements 5 and 6, which were published in August 1993.

I. Temporary Practice

Title XI requires a State appraiser regulatory agency (''State agency'') to recognize on a temporary basis the certification or license of an appraiser from another State provided: (1) the property to be appraised is part of a Federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser registers with the State appraiser regulatory agency in the State of temporary practice.

Thus, a certified or licensed appraiser from State A, who has an assignment concerning a Federally related transaction in State B, has a statutory right to enter State B, register with the State agency in State B and perform the assignment. Title XI does not require State B to offer temporary practice to persons who are not certified or licensed appraisers, including appraiser assistants not under the direct supervision of an appraiser certified or licensed in State A.

Title XI also states that a State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the ASC, for temporary practice. The ASC may consider the following fees, acts and practices of the State of temporary practice to be ''excessive fees'' or ''burdensome requirements'':

- Prohibiting temporary practice;
- Requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice;
- Taking more than five business days to issue a temporary practice permit (if issuance is required under State law) or to provide effective notice to the out-of-State appraiser regarding his or her temporary practice request;
- Requiring out-of-State appraisers requesting temporary practice to satisfy the host State's appraiser qualification requirements for certification which exceed the minimum required criteria for certification adopted by the Appraiser Qualification Board (''AQB'');
- Imposing a time frame on out-of-State certified appraisers to complete an appraisal assignment in a federally related transaction;
- Limiting out-of-State certified appraisers to a single temporary practice permit per calendar year;
- Requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser;
- Failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State; and
- Charging temporary practice fees that impede temporary practice. The ASC will consider fees of $150 or less as reasonable. The ASC may ask State agencies to justify temporary practice fees.

In addition, the ASC may consider fees, acts and practices of the certified or licensed appraiser's home State to be ''excessive fees'' or ''burdensome requirements.'' For example, the practice of delaying the issuance of a written ''letter of good standing'' or similar document for more than five business days after the home State agency's receipt of the related request could be a ''burdensome requirement.''

This listing is not exclusive. The ASC may find other excessive fees or burdensome practices while performing its State agency monitoring functions. To help to avoid such an occurrence, the ASC favors that States issuing temporary practice permits use a ''post card'' temporary practice registration form to: (1) identify the appraiser; (2) provide the starting date of when the appraiser will be ''in-State''; (3) obtain affirmations that the appraiser currently is not subject to any appraiser certification or licensure disciplinary proceeding in any State, and that his or her license or certificate is fully valid; and (4) obtain the appraiser's consent to service in the State of temporary practice. The temporary practitioner would send the completed, signed and dated form to the State agency in the temporary practice State, together with the appropriate fee, and could send a copy to his or her home State agency. The appraiser would retain an exact copy for use in the State of temporary practice as evidence that the appraiser is eligible to perform the appraisal assignment. The ASC suggests that appraisers should be able to begin the appraisal assignment in the State of temporary practice immediately after the completed form and proper fee is irrevocably sent to that State's appraiser regulatory agency.

II. Reciprocity

Section 1122(b) of Title XI, 12 U.S.C. 3347(b), states that the ASC shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States. Each State should work expeditiously and conscientiously with other States with a view toward satisfying the purposes of the statutory language. The ASC will monitor each State's progress and will encourage States to work out issues and difficulties whenever appropriate.

The ASC encourages States to enter into reciprocal agreements that, at a minimum, contain the following features:

- Accomplish reciprocity with at least all contiguous States. For States not sharing geographically contiguous borders with any other State, such as Alaska and Hawaii, those States should enter into reciprocity agreements with States that certify or license appraisers who perform a significant number of appraisals in the non-contiguous States;
- Eliminate the use of letters of good standing or similar documents;
- Readily accept other States' certifications and licenses without reexamining applicants' underlying education and experience, so long as the other State: (1) has appraiser qualification criteria that meet the minimum standards for certification and licensure as adopted by the AQB; and (2) uses appraiser certification or licensing examination that are AQB endorsed;
- Eliminate retesting, so long as the applicant has passed the appropriate AQB-endorsed appraiser certification and licensing examinations in the appraiser's home State;
- Recognize and accept successfully completed continuing education courses taken to qualify for license or certification renewal in the appraiser's home State; and
- Establish reciprocal licensing or certification fees identical in amount to the corresponding fees for home State appraisers.

* * * * *

[FR Doc. 96–26933 Filed 10–18–96; 8:45 am]

BILLING CODE 6210–01–P

Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and request for comment.

SUMMARY: The Consumer Compliance Task Force of the Federal Financial Institutions Examination Council (FFIEC) is issuing Interagency Questions and Answers Regarding Community Reinvestment (Interagency Questions and Answers). To help financial institutions meet their responsibilities under the Community Reinvestment Act (CRA) and to increase public understanding of their CRA regulations, the staffs of the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the ''agencies'') have prepared answers to the most frequently asked questions about community reinvestment. The Interagency Questions and Answers contain informal staff guidance for agency personnel, financial institutions, and the public.

DATES: Public comment is invited on a continuing basis.

ADDRESSES: Questions and comments may be sent to Joe M. Cleaver, Executive Secretary, Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue NW., Suite 200, Washington, DC 20037, or by facsimile transmission to (202) 634–6556.

FOR FURTHER INFORMATION CONTACT: OCC: Malloy Harris, National Bank Examiner, Consumer and Fiduciary Compliance Division, (202) 874–4446; or Margaret Hesse, Senior Attorney, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Glenn E. Loney, Associate Director, Division of Consumer and Community Affairs, (202) 452–3585; or Robert deV. Frierson, Assistant General Counsel, Legal Division, (202) 452–3711, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Bobbie Jean Norris, Chief, Fair Lending Section, Division of Compliance and Consumer Affairs, (202) 942–3090; or Ann Hume Loikow, Counsel, Legal Division, (202) 898–3796, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–

7054; or Richard R. Riese, Project Manager, Compliance Policy, (202) 906–6134, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

Last year, the agencies revised their CRA regulations by issuing a joint final rule, which was published on May 4, 1995 (60 FR 22156). *See* 12 CFR parts 25, 228, 345 and 563e, implementing 12 U.S.C. 2901 *et seq.* The agencies published two notices of proposed rulemaking prior to publishing the joint final rule. *See* 58 FR 67466 (Dec. 21, 1993); 59 FR 51232 (Oct. 7, 1994). The agencies published related clarifying documents on December 20, 1995 (60 FR 66048) and May 10, 1996 (61 FR 21362).

Since publishing the joint final rule, the agencies have received numerous questions from financial institutions, examiners, and others about the new regulations. Some of the questions were answered in the preambles to the two proposed rules and the final rules. Some other questions were addressed in the FFIEC's Questions and Answers regarding community reinvestment, published in the Federal Register on February 19, 1993, (58 FR 9176) in connection with the CRA regulations then in effect. The agencies answered technical data reporting questions in an unpublished interagency document, *Questions and Answers on CRA Data Collection and Reporting,* issued in December 1995, and mailed directly to financial institutions and other interested parties. Additionally, the agencies have answered some questions through interagency staff letters and other informal communications.

The purpose of these Interagency Questions and Answers is to consolidate, to the extent possible, useful CRA information into a comprehensive document. These Interagency Questions and Answers supplement other documents that the agencies are not specifically superseding, including, for example, interagency staff CRA interpretive letters. *See* ''Related action'' below.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The SBREFA requires an agency, for each rule for which it prepares a final regulatory flexibility analysis, to publish one or more compliance guides to help small entities understand how to comply with the rule.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the agencies certified that their proposed CRA rule would not have a significant economic impact on a substantial number of small entities and invited public comments on that determination. *See* 58 FR 67478 (Dec. 21, 1993); 59 FR 51250 (Oct. 7, 1994). In response to public comment, the agencies voluntarily prepared a final regulatory flexibility analysis for the joint final rule, although the analysis was not required because it supported the agencies'' earlier certification regarding the proposed rule. Because a regulatory flexibility analysis was not required, section 212 of the SBREFA does not apply to the final CRA rule. However, in their continuing efforts to provide clear, understandable regulations and to comply with the spirit of the SBREFA, the agencies have compiled the Interagency Questions and Answers. The Interagency Questions and Answers serve the same purpose as the compliance guide described in the SBREFA by providing guidance on a variety of issues of particular concern to small banks and thrifts.

Related Action

The Questions and Answers regarding community reinvestment published in the Federal Register on February 19, 1993, (58 FR 9176) continue to apply to institutions that are examined under the 12 assessment factors in the CRA regulations as they existed prior to their amendment on May 4, 1994 (12 CFR 25.7, 228.7, 345.7, and 563e.7). However, as institutions become subject to evaluation under the performance tests and standards of the amended CRA regulations, these Interagency Questions and Answers supersede, and, on July 1, 1997, the FFIEC will withdraw in its entirety, the February 1993 Questions and Answers regarding community reinvestment. These Interagency Questions and Answers subsume and supersede the December 1995 *Questions and Answers on CRA Data Collection and Reporting.*

Comments

The agencies invite public comment on a continuing basis. The agencies intend to update the Interagency Questions and Answers on a regular basis. If, after reading the Interagency Questions and Answers, financial institutions, examiners, community groups, or other interested parties have unanswered questions or comments about the agencies' community reinvestment regulations, they should submit them to the agencies. The agencies will consider including questions received from the public in future guidance.

Interagency Questions and Answers Format

Questions and answers are grouped by the provision of the CRA regulations that they explicate and are presented in the same order as the regulatory provisions.

The Interagency Questions and Answers employ an abbreviated method to cite to the regulations. Because the regulations of the four agencies are substantively identical, corresponding sections of the different regulations usually bear the same suffix. Therefore, the Interagency Questions and Answers typically cite only to the suffix. For example, the small bank performance standards for national banks appear at 12 CFR 25.26; for Federal Reserve member banks, they appear at 12 CFR 228.26; for nonmember banks, at 12 CFR 345.26; and for thrifts, at 12 CFR 563e.26. Accordingly, the citation in this document would be to § ——.26. In the few instances where the suffix in one of the regulations is different, the specific citation for that regulation is provided.

The text of the Interagency Questions and Answers follows:

Text of the Interagency Questions and Answers

Interagency Questions and Answers Regarding Community Reinvestment

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____.12(f) & 563e.12(e) Branch
____.12(h) & 563e.12(g) Community development
____.12(h)(3) & 563e.12(g)(3) Activities that promote economic development by financing businesses or farms that meet certain size eligibility standards
____.12(i) & 563e.12(h) Community development loan
____.12(j) & 563e.12(i) Community development service
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____.12(n) & 563e.12(m) Income level
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____.12(t) Small institution
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____.21(b) Performance context
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____.21(b)(4) Institutional capacity and constraints
____.21(b)(5) Institution's past performance and the performance of similarly situated lenders

Section ____.22—Lending test

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____.22(a)(1) Types of loans considered
____.22(a)(2) Other loan data
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____.22(c) Affiliate lending
____.22(c)(1) In general
____.22(c)(2) Constraints on affiliate lending
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____.22(c)(2)(ii) If an institution elects to have its supervisory agency consider loans within a particular lending category made by one or more of the institution's affiliates in a particular assessment area, the institution shall elect to have the agency consider all loans within that lending category in that particular assessment area made by all of the institution's affiliates
____.22(d) Lending by a consortium or a third party

Section ____.23—Investment test

____.23(b) Exclusion

Section ____.24—Service test

____.24(d) Performance criteria—retail banking services
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Section ____.25 Community development test for wholesale or limited purpose institutions

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____.25(f) Community development performance rating

Section ____.26—Small institution performance standards

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The body of the Interagency Questions and Answers Regarding Community Reinvestment follows:

Section ____.11—Authority, Purposes, and Scope

____.11(c) Scope

25.11(c)(3), 228.11(c)(3) & 345.11(c)(3) Certain Special Purpose Banks

Q1. Is the list of special purpose banks exclusive?

A1. No, there may be other examples of special purpose banks. These banks engage in specialized activities that do not involve granting credit to the public in the ordinary course of business. Special purpose banks typically serve as correspondent banks, trust companies, or clearing agents or engage only in specialized services, such as cash management controlled disbursement services. A financial institution, however, does not become a special purpose bank merely by ceasing to make loans and, instead, making investments and providing other retail banking services.

Q2. To be a special purpose bank, must a bank limit its activities in its charter?

A2. No. A special purpose bank may, but is not required to, limit the scope of its activities in its charter, articles of association or other corporate organizational documents. A bank that does not have legal limitations on its activities, but has voluntarily limited its activities, however, would no longer be exempt from CRA requirements if it subsequently engaged in activities that involve granting credit to the public in the ordinary course of business. A bank that believes it is exempt from CRA as a special purpose bank should seek confirmation of this status from its supervisory agency.

Section ____.12—Definitions

____.12(a) Affiliate

Q1. Does the definition of ''affiliate'' include subsidiaries of an institution?

A1. Yes, ''affiliate'' includes any company that controls, is controlled by, or is under common control with another company. An institution's subsidiary is controlled by the institution and is, therefore, an affiliate.

____.12(f) & 563e.12(e) Branch

Q1. Do the definitions of ''branch,'' ''automated teller machine (ATM),'' and ''remote service facility (RSF)'' include mobile branches, ATMs, and RSFs?

A1. Yes. Staffed mobile offices that are authorized as branches are considered ''branches'' and mobile ATMs and RSFs are considered ''ATMs'' and ''RSFs.''

Q2. Are loan production offices (LPOs) branches for purposes of the CRA?

A2. LPOs and other offices are not ''branches'' unless they are authorized as branches of the institution through the regulatory approval process of the institution's supervisory agency.

____.12(h) & 563e.12(g) Community development

Q1. Are community development activities limited to those that promote economic development?

A1. No. Although the definition of ''community development'' includes activities that promote economic development by financing small businesses or farms, the rule does not limit community development loans and services and qualified investments to those activities. Community development also includes community- or tribal-based child care, educational, health, or social services targeted to low- or moderate-income persons, affordable housing for low- or moderate-income individuals, and activities that revitalize or stabilize low- or moderate-income areas.

Q2. Must a community development activity occur inside a low- or moderate-income area in order for an institution to receive CRA consideration for the activity?

A2. No. Community development includes activities outside of low- and moderate-income areas that provide affordable housing for, or community services targeted to, low- or moderate-income individuals and activities that promote economic development by financing small businesses and farms. Activities that stabilize or revitalize particular low- or moderate-income areas (including by creating, retaining, or improving jobs for low- or moderate-income persons) also qualify as community development, even if the activities are not located in these low- or moderate-income areas. One example is financing a supermarket that serves as an anchor store in a small strip mall located at the edge of a middle-income area, if the mall stabilizes the adjacent low-income community by providing needed shopping services that are not otherwise available in the low-income community.

Q3. Does the regulation provide flexibility in considering performance in high-cost areas?

A3. Yes, the flexibility of the performance standards allows examiners to account in their evaluations for conditions in high-cost areas. Examiners consider lending and services to individuals and geographies of all income levels and businesses of all sizes and revenues. In addition, the flexibility in the requirement that community development loans, community development services, and qualified investments have as their ''primary'' purpose community development allows examiners to account for conditions in high-cost areas. For example, examiners could take into account the fact that activities address a credit shortage among middle-income people or areas caused by the disproportionately high cost of building, maintaining or acquiring a house when determining whether an institution's loan to or investment in an organization that funds affordable housing for middle-income people or areas, as well as low- and moderate-income people or areas, has as its primary purpose community development.

____.12(h)(3) & 563e.12(g)(3) Activities that promote economic development by financing businesses or farms that meet certain size eligibility standards

Q1. ''Community development'' includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Do all activities that finance these businesses and farms promote economic development?

A1. No, not necessarily. The agencies will presume that all financing for small businesses or farms made through Small Business Administration programs, such as an investment in a Small Business Investment Company, has an economic development purpose. Other activities that finance small businesses or farms that meet the size eligibility standards must support permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income or finance businesses and farms located in low- or moderate-income geographies or in geographies targeted for redevelopment by federal, state, local or tribal governments in order to be considered as promoting economic development.

____.12(i) & 563e.12(h) Community development loan

Q1. What are examples of community development loans?

A1. Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons;
- Not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs;
- Borrowers to construct or rehabilitate community facilities that are located in low- and moderate-income areas or that serve primarily low- and moderate-income individuals;
- Financial intermediaries including Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development.
- Local, state, and tribal governments for community development activities; and
- Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located.

Q2. If a retail institution that is not required to report under the Home Mortgage Disclosure Act (HMDA) makes affordable home mortgage loans that would be HMDA-reportable home mortgage loans if it were a reporting institution, or if a small institution that is not required to collect and report loan data under CRA makes small business and small farm loans and consumer loans that would be collected and/or reported if the institution were a large institution, may the institution have these loans considered as community development loans?

A2. No. Although small institutions are not required to report or collect information on small business and small farm loans and consumer loans, and some institutions are not required to report information about their home mortgage loans under HMDA, if these institutions are retail institutions, the agencies will consider in their CRA evaluations the institutions' originations and purchases of loans that would have been collected or reported as small business, small farm, consumer or home mortgage loans, had the institution been a collecting and reporting institution under the CRA or the HMDA. Therefore, these loans will not be considered as community development loans. Multifamily dwelling loans, however, may be considered as community development loans as well as home mortgage loans. *See also* Q&A2 addressing § ____.42(b)(2).

Q3. Do secured credit cards or other credit card programs targeted to low- or moderate-income individuals qualify as community development loans?

A3. No. Credit cards issued to low- or moderate-income individuals for household, family, or other personal expenditures, whether as part of a

program targeted to such individuals or otherwise, do not qualify as community development loans because they do not have as their primary purpose any of the activities included in the definition of ''community development.''

Q4. The regulation indicates that community development includes ''activities that revitalize or stabilize low- or moderate-income geographies.'' Do all loans in a low- to moderate-income geography have a stabilizing effect?

A4. No. Some loans may provide only indirect or short-term benefits to low- or moderate-income individuals in a low- or moderate-income geography. These loans are not considered to have a community development purpose. For example, a loan for upper-income housing in a distressed area is not considered to have a community development purpose simply because of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents. On the other hand, a loan for an anchor business in a distressed area (or a nearby area), that employs or serves residents of the area, and thus stabilizes the area, may be considered to have a community development purpose. For example, in an underserved, distressed area, a loan for a pharmacy that employs, and provides supplies to, residents of the area promotes community development.

Q5. Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?

A5. No, the regulations, for example, recognize that community development organizations and programs are frequently efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multi-state basis. Therefore, an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area. Furthermore, the regulations permit a wholesale or limited purpose institution to consider community development loans, community development services, and qualified investments wherever they are located, as long as the institution has otherwise adequately addressed the credit needs within its assessment area(s).

Q6. What is meant by a ''regional area'' in the requirement that a community development loan must benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?

A6. A ''regional area'' may be as small as a city or county or as large as a multistate area. For example, the ''mid-Atlantic states'' may comprise a regional area. When examiners evaluate community development loans that benefit a regional area that includes the institution's assessment area, however, the examiners will consider the size of the regional area and the actual or potential benefit to the institution's assessment area(s). In most cases, the larger the regional area, the more diffuse the benefit will be to the institution's assessment area(s). Examiners may view loans with more direct benefits to an institution's assessment area(s) as more responsive to the credit needs of the area(s) than loans for which the actual benefit to the assessment area(s) is uncertain or for which the benefit is diffused throughout a larger area that includes the assessment area(s).

____.12(j) & 563e.12(i) Community development service

Q1. In addition to meeting the definition of ''community development'' in the regulation, community development services must also be related to the provision of financial services. What is meant by ''provision of financial services''?

A1. Providing financial services means providing services of the type generally provided by the financial services industry. Providing financial services often involves informing community members about how to get or use credit or otherwise providing credit services or information to the community. For example, service on the board of directors of an organization that promotes credit availability or finances affordable housing is related to the provision of financial services. Providing technical assistance about financial services to community-based groups, local or tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms is also providing financial services. By contrast, activities that do not take advantage of the employees' financial expertise, such as neighborhood cleanups, do not involve the provision of financial services.

Q2. Are personal charitable activities provided by an institution's employees or directors outside the ordinary course of their employment considered community development services?

A2. No. Services must be provided as a representative of the institution. For example, if a financial institution's director, on her own time and not as a representative of the institution, volunteers one evening a week at a local community development corporation's financial counseling program, the institution may not consider this activity a community development service.

Q3. What are examples of community development services?

A3. Examples of community development services include, but are not limited to, the following:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home buyers and home maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs for low- or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low- or moderate-income individuals; and
- Providing other financial services with the primary purpose of community development, such as low-cost bank accounts or free government check cashing that increases access to

financial services for low- or moderate-income individuals.

Examples of technical assistance activities that might be provided to community development organizations include:

- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

____.12(k) & 563e.12(j) Consumer loan

Q1. Are home equity loans considered ''consumer loans''?

A1. Home equity loans made for purposes other than home purchase, home improvement or refinancing home purchase or home improvement loans are consumer loans if they are extended to one or more individuals for household, family, or other personal expenditures.

Q2. May a home equity line of credit be considered a ''consumer loan'' even if part of the line is for home improvement purposes?

A2. If the predominant purpose of the line is home improvement, the line may only be reported under HMDA and may not be considered a consumer loan. However, the full amount of the line may be considered a ''consumer loan'' if its predominant purpose is for household, family, or other personal expenditures, and to a lesser extent home improvement, and the full amount of the line has not been reported under HMDA. This is the case even though there may be ''double counting'' because part of the line may also have been reported under HMDA.

Q3. How should an institution collect or report information on loans the proceeds of which will be used for multiple purposes?

A3. If an institution makes a single loan or provides a line of credit to a customer to be used for both consumer and small business purposes, consistent with the Call Report and TFR instructions, the institution should determine the major (predominant) component of the loan or the credit line and collect or report the entire loan or credit line in accordance with the regulation's specifications for that loan type.

____.12(m) & 563e.12(l) Home mortgage loan

Q1. Does the term ''home mortgage loan'' include loans other than ''home purchase loans''?

A1. Yes. ''Home mortgage loan'' includes a ''home improvement loan'' as well as a ''home purchase loan,'' as both terms are defined in the HMDA regulation, Regulation C, 12 CFR part 203. This definition also includes multifamily (five-or-more families) dwelling loans, loans for the purchase of manufactured homes, and refinancings of home improvement and home purchase loans.

Q2. Some financial institutions broker home mortgage loans. They typically take the borrower's application and perform other settlement activities; however, they do not make the credit decision. The broker institutions may also initially fund these mortgage loans, then immediately assign them to another lender. Because the broker institution does not make the credit decision, under Regulation C (HMDA), they do not record the loans on their HMDA–LARs, even if they fund the loans. May an institution receive any consideration under CRA for its home mortgage loan brokerage activities?

A2. Yes. A financial institution that funds home mortgage loans but immediately assigns the loans to the lender that made the credit decisions may present information about these loans to examiners for consideration under the lending test as ''other loan data.'' Under Regulation C, the broker institution does not record the loans on its HMDA–LAR because it does not make the credit decisions, even if it funds the loans. An institution electing to have these home mortgage loans considered must maintain information about all of the home mortgage loans that it has funded in this way. Examiners will consider this other loan data using the same criteria by which home mortgage loans originated or purchased by an institution are evaluated.

Institutions that do not provide funding but merely take applications and provide settlement services for another lender that makes the credit decisions will receive consideration for this service as a retail banking service. Examiners will consider an institution's mortgage brokerage services when evaluating the range of services provided to low-, moderate-, middle- and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies. Alternatively, an institution's mortgage brokerage service may be considered a community development service if the primary purpose of the service is community development. An institution wishing to have its mortgage brokerage service considered as a community development service must provide sufficient information to substantiate that its primary purpose is community development and to establish the extent of the services provided.

____.12(n) & 563e.12(m) Income level

Q1. Where do institutions find income level data for geographies and individuals?

A1. The income levels for geographies, i.e., census tracts and block numbering areas, are derived from Census Bureau information and are updated every ten years. Institutions may contact their regional Census Bureau office or the Census Bureau's Income Statistics Office at (301) 763–8576 to obtain income levels for geographies. *See* Appendix A for a list of the regional Census Bureau offices. The income levels for individuals are derived from information calculated by the Department of Housing and Urban Development (HUD) and updated annually. Institutions may contact HUD at (800) 245–2691 to request a copy of ''FY [year number, e.g., 1996] Median Family Incomes for States and their Metropolitan and Nonmetropolitan Portions.''

Alternatively, institutions may obtain a list of the 1990 Census Bureau-calculated and the annually updated HUD median family incomes for MSAs and statewide nonmetropolitan areas by calling the Federal Financial Institution Examination Council's (FFIEC's) HMDA Help Line at (202) 452–2016. A free copy will be faxed to the caller through the ''fax-back'' system. Institutions may also call this number to have ''faxed-back'' an order form, from which they may order a list providing the median family income level, as a percentage of the appropriate MSA or nonmetropolitan median family income, of every census tract and BNA. This list costs $50. Institutions may also obtain the list of MSA and statewide nonmetropolitan area median family incomes or an order form through the FFIEC's CRA home page on the Internet at 'http://www.ffiec.bog.frb.fed.us/cra/'.

____.12(o) & 563e.12(n) Limited purpose institution

Q1. What constitutes a ''narrow product line'' in the definition of ''limited purpose institution''

A1. An institution offers a narrow product line by limiting its lending activities to a product line other than a traditional retail product line required to be evaluated under the lending test (i.e., home mortgage, small business, and small farm loans). Thus, an institution engaged only in making credit card or motor vehicle loans offers a narrow product line, while an institution limiting its lending activities to home mortgages is not offering a narrow product line.

Q2. What factors will the agencies consider to determine whether an institution that, if limited purpose, makes loans outside a narrow product line, or, if wholesale, engages in retail lending, will lose its limited purpose or wholesale designation because of too much other lending?

A2. Wholesale institutions may engage in some retail lending without losing their designation if this activity is incidental and done on an accommodation basis. Similarly, limited purpose institutions continue to meet the narrow product line requirement if they provide other types of loans on an infrequent basis. In reviewing other lending activities by these institutions, the agencies will consider the following factors:

- Is the other lending provided as an incident to the institution's wholesale lending?
- Are the loans provided as an accommodation to the institution's wholesale customers?
- Are the loans made only infrequently to the limited purpose institution's customers?
- Does only an insignificant portion of the institution's total assets and income result from the other lending?
- How significant a role does the institution play in providing that type(s) of loan in the institution's assessment area(s)?
- Does the institution hold itself out as offering that type(s) of loan?
- Does the lending test or the community development test present a more accurate picture of the institution's CRA performance?

Q3. Do ''niche institutions'' qualify as limited purpose (or wholesale) institutions?

A3. Generally, no. Institutions that are in the business of lending to the public, but specialize in certain types of retail loans (for example, home mortgage or small business loans) to certain types of borrowers (for example, to high-end income level customers or to corporations or partnerships of licensed professional practitioners) (''niche institutions'') generally would not qualify as limited purpose (or wholesale) institutions.

____.12(s) & 563e.12(r) Qualified investment

Q1. Does the CRA regulation provide authority for institutions to make investments?

A1. No. The CRA regulation does not provide authority for institutions to make investments that are not otherwise allowed by Federal law.

Q2. Are mortgage-backed securities or municipal bonds ''qualified investments''?

A2. As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments. Municipal bonds or other securities with a primary purpose of community development need not be housing-related. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Housing-related bonds or securities must primarily address affordable housing (including multifamily rental housing) needs in order to qualify.

Q3. Are Federal Home Loan Bank stocks and membership reserves with the Federal Reserve Banks ''qualified investments''?

A3. No. Federal Home Loan Bank stock and membership reserves with the Federal Reserve Banks do not have a sufficient connection to community development to be qualified investments.

Q4. What are examples of qualified investments?

A4. Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares in or to:

- Financial intermediaries (including, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;
- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- Organizations, including, for example, Small Business Investment Companies (SBICs) and specialized SBICs, that promote economic development by financing small businesses;
- Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;
- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, home-ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

Q5. Will an institution receive consideration for charitable contributions as ''qualified investments''?

A5. Yes, provided they have as their primary purpose community development as defined in the regulations. A charitable contribution, whether in cash or an in-kind contribution of property, is included in the term ''grant.'' A qualified investment is not disqualified because an institution receives favorable treatment for it (for example, as a tax deduction or credit) under the Internal Revenue Code.

Q6. An institution makes or participates in a community development loan. The institution provided the loan at below-market interest rates or ''bought down'' the interest rate to the borrower. Is the lost income resulting from the lower interest rate or buy-down a qualified investment?

A6. No. The agencies will, however, consider the innovativeness and complexity of the community development loan within the bounds of safe and sound banking practices.

Q7. Will the agencies consider as a qualified investment the wages or other compensation of an employee or director who provides assistance to a community development organization on behalf of the institution?

A7. No. However, the agencies will consider donated labor of employees or directors of a financial institution in the service test if the activity is a community development service.

____.12(t) Small institution

Q1. How are the ''total bank and thrift assets'' of a holding company determined?

A1. ''Total banking and thrift assets'' of a holding company are determined by combining the total assets of all banks and/or thrifts that are majority-owned by the holding company. An institution is majority-owned if the holding company directly or indirectly owns more than 50 percent of its outstanding voting stock.

Q2. How are Federal and State branch assets of a foreign bank calculated for purposes of the CRA?

A2. A Federal or State branch of a foreign bank is considered a small institution if the Federal or State branch has less than $250 million in assets and the total assets of the foreign bank's or its holding company's U.S. bank and thrift subsidiaries that are subject to the CRA are less than $1 billion. This calculation includes not only FDIC-insured bank and thrift subsidiaries, but also the assets of any FDIC-insured branch of the foreign bank and the assets of any uninsured Federal or State branch (other than a limited branch or a Federal agency) of the foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. § 3103(a)(8)).

____.12(u) Small business loan

Q1. Are loans to nonprofit organizations considered small business loans or are they considered community development loans?

A1. To be considered a small business loan, a loan must meet the definition of ''loan to small business'' in the instructions in the ''Consolidated Reports of Conditions and Income'' (Call Report) and ''Thrift Financial Reports'' (TFR). In general, a loan to a nonprofit organization, for business or farm purposes, where the loan is secured by nonfarm nonresidential property and the original amount of the loan is $1 million or less, if a business loan, or $500,000 or less, if a farm loan, would be reported in the Call Report and TFR as a small business or small farm loan. If a loan to a nonprofit organization is reportable as a small business or small farm loan, it cannot also be considered as a community development loan, except by a wholesale or limited purpose institution. Loans to nonprofit organizations that are not small business or small farm loans for Call Report and TFR purposes may be considered as community development loans if they meet the regulatory definition.

Q2. Are loans secured by commercial real estate considered small business loans?

A2. Yes, depending on their principal amount. Small business loans include loans secured by ''nonfarm nonresidential properties,'' as defined in the Call Report and TFR, in amounts less than $1 million.

Q3. Are loans secured by nonfarm residential real estate to finance small businesses ''small business loans'?

A3. No. Loans secured by nonfarm residential real estate that are used to finance small businesses are not included as ''small business'' loans for Call Report and TFR purposes. The agencies recognize that many small businesses are financed by loans secured by residential real estate. If these loans promote community development, as defined in the regulation, they may be considered as community development loans. Otherwise, at an institution's option, the institution may collect and maintain data separately concerning these loans and request that the data be considered in its CRA evaluation as ''Other Secured Lines/Loans for Purposes of Small Business.''

Q4. Are credit cards issued to small businesses considered ''small business loans''

A4. Credit cards issued to a small business or to individuals to be used, with the institution's knowledge, as business accounts are small business loans if they meet the definitional requirements in the Call Report or TFR instructions.

____.12(w) Wholesale institution

Q1. What factors will the agencies consider in determining whether an institution is in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers?

A1. The agencies will consider whether:

- The institution holds itself out to the retail public as providing such loans; and
- The institution's revenues from extending such loans are significant when compared to its overall operations.

A wholesale institution may make some retail loans without losing its wholesale designation as described above in Q&A2 addressing sections ____.12(o) and 563e.12(n).

Section ____.21—Performance tests, standards, and ratings, in general

____.21(a) Performance tests and standards

Q1. Are all community development activities weighted equally by examiners?

A1. No, examiners will consider the responsiveness to credit and community development needs, as well as the innovativeness and complexity of an institution's community development lending, qualified investments, and community development services. These criteria include consideration of the degree to which they serve as a catalyst for other community development activities. The criteria are designed to add a qualitative element to the evaluation of an institution's performance.

____.21(b) Performance context

Q1. Is the performance context essentially the same as the former regulation's needs assessment?

A1. No. The performance context is a broad range of economic, demographic, and institution- and community-specific information that an examiner reviews to understand the context in which an institution's record of performance should be evaluated. The agencies will provide examiners with much of this

information prior to the examination. The performance context is not a formal or written assessment of community credit needs.

____.21(b)(2) Information maintained by the institution or obtained from community contacts

Q1. Will examiners consider performance context information provided by institutions?

A1. Yes. An institution may provide examiners with any information it deems relevant, including information on the lending, investment, and service opportunities in its assessment area(s). This information may include data on the business opportunities addressed by lenders not subject to the CRA. Institutions are not required, however, to prepare a needs assessment. If an institution provides information to examiners, the agencies will not expect information other than what the institution normally would develop to prepare a business plan or to identify potential markets and customers, including low- and moderate-income persons and geographies in its assessment area(s). The agencies will not evaluate an institution's efforts to ascertain community credit needs or rate an institution on the quality of any information it provides.

Q2. Will examiners conduct community contact interviews as part of the examination process?

A2. Yes. Examiners will consider information obtained from interviews with local community, civic, and government leaders. These interviews provide examiners with knowledge regarding the local community, its economic base, and community development initiatives. To ensure that information from local leaders is considered—particularly in areas where the number of potential contacts may be limited—examiners may use information obtained through an interview with a single community contact for examinations of more than one institution in a given market. In addition, the agencies will consider information obtained from interviews conducted by other agency staff and by the other agencies. In order to augment contacts previously used by the agencies and foster a wider array of contacts, the agencies will share community contact information.

____.21(b)(4) Institutional capacity and constraints

Q1. Will examiners consider factors outside of an institution's control that prevent it from engaging in certain activities?

A1. Yes. Examiners will take into account statutory and supervisory limitations on an institution's ability to engage in any lending, investment, and service activities. For example, a savings association that has made few or no qualified investments due to its limited investment authority may still receive a low satisfactory rating under the investment test if it has a strong lending record.

____.21(b)(5) Institution's past performance and the performance of similarly situated lenders

Q1. Can an institution's assigned rating be adversely affected by poor past performance?

A1. Yes. The agencies will consider an institution's past performance in its overall evaluation. For example, an institution's past performance may support a rating of ''substantial noncompliance'' if the institution has not improved performance rated as ''needs to improve.''

Q2. How will examiners consider the performance of similarly situated lenders?

A2. The performance context section of the regulation permits the performance of similarly situated lenders to be considered, for example, as one of a number of considerations in evaluating the geographic distribution of an institution's loans to low-, moderate-, middle-, and upper-income geographies. This analysis, as well as other analyses, may be used, for example, where groups of contiguous geographies within an institution's assessment area(s) exhibit abnormally low penetration. In this regard, the performance of similarly situated lenders may be analyzed if such an analysis would provide accurate insight into the institution's lack of performance in those areas. The regulation does not require the use of a specific type of analysis under these circumstances. Moreover, no ratio developed from any type of analysis is linked to any lending test rating.

Section ____.22—Lending test

____.22(a) Scope of test

____.22(a)(1) Types of loans considered

Q1. If a large retail institution is not required to collect and report home mortgage data under the HMDA, will the agencies still evaluate the institution's home mortgage lending performance?

A1. Yes. The agencies will sample the institution's home mortgage loan files in order to assess its performance under the lending test criteria.

Q2. When will examiners consider consumer loans as part of an institution's CRA evaluation?

A2. Consumer loans will be evaluated if the institution so elects; and an institution that elects not to have its consumer loans evaluated will not be viewed less favorably by examiners than one that does. However, if consumer loans constitute a substantial majority of the institution's business, the agencies will evaluate them even if the institution does not so elect. The agencies interpret ''substantial majority'' to be so significant a portion of the institution's lending activity by number or dollar volume of loans that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded.

____.22(a)(2) Other loan data

Q1. How are lending commitments (such as letters of credit) evaluated under the regulation?

A1. The agencies consider lending commitments (such as letters of credit) only at the option of the institution. Commitments must be legally binding between an institution and a borrower in order to be considered. Information about lending commitments will be used by examiners to enhance their understanding of an institution's performance.

Q2. Will examiners review application data as part of the lending test?

A2. Application activity is not a performance criterion of the lending test. However, examiners may consider this information in the performance context analysis because this information may give examiners insight on, for example, the demand for loans.

Q3: May a financial institution receive consideration under CRA for modification, extension, and consolidation agreements (MECAs), in which it obtains loans from other institutions without actually purchasing or refinancing the loans, as those terms have been interpreted under CRA?

A3: Yes. In some states, MECAs, which are not considered loan refinancings because the existing loan obligations are not satisfied and replaced, are common. Although these transactions are not considered to be purchases or refinancings, as those terms have been interpreted under CRA, they do achieve the same results. An institution may present information about its MECA activities to examiners for consideration under the lending test as ''other loan data.''

____.22(b) Performance criteria

Q1. How will examiners apply the performance criteria in the lending test?

A1: Examiners will apply the performance criteria reasonably and fairly, in accord with the regulations, the examination procedures, and this Guidance. In doing so, examiners will disregard efforts by an institution to manipulate business operations or present information in an artificial light that does not accurately reflect an institution's overall record of lending performance.

____.22(b)(1) Lending activity

Q1. How will the agencies apply the lending activity criterion to discourage an institution from originating loans that are viewed favorably under CRA in the institution itself and referring other loans, which are not viewed as favorably, for origination by an affiliate?

A1. Examiners will review closely institutions with (1) a small number and amount of home mortgage loans with an unusually good distribution among low- and moderate-income areas and low- and moderate-income borrowers and (2) a policy of referring most, but not all, of their home mortgage loans to affiliated institutions. If an institution is making loans mostly to low- and moderate-income individuals and areas and referring the rest of the loan applicants to an affiliate for the purpose of receiving a favorable CRA rating, examiners may conclude that the institution's lending activity is not satisfactory because it has inappropriately attempted to influence the rating. In evaluating an institution's lending, examiners will consider legitimate business reasons for the allocation of the lending activity.

____.22(b)(2) and (3) Geographic distribution and borrower characteristics

Q1. How do the geographic distribution of loans and the distribution of lending by borrower characteristics interact in the lending test?

A1. Examiners generally will consider both the distribution of an institution's loans among geographies of different income levels and among borrowers of different income levels and businesses of different sizes. The importance of the borrower distribution criterion, particularly in relation to the geographic distribution criterion, will depend on the performance context. For example, distribution among borrowers with different income levels may be more important in areas without identifiable geographies of different income categories. On the other hand, geographic distribution may be more important in areas with the full range of geographies of different income categories.

Q2. Must an institution lend to all portions of its assessment area?

A2. The term ''assessment area'' describes the geographic area within which the agencies assess how well an institution has met the specific performance tests and standards in the rule. The agencies do not expect that simply because a census tract or block numbering area is within an institution's assessment area(s) the institution must lend to that census tract or block numbering area. Rather the agencies will be concerned with conspicuous gaps in loan distribution that are not explained by the performance context. Similarly, if an institution delineated the entire county in which it is located as its assessment area, but could have delineated its assessment area as only a portion of the county, it will not be penalized for lending only in that portion of the county, so long as that portion does not reflect illegal discrimination or arbitrarily exclude low- or moderate-income geographies. The capacity and constraints of an institution, its business decisions about how it can best help to meet the needs of its assessment area(s), including those of low- and moderate-income neighborhoods, and other aspects of the performance context, are all relevant to explain why the institution is serving or not serving portions of its assessment area(s).

Q3. Will examiners take into account loans made by affiliates when evaluating the proportion of an institution's lending in its assessment area(s)?

A3. Examiners will not take into account loans made by affiliates when determining the proportion of an institution's lending in its assessment area(s), even if the institution elects to have its affiliate lending considered in the remainder of the lending test evaluation. However, examiners may consider an institution's business strategy of conducting lending through an affiliate in order to determine whether a low proportion of lending in the assessment area(s) should adversely affect the institution's lending test rating.

Q4. When will examiners consider loans (other than community development loans) made outside an institution's assessment area(s)?

A4. Favorable consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of an institution's assessment area(s), provided the institution has adequately addressed the needs of borrowers within its assessment area(s). The agencies will apply this consideration not only to loans made by large retail institutions being evaluated under the lending test, but also to loans made by small institutions being evaluated under the small institution performance standards. Loans to low- and moderate-income persons and small businesses and farms outside of an institution's assessment area(s), however, will not compensate for poor lending performance within the institution's assessment area(s).

____.22(c) Affiliate lending

____.22(c)(1) In general

Q1. If an institution elects to have loans by its affiliate(s) considered, may it elect to have only certain categories of loans considered?

A1. Yes. An institution may elect to have only a particular category of its affiliate's lending considered. The basic categories of loans are home mortgage loans, small business loans, small farm loans, community development loans, and the five categories of consumer loans (motor vehicle loans, credit card loans, home equity loans, other secured loans, and other unsecured loans).

____.22(c)(2) Constraints on affiliate lending

____.22(c)(2)(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase

Q1. How is this constraint on affiliate lending applied?

A1. This constraint prohibits one affiliate from claiming a loan origination or purchase claimed by another affiliate. However, an institution can count as a purchase a loan originated by an affiliate that the institution subsequently purchases, or count as an origination a loan later sold to an affiliate, provided the same loans are not sold several times to inflate their value for CRA purposes.

____.22(c)(2)(ii) If an institution elects to have its supervisory agency consider loans within a particular lending category made by one or more of the institution's affiliates in a particular assessment area, the institution shall elect to have the agency consider all loans within that lending category in that particular assessment area made by all of the institution's affiliates

Q1. How is this constraint on affiliate lending applied?

A1. This constraint prohibits ''cherry-picking'' affiliate loans within any one category of loans. The constraint requires an institution that elects to have a particular category of affiliate lending in a particular assessment area considered to include all loans of that type made by all of its affiliates in that particular assessment area. For example, assume that an institution has one or more affiliates, such as a mortgage bank that makes loans in the institution's assessment area. If the institution elects to include the mortgage bank's home mortgage loans, it must include all of mortgage bank's home mortgage loans made in its assessment area. The institution cannot elect to include only those low- and moderate-income home mortgage loans made by the mortgage bank affiliate and not home mortgage loans to middle- and upper-income individuals or areas.

Q2. How is this constraint applied if an institution's affiliates are also insured depository institutions subject to the CRA?

A2. Strict application of this constraint against ''cherry-picking'' to loans of an affiliate that is also an insured depository institution covered by the CRA would produce the anomalous result that the other institution would, without its consent, not be able to count its own loans. Because the agencies did not intend to deprive an institution subject to the CRA of receiving consideration for its own lending, the agencies read this constraint slightly differently in cases involving a group of affiliated institutions, some of which are subject to the CRA and share the same assessment area(s). In those circumstances, an institution that elects to include all of its mortgage affiliate's home mortgage loans in its assessment area would not automatically be required to include all home mortgage loans in its assessment area of another affiliate institution subject to the CRA. However, all loans of a particular type made by any affiliate in the institution's assessment area(s) must either be counted by the lending institution or by another affiliate institution that is subject to the CRA. This reading reflects the fact that a holding company may, for business reasons, choose to transact different aspects of its business in different subsidiary institutions. However, the method by which loans are allocated among the institutions for CRA purposes must reflect actual business decisions about the allocation of banking activities among the institutions and should not be designed solely to enhance their CRA evaluations.

____.22(d) Lending by a consortium or a third party

Q1. Will equity and equity-type investments in a third party receive positive consideration under the lending test?

A1. If an institution has made an equity or equity-type investment in a third party, loans made by the third party may be considered under the lending test. On the other hand, asset-backed and debt securities that do not represent an equity-type interest in a third party will not be considered under the lending test unless the securities are booked by the purchasing institution as a loan. For example, if an institution purchases stock in a community development corporation (''CDC'') that primarily lends in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, the institution may claim a pro rata share of the CDC's loans as community development loans. The institution's pro rata share is based on its percentage of equity ownership in the CDC. Q&A1 addressing section ____.23(b) provides information concerning consideration of an equity or equity-type investment under the investment test and both the lending and investment tests.

Q2. How will examiners evaluate loans made by consortia or third parties under the lending test?

A2. Loans originated or purchased by consortia in which an institution participates or by third parties in which an institution invests will only be considered if they qualify as community development loans and will only be considered under the community development criterion of the lending test. However, loans originated directly on the books of an institution or purchased by the institution are considered to have been made or purchased directly by the institution, even if the institution originated or purchased the loans as a result of its participation in a loan consortium. These loans would be considered under all the lending test criteria appropriate to them depending on the type of loan.

Q3. In some circumstances, an institution may invest in a third party, such as a community development bank, that is also an insured depository institution and is thus subject to CRA requirements. If the investing institution requests its supervisory agency to consider its pro rata share of community development loans made by the third party, as allowed under 12 CFR § ____.22(d), may the third party also receive consideration for these loans?

A3. Yes, as long as the financial institution and the third party are not affiliates. The regulations state, at 12 CFR § ____.22(c)(2)(i), that two affiliates may not both claim the same loan origination or loan purchase. However, if the financial institution and the third party are not affiliates, the third party may receive consideration for the community development loans it originates, and the financial institution that invested in the third party may also receive consideration for its pro rata share of the same community development loans under 12 CFR § ____.22(d).

Section ____.23—Investment test

____.23(b) Exclusion

Q1. Even though the regulations state that an activity that is considered under the lending or service tests cannot also be considered under the investment test, may parts of an activity be considered under one test and other parts be considered under another test?

A1. Yes, in some instances the nature of an activity may make it eligible for consideration under more than one of the performance tests. For example, certain investments and related support provided by a large retail institution to a CDC may be evaluated under the

lending, investment, and service tests. Under the service test, the institution may receive consideration for any community development services that it provides to the CDC, such as service by an executive of the institution on the CDC's board of directors. If the institution makes an investment in the CDC that the CDC uses to make community development loans, the institution may receive consideration under the lending test for its pro-rata share of community development loans made by the CDC. Alternatively, the institution's investment may be considered under the investment test, assuming it is a qualified investment. In addition, an institution may elect to have a part of its investment considered under the lending test and the remaining part considered under the investment test. If the investing institution opts to have a portion of its investment evaluated under the lending test by claiming a share of the CDC's community development loans, the amount of investment considered under the investment test will be offset by that portion. Thus, the institution would only receive consideration under the investment test for the amount of its investment multiplied by the percentage of the CDC's assets that meet the definition of a qualified investment.

Section ____.24—Service test

____.24(d) Performance criteria—retail banking services

Q1. How do examiners evaluate the availability and effectiveness of an institution's systems for delivering retail banking services?

A1. Convenient access to full service branches within a community is an important factor in determining the availability of credit and non-credit services. Therefore, the service test performance standards place primary emphasis on full service branches while still considering alternative systems, such as automated teller machines (''ATMs'). The principal focus is on an institution's current distribution of branches; therefore, an institution is not required to expand its branch network or operate unprofitable branches. Under the service test, alternative systems for delivering retail banking services, such as ATMs, are considered only to the extent that they are effective alternatives in providing needed services to low- and moderate-income areas and individuals.

____.24(d)(3) Availability and effectiveness of alternative systems for delivering retail banking services

Q1. How will examiners evaluate alternative systems for delivering retail banking services?

A1. The regulation recognizes the multitude of ways in which an institution can provide services, for example, ATMs, banking by telephone or computer, and bank-by-mail programs. Delivery systems other than branches will be considered positively under the regulation to the extent that they are effective alternatives to branches in providing needed services to low- and moderate-income areas and individuals. The list of systems in the regulation is not intended to be inclusive.

Q2. Are debit cards considered under the service test as an alternative delivery system?

A2. By themselves, no. However, if debit cards are a part of a larger combination of products, such as a comprehensive electronic banking service, that allows an institution to deliver needed services to low- and moderate-income areas and individuals in its community, the overall delivery system that includes the debit card feature would be considered an alternative delivery system.

Section ____.25—Community development test for wholesale or limited purpose institutions

____.25(d) Indirect activities

Q1. How are investments in third party community development organizations considered under the community development test?

A1. Similar to the lending test for retail institutions, investments in third party community development organizations may be considered as qualified investments or as community development loans or both (provided there is no double counting), at the institution's option, as described above in the discussion regarding sections ____.22(d) and ____.23(b).

____.25(f) Community development performance rating

Q1. Must a wholesale or limited purpose institution engage in all three categories of community development activities (lending, investment and service) to perform well under the community development test?

A1. No, a wholesale or limited purpose institution may perform well under the community development test by engaging in one or more of these activities.

Section ____.26—Small institution performance standards

____.26(a) Performance criteria

Q1. May examiners consider, under one or more of the performance criteria of the small institution performance standards, lending-related activities, such as community development loans and lending-related qualified investments, when evaluating a small institution?

A1. Yes. Examiners can consider ''lending-related activities,'' including community development loans and lending-related qualified investments, when evaluating the first four performance criteria of the small institution performance test. Although lending-related activities are specifically mentioned in the regulation in connection with only the first three criteria (i.e., loan-to-deposit ratio, percentage of loans in the institution's assessment area, and lending to borrowers of different incomes and businesses of different sizes), examiners can also consider these activities when they evaluate the fourth criteria—geographic distribution of the institution's loans.

Q2. What is meant by ''as appropriate'' when referring to the fact that lending-related activities will be considered, ''as appropriate,'' under the various small institution performance criteria?

A2. ''As appropriate'' means that lending-related activities will be considered when it is necessary to determine whether an institution meets or exceeds the standards for a satisfactory rating. Examiners will also consider other lending-related activities at an institution's request.

Q3. When evaluating a small institution's lending performance, will examiners consider, at the institution's request, community development loans originated or purchased by a consortium in which the institution participates or by a third party in which the institution has invested?

A3. Yes. However, a small institution that elects to have examiners consider community development loans originated or purchased by a consortium or third party must maintain sufficient information on its share of the community development loans so that the examiners may evaluate these loans under the small institution performance criteria.

Q4. Under the small institution performance standards, will examiners consider both loan originations and purchases?

A4. Yes, consistent with the other assessment methods in the regulation, examiners will consider both loans originated and purchased by the institution. Likewise, examiners may consider any other loan data the small institution chooses to provide, including data on loans outstanding, commitments and letters of credit.

Q5. Under the small institution performance standards, how will qualified investments be considered for purposes of determining whether a small institution receives a satisfactory CRA rating?

A5. The small institution performance standards focus on lending and other lending-related activities. Therefore, examiners will consider only lending-related qualified investments for the purposes of determining whether the small institution receives a satisfactory CRA rating.

____.26(a)(1) Loan-to-deposit ratio

Q1. How is the loan-to-deposit ratio calculated?

A1. A small institution's loan-to-deposit ratio is calculated in the same manner that the Uniform Bank Performance Report/Uniform Thrift Performance Report (UBPR/UTPR) determines the ratio. It is calculated by dividing the institution's net loans and leases by its total deposits. The ratio is found in the Liquidity and Investment Portfolio section of the UBPR and UTPR. Examiners will use this ratio to calculate an average since the last examination by adding the quarterly loan-to-deposit ratios and dividing the total by the number of quarters.

Q2. How is the ''reasonableness'' of a loan-to-deposit ratio evaluated?

A2. No specific ratio is reasonable in every circumstance, and each small institution's ratio is evaluated in light of information from the performance context, including the institution's capacity to lend, demographic and economic factors present in the assessment area, and the lending opportunities available in the assessment area(s). If a small institution's loan-to-deposit ratio appears unreasonable after considering this information, lending performance may still be satisfactory under this criterion taking into consideration the number and the dollar volume of loans sold to the secondary market or the number and amount and innovativeness or complexity of community development loans and lending-related qualified investments.

Q3. If an institution makes a large number of loans off-shore, will examiners segregate the domestic loan-to-deposit ratio from the foreign loan-to-deposit ratio?

A3. No. Examiners will look at the institution's net loan-to-deposit ratio for the whole institution, without any adjustments.

____.26(a)(2) Percentage of lending within assessment area(s)

Q1. Must a small institution have a majority of its lending in its assessment area(s) to receive a satisfactory performance rating?

A1. No. The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s) is but one of the performance criteria upon which small institutions are evaluated. If the percentage of loans and other lending related activities in an institution's assessment area(s) is less than a majority, then the institution does not meet the standards for satisfactory performance only under this criterion. The effect on the overall performance rating of the institution, however, is considered in light of the performance context, including information regarding economic conditions, loan demand, the institution's size, financial condition and business strategies, and branching network and other aspects of the institution's lending record.

____.26(a) (3) and (4) Distribution of lending within assessment area(s) by borrower income and geographic location

Q1. How will a small institution's performance be assessed under these lending distribution criteria?

A1. Distribution of loans, like other small institution performance criteria, is considered in light of the performance context. For example, a small institution is not required to lend evenly throughout its assessment area(s) or in any particular geography. However, in order to meet the standards for satisfactory performance under this criterion, conspicuous gaps in a small institution's loan distribution must be adequately explained by performance context factors such as lending opportunities in the institution's assessment area(s), the institution's product offerings and business strategy, and institutional capacity and constraints. In addition, it may be impracticable to review the geographic distribution of the lending of an institution with few demographically distinct geographies within an assessment area. If sufficient information on the income levels of individual borrowers or the revenues or sizes of business borrowers is not available, examiners may use proxies such as loan size for estimating borrower characteristics, where appropriate.

____.26(b) Performance rating

Q1. How can a small institution achieve an ''outstanding'' performance rating?

A1. A small institution that meets each of the standards for a ''satisfactory'' rating and exceeds some or all of those standards may warrant an ''outstanding'' performance rating. In assessing performance at the ''outstanding'' level, the agencies consider the extent to which the institution exceeds each of the performance standards and, at the institution's option, its performance in making qualified investments and providing services that enhance credit availability in its assessment area(s). In some cases, a small institution may qualify for an ''outstanding'' performance rating solely on the basis of its lending activities, but only if its performance materially exceeds the standards for a ''satisfactory'' rating, particularly with respect to the penetration of borrowers at all income levels and the dispersion of loans throughout the geographies in its assessment area(s) that display income variation. An institution with a high loan-to-deposit ratio and a high percentage of loans in its assessment area(s), but with only a reasonable penetration of borrowers at all income levels or a reasonable dispersion of loans throughout geographies of differing income levels in its assessment area(s), generally will not be rated ''outstanding'' based only on its lending performance. However, the institution's performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s) may augment the institution's satisfactory rating to the extent that it may be rated ''outstanding.''

Q2. Will a small institution's qualified investments, community development loans, and community development services be considered if they do not directly benefit its assessment area(s)?

A2. Yes, these activities are eligible for consideration if they benefit a broader statewide or regional area that

includes a small institution's assessment area(s), as discussed more fully in Q&A6 addressing sections ____.12(i) and 563e.12(h).

Section ____.27—Strategic plan

____.27(c) Plans in general

Q1. To what extent will the agencies provide guidance to an institution during the development of its strategic plan?

A1. An institution will have an opportunity to consult with and provide information to the agencies on a proposed strategic plan. Through this process, an institution is provided guidance on procedures and on the information necessary to ensure a complete submission. For example, the agencies will provide guidance on whether the level of detail as set out in the proposed plan would be sufficient to permit agency evaluation of the plan. However, the agencies' guidance during plan development and, particularly, prior to the public comment period, will not include commenting on the merits of a proposed strategic plan or on the adequacy of measurable goals.

Q2. How will a joint strategic plan be reviewed if the affiliates have different primary federal supervisors?

A2. The agencies will coordinate review of and action on the joint plan. Each agency will evaluate the measurable goals for those affiliates for which it is the primary regulator.

____.27(f) Plan content

____.27(f)(1) Measurable goals

Q1. How should ''measurable goals'' be specified in a strategic plan?

A1. Measurable goals (e.g., number of loans, dollar amount, geographic location of activity, and benefit to low- and moderate-income areas or individuals) must be stated with sufficient specificity to permit the public and the agencies to quantify what performance will be expected. However, institutions are provided flexibility in specifying goals. For example, an institution may provide ranges of lending amounts in different categories of loans. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.

____.27(g) Plan approval

____.27(g)(2) Public participation

Q1. How will the public receive notice of a proposed strategic plan?

A1. An institution submitting a strategic plan for approval by the agencies is required to solicit public comment on the plan for a period of thirty (30) days after publishing notice of the plan at least once in a newspaper of general circulation. The notice should be sufficiently prominent to attract public attention and should make clear that public comment is desired. An institution may, in addition, provide notice to the public in any other manner it chooses.

Section ____.28—Assigned ratings

____.28(a) Ratings in general

Q1. How are institutions with domestic branches in more than one state assigned a rating?

A1. The evaluation of an institution that maintains domestic branches in more than one state (''multistate institution'') will include a written evaluation and rating of its CRA record of performance as a whole and in each state in which it has a domestic branch. The written evaluation will contain a separate presentation on a multistate institution's performance for each metropolitan statistical area and the nonmetropolitan area within each state, if it maintains one or more domestic branch offices in these areas. This separate presentation will contain conclusions, supported by facts and data, on performance under the performance tests and standards in the regulation. The evaluation of a multistate institution that maintains a domestic branch in two or more states in a multistate metropolitan area will include a written evaluation (containing the same information described above) and rating of its CRA record of performance in the multistate metropolitan area. In such cases, the statewide evaluation and rating will be adjusted to reflect performance in the portion of the state not within the multistate metropolitan statistical area.

Q2. How are institutions that operate within only a single state assigned a rating?

A2. An institution that operates within only a single state (''single-state institution'') will be assigned a rating of its CRA record based on its performance within that state. In assigning this rating, the agencies will separately present a single-state institution's performance for each metropolitan area in which the institution maintains one or more domestic branch offices. This separate presentation will contain conclusions, supported by facts and data, on the single-state institution's performance under the performance tests and standards in the regulation.

Q3. How do the agencies weight performance under the lending, investment and service test for large retail institutions?

A3. A rating of ''outstanding,'' ''high satisfactory,'' ''low satisfactory,'' ''needs to improve,'' or ''substantial noncompliance,'' based on a judgment supported by facts and data, will be assigned under each performance test. Points will then be assigned to each rating as described in the first matrix set forth below. A large retail institution's overall rating under the lending, investment and service tests will then be calculated in accordance with the second matrix set forth below, which incorporates the rating principles in the regulation.

POINTS ASSIGNED FOR PERFORMANCE UNDER LENDING, INVESTMENT AND SERVICE TESTS

	Lending	Service	Investment
Outstanding	12	6	6
High satisfactory	9	4	4
Low satisfactory	6	3	3
Needs to improve	3	1	1
Substantial noncompliance	0	0	0

COMPOSITE RATING POINT REQUIREMENTS

[Add points from three tests]

Rating	Total points
Outstanding	20 or over.
Satisfactory	11 through 19.
Needs to improve	5 through 10.
Substantial noncompliance	0 through 4.

Note: There is one exception to the Composite Rating matrix. An institution may not receive a rating of ''satisfactory'' unless it receives at least ''low satisfactory'' on the lending test. Therefore, the total points are capped at three times the lending test score.

Section ____.29—Effect of CRA performance on applications

____.29(a) CRA performance

Q1. What weight is given to an institution's CRA performance examination in reviewing an application?

A1. In cases in which CRA performance is a relevant factor, information from a CRA performance examination of the institution is a particularly important consideration in the applications process because it represents a detailed evaluation of the institution's CRA performance by its federal supervisory agency. In this light, an examination is an important, and often controlling, factor in the consideration of an institution's record. In some cases, however, the examination may not be recent or a specific issue raised in the application process, such as progress in addressing weaknesses noted by examiners, progress in implementing commitments previously made to the reviewing agency, or a supported allegation from a commenter, is relevant to CRA performance under the regulation and was not addressed in the examination. In these circumstances, the applicant should present sufficient information to supplement its record of performance and to respond to the substantive issues raised in the application proceeding.

Q2. What consideration is given to an institution's commitments for future action in reviewing an application by those agencies that consider such commitments?

A2. Commitments for future action are not viewed as part of the CRA record of performance. In general, institutions cannot use commitments made in the applications process to overcome a seriously deficient record of CRA performance. However, commitments for improvements in an institution's performance may be appropriate to address specific weaknesses in an otherwise satisfactory record or to address CRA performance when a financially troubled institution is being acquired.

____.29(b) Interested parties

Q1. What consideration is given to comments from interested parties in reviewing an application?

A1. Materials relating to CRA performance received during the applications process can provide valuable information. Written comments, which may express either support for or opposition to the application, are made a part of the record in accordance with the agencies' procedures, and are carefully considered in making the agencies' decision. Comments should be supported by facts about the applicant's performance and should be as specific as possible in explaining the basis for supporting or opposing the application. These comments must be submitted within the time limits provided under the agencies' procedures.

Q2. Is an institution required to enter into agreements with private parties?

A2. No. Although communications between an institution and members of its community may provide a valuable method for the institution to assess how best to address the credit needs of the community, the CRA does not require an institution to enter into agreements with private parties. These agreements are not monitored or enforced by the agencies.

Section ____.41—Assessment area delineation

____.41(a) In general

Q1. How do the agencies evaluate ''assessment areas'' under the revised CRA regulations compared to how they evaluated ''local communities'' that institutions delineated under the original CRA regulations?

A1. The revised rule focuses on the distribution and level of an institution's lending, investments, and services rather than on how and why an institution delineated its ''local community'' or assessment area(s) in a particular manner. Therefore, the agencies will not evaluate an institution's delineation of its assessment area(s) as a separate performance criterion as they did under the original regulation. Rather, the agencies will only review whether the assessment area delineated by the institution complies with the limitations set forth in the regulations at section ____.41(e).

Q2. If an institution elects to have the agencies consider affiliate lending, will this decision affect the institution's assessment area(s)?

A2. If an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies in which the affiliate lends do not affect the institution's delineation of assessment area(s).

Q3. Can a financial institution identify a specific ethnic group rather than a geographic area as its assessment area?

A3. No, assessment areas must be based on geography.

____.41(c) Geographic area(s) for institutions other than wholesale or limited purpose institutions

____.41(c)(1) Generally consist of one or more MSAs or one or more contiguous political subdivisions

Q1. Besides cities, towns, and counties, what other units of local government are political subdivisions for CRA purposes?

A1. Townships and Indian reservations are political subdivisions for CRA purposes. Institutions should be aware that the boundaries of townships and Indian reservations may not be consistent with the boundaries of the census tracts or block numbering areas (''geographies'') in the area. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding any portions of the geographies that lie outside the political subdivision to the delineated assessment area(s).

Q2. Are wards, school districts, voting districts, and water districts political subdivisions for CRA purposes?

A2. No. However, an institution that determines that it predominantly serves an area that is smaller than a city, town or other political subdivision may delineate as its assessment area the larger political subdivision and then, in accordance with section ____.41(d), adjust the boundaries of the assessment area to include only the portion of the political subdivision that it reasonably can be expected to serve. The smaller area that the institution delineates must consist of entire geographies, may not reflect illegal discrimination, and may not arbitrarily exclude low- or moderate-income geographies.

____.41(d) Adjustments to geographic area(s)

Q1. When may an institution adjust the boundaries of an assessment area to include only a portion of a political subdivision?

A1. Institutions must include whole geographies (i.e., census tracts or block numbering areas) in their assessment areas and generally should include entire political subdivisions. Because census tracts and block numbering areas are the common geographic areas used consistently nationwide for data collection, the agencies require that assessment areas be made up of whole geographies. If including an entire political subdivision would create an

area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of the political subdivision. For example, this adjustment is appropriate if the assessment area would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers (such as a river, mountain, or major highway system). When adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

____.41(e) Limitations on delineation of an assessment area

____.41(e)(3) May not arbitrarily exclude low- or moderate-income geographies

Q1. How will examiners determine whether an institution has arbitrarily excluded low- or moderate-income geographies?

A1. Examiners will make this determination on a case-by-case basis after considering the facts relevant to the institution's assessment area delineation. Information that examiners will consider may include:

- Income levels in the institution's assessment area(s) and surrounding geographies;
- Locations of branches and deposit-taking ATMs;
- Loan distribution in the institution's assessment area(s) and surrounding geographies;
- The institution's size;
- The institution's financial condition; and
- The business strategy, corporate structure and product offerings of the institution.

____.41(e)(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless located in a multistate MSA

Q1. What are the maximum limits on the size of an assessment area?

A1. An institution shall not delineate an assessment area extending substantially across the boundaries of a consolidated metropolitan statistical area (CMSA) or the boundaries of an MSA, if the MSA is not located in a CMSA. Similarly, an assessment area may not extend substantially across state boundaries unless the assessment area is located in a multistate MSA. An institution may not delineate a whole state as its assessment area unless the entire state is contained within a CMSA. These limitations apply to wholesale and limited purpose institutions as well as other institutions.

An institution shall delineate separate assessment areas for the areas inside and outside a CMSA (or MSA if the MSA is not located in a CMSA) if the area served by the institution's branches outside the CMSA (or MSA) extends substantially beyond the CMSA (or MSA) boundary. Similarly, the institution shall delineate separate assessment areas for the areas inside and outside of a state if the institution's branches extend substantially beyond the boundary of one state (unless the assessment area is located in a multistate MSA). In addition, the institution should also delineate separate assessment areas if it has branches in areas within the same state that are widely separate and not at all contiguous. For example, an institution that has its main office in New York City and a branch in Buffalo, New York, and each office serves only the immediate areas around it, should delineate two separate assessment areas.

Q2. Can an institution delineate one assessment area that consists of an MSA and two large counties that abut the MSA but are not adjacent to each other?

A2. As a general rule, an institution's assessment area should not extend substantially beyond the boundary of an MSA if the MSA is not located in a CMSA. Therefore, the MSA would be a separate assessment area, and because the two abutting counties are not adjacent to each other and, in this example, extend substantially beyond the boundary of the MSA, the institution would delineate each county as a separate assessment area (so, in this example, there would be three assessment areas). However, if the MSA and the two counties were in the same CMSA, then the institution could delineate only one assessment area including them all.

Section ____.42—Data collection, reporting, and disclosure

Q1. When must an institution collect and report data under the CRA regulations?

A1. All institutions except small institutions are subject to data collection and reporting requirements. A small institution is a bank or thrift that, as of December 31 of *either* of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

For example:

Date	Institution's asset size in millions of dollars	Data collection required for following calendar year?
12/31/94	240	No.
12/31/95	260	No.
12/31/96	230	No.
12/31/97	280	No.
12/31/98	260	Yes, beginning 1/01/99.

All institutions that are subject to the data collection and reporting requirements must report the data for a calendar year by March 1 of the subsequent year. In the example, above, the institution would report the data collected for calendar year 1999 by March 1, 2000.

The Board of Governors of the Federal Reserve System is handling the processing of the reports for all of the primary regulators. The reports should be submitted in a prescribed electronic format on a timely basis. The mailing address for submitting these reports is: Attention: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Avenue, N.W., 5th Floor Washington, DC 20006

Q2. Should an institution develop its own program for data collection, or will the regulators require a certain format?

A2. An institution may use the free software that is provided by the FFIEC to reporting institutions for data collection and reporting or develop its own program. Those institutions that develop their own programs must follow the precise format for the new CRA data collection and reporting rules. This format may be obtained by contacting the CRA Assistance Line at (202) 872–7584.

Q3. How should an institution report data on lines of credit?

A3. Institutions must collect and report data on lines of credit in the same way that they provide data on loan originations. Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line is the amount that is considered originated. In the case of an increase to an existing line, the amount of the increase is the amount that is considered originated and that amount should be reported.

Q4. Should renewals of lines of credit be reported?

A4. No. Similar to loan renewals, renewals of lines of credit are not

considered loan originations and should not be reported.

Q5. When should merging institutions collect data?

A5. Three scenarios of data collection responsibilities for the calendar year of a merger and subsequent data reporting responsibilities are described below.

- Two institutions are exempt from CRA collection and reporting requirements because of asset size. The institutions merge. No data collection is required for the year in which the merger takes place, regardless of the resulting asset size. Data collection would begin after two consecutive years in which the combined institution had year-end assets of at least $250 million or was part of a holding company that had year-end banking and thrift assets of at least $1 billion.
- Institution A, an institution required to collect and report the data, and Institution B, an exempt institution, merge. Institution A is the surviving institution. For the year of the merger, data collection is required for Institution A's transactions. Data collection is optional for the transactions of the previously exempt institution. For the following year, all transactions of the surviving institution must be collected and reported.
- Two institutions that each are required to collect and report the data merge. Data collection is required for the entire year of the merger and for subsequent years so long as the surviving institution is not exempt. The surviving institution may file either a consolidated submission or separate submissions for the year of the merger but must file a consolidated report for subsequent years.

Q6. Can small institutions get a copy of the data collection software even though they are not required to collect or report data?

A6. Yes. Any institution that is interested in receiving a copy of the software may send a written request to: Attn: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Ave, NW., 5th Floor, Washington, DC 20006. They may also call the CRA Assistance Line at (202) 872–7584 or send Internet e-mail to CRAHELP@FRB.GOV.

Q7. If a small institution is designated a wholesale or limited purpose institution, must it collect data that it would not otherwise be required to collect because it is a small institution?

A7. No. However, small institutions must be prepared to identify those loans, investments and services to be evaluated under the community development test.

____.42(a) Loan information required to be collected and maintained

Q1. Must institutions collect and report data on all commercial loans under $1 million at origination?

A1. No. Institutions that are not exempt from data collection and reporting are required to collect and report only those commercial loans that they capture in the Call Report, Schedule RC–C, Part II, and in the TFR, Schedule SB. Small business loans are defined as those whose original amounts are $1 million or less *and* that were reported as either ''Loans secured by nonfarm or nonresidential real estate'' or ''Commercial and Industrial loans'' in Part I of the Call Report or TFR.

Q2. For loans defined as small business loans, what information should be collected and maintained?

A2. Institutions that are not exempt from data collection and reporting are required to collect and maintain in a standardized, machine readable format information on each small business loan originated or purchased for each calendar year:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination;
- The loan location; and
- An indicator whether the loan was to a business with gross annual revenues of $1 million or less.

The location of the loan must be maintained by census tract or block numbering area. In addition, supplemental information contained in the file specifications includes a date associated with the origination or purchase and whether a loan was originated or purchased by an affiliate. The same requirements apply to small farm loans.

Q3. Will farm loans need to be segregated from business loans?

A3. Yes.

Q4. Should institutions collect and report data on all agricultural loans under $500,000 at origination?

A4. Institutions are to report those farm loans that they capture in the Call Report, Schedule RC–C, Part II and Schedule SB of the TFR. Small farm loans are defined as those whose original amounts are $500,000 or less *and* were reported as either ''Loans to finance agricultural production and other loans to farmers'' or ''Loans secured by farmland'' in Part I of the Call Report and TFR.

Q5. Should institutions collect and report data about small business and small farm loans that are refinanced or renewed?

A5. An institution collects and reports information about refinancings but does not collect and report information about renewals. A *refinancing* typically involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. When an institution refinances a loan, it is considered a new origination and loan data should be collected and reported if otherwise required. Consistent with HMDA, however, if under the original loan agreement, the institution is unconditionally obligated to refinance the loan, or is obligated to refinance the loan subject to conditions within the borrower's control, the institution would not report these events as originations.

For purposes of the CRA data collection and reporting requirements, an extension of the maturity of an existing loan is a *renewal*, and is not considered a loan origination. Therefore, institutions should not collect and report data on loan renewals.

Q6. Does a loan to the ''fishing industry'' come under the definition of a small farm loan?

A6. Yes. Instructions for Part I of the Call Report and Schedule SB of the TFR include loans ''made for the purpose of financing fisheries and forestries, including loans to commercial fishermen'' as a component of the definition for ''Loans to finance agricultural production and other loans to farmers.'' Part II of Schedule RC–C of the Call Report and Schedule SB of the TFR, which serve as the basis of the definition for small business and small farm loans in the revised regulation, capture both ''Loans to finance agricultural production and other loans to farmers'' and ''Loans secured by farmland.''

Q7. How should an institution report a home equity line of credit, part of which is for home improvement purposes, but the predominant part of which is for small business purposes?

A7. The institution has the option of reporting the portion of the home equity line that is for home improvement purposes under HMDA. That portion of the loan would then be considered when examiners evaluate home mortgage lending. If the line meets the

regulatory definition of a ''community development loan,'' the institution should collect and report information on the entire line as a community development loan. If the line does not qualify as a community development loan, the institution has the option of collecting and maintaining (but not reporting) the entire line of credit as ''Other Secured Lines/Loans for Purposes of Small Business.''

Q8. When collecting small business and small farm data for CRA purposes, may an institution collect and report information about loans to small businesses and small farms located outside the United States?

A8. At an institution's option, it may collect data about small business and small farm loans located outside the United States; however, it cannot report this data because the CRA data collection software will not accept data concerning loan locations outside the United States.

Q9. Is an institution that has no small farm or small business loans required to report under CRA?

A9. Each institution subject to data reporting requirements must, at a minimum, submit a transmittal sheet, definition of its assessment area(s), and a record of its community development loans. If the institution does not have community development loans to report, the record should be sent with ''0'' in the community development loan composite data fields. An institution that has not purchased or originated any small business or small farm loans during the reporting period would not submit the composite loan records for small business or small farm loans.

____.42(a)(2) Loan amount at origination

Q1. When an institution purchases a small business or small farm loan, which amount should the institution collect and report—the original amount of the loan or the amount at purchase?

A1. When collecting and reporting information on purchased small business and small farm loans, an institution collects and reports the amount of the loan at origination, not at the time of purchase. This is consistent with the Call Report's and TFR's use of the ''original amount of the loan'' to determine whether a loan should be reported as a ''loan to a small business'' or a ''loan to a small farm'' and in which loan size category a loan should be reported. When assessing the volume of small business and small farm loan purchases for purposes of evaluating lending test performance under CRA, however, examiners will evaluate an institution's activity based on the amounts at purchase.

Q2. How should an institution collect data about multiple loan originations to the same business?

A2. If an institution makes multiple originations to the same business, the loans should be collected and reported as separate originations rather than combined and reported as they are on the Call Report or TFR, which reflect loans outstanding, rather than originations. However, if institutions make multiple originations to the same business solely to inflate artificially the number or volume of loans evaluated for CRA lending performance, the agencies may combine these loans for purposes of evaluation under the CRA.

Q3. How should an institution collect data pertaining to credit cards issued to small businesses?

A3. If an institution agrees to issue credit cards to a business' employees, all of the credit card lines opened on a particular date for that single business should be reported as one small business loan origination rather than reporting each individual credit card line, assuming the criteria in the ''small business loan'' definition in the regulation are met. The credit card program's ''amount at origination'' is the sum of all of the employee/business credit cards' credit limits opened on a particular date. If subsequently issued credit cards increase the small business credit line, the added amount is reported as a new origination.

____.42(a)(3) The loan location

Q1. Which location should an institution record if a small business loan's proceeds are used in a variety of locations?

A1. The institution should record the loan location by either the location of the business headquarters or the location where the greatest portion of the proceeds are applied, as indicated by the borrower.

____.42(a)(4) Indicator of gross annual revenue

Q1. When indicating whether a small business borrower had gross annual revenues of $1 million or less, upon what revenues should an institution rely?

A1. Generally, an institution should rely on the revenues that it considered in making its credit decision. For example, in the case of affiliated businesses, such as a parent corporation and its subsidiary, if the institution considered the revenues of the entity's parent or a subsidiary corporation of the parent as well, then the institution would aggregate the revenues of both corporations to determine whether the revenues are $1 million or less. Alternatively, if the institution considered the revenues of only the entity to which the loan is actually extended, the institution should rely solely upon whether gross annual revenues are above or below $1 million for that entity. However, if the institution considered and relied on revenues or income of a cosigner or guarantor that is not an affiliate of the borrower, the institution should not adjust the borrower's revenues for reporting purposes.

Q2. If an institution that is not exempt from data collection and reporting does not request or consider revenue information to make the credit decision regarding a small business or small farm loan, must the institution collect revenue information in connection with that loan?

A2. No. In those instances, the institution should enter the code indicating ''revenues not known'' on the individual loan portion of the data collection software or on an internally developed system. Loans for which the institution did not collect revenue information may not be included in the loans to businesses and farms with gross annual revenues of $1 million or less when reporting this data.

Q3. What gross revenue should an institution use in determining the gross annual revenue of a start-up business?

A3. The institution should use the actual gross annual revenue to date (including $0 if the new business has had no revenue to date). Although a start-up business will provide the institution with pro forma projected revenue figures, these figures may not accurately reflect actual gross revenue.

____.42(b) Loan information required to be reported

____.42(b)(1) Small business and small farm loan data

Q1. For small business and small farm loan information that is collected and maintained, what data should be reported?

A1. Each institution that is not exempt from data collection and reporting is required to report in machine-readable form annually by March 1 the following information, aggregated for each census tract or block numbering area in which the institution

originated or purchased at least one small business or small farm loan during the prior year:

- The number and amount of loans originated or purchased with original amounts of $100,000 or less;
- The number and amount of loans originated or purchased with original amounts of more than $100,000 but less than or equal to $250,000;
- The number and amount of loans originated or purchased with original amounts of more than $250,000 but not more than $1 million; and
- To the extent that information is available, the number and amount of loans to businesses and farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making its credit decision).

____.42(b)(2) Community development loan data

Q1. What information about community development loans must institutions report?

A1. Institutions subject to data reporting requirements must report the aggregate number and amount of community development loans originated and purchased during the prior calendar year.

Q2. If a loan meets the definition of a home mortgage, small business, or small farm loan AND qualifies as a community development loan, where should it be reported? Can FHA, VA and SBA loans be reported as community development loans?

A2. Except for multifamily affordable housing loans, which may be reported by retail institutions both under HMDA as home mortgage loans and as community development loans, in order to avoid double counting, retail institutions must report loans that meet the definitions of home mortgage, small business, or small farm loans only in those respective categories even if they also meet the definition of community development loans. As a practical matter, this is not a disadvantage for retail institutions because any affordable housing mortgage, small business, small farm or consumer loan that would otherwise meet the definition of a community development loan will be considered elsewhere in the lending test. Any of these types of loans that occur outside the institution's assessment area can receive favorable consideration under the borrower characteristic criteria of the lending test. *See* Q&A4 under § ____.22(b)(2) & (3).

Limited purpose and wholesale institutions also must report loans that meet the definitions of home mortgage, small business, or small farm loans in those respective categories; however, they must also report any loans from those categories that meet the regulatory definition of ''community development loans'' as community development loans. There is no double counting because wholesale and limited purpose institutions are not subject to the lending test and, therefore, are not evaluated on their level and distribution of home mortgage, small business, small farm and consumer loans.

____.42(b)(3) Home mortgage loans

Q1. Must institutions that are not required to collect home mortgage loan data by the HMDA collect home mortgage loan data for purposes of the CRA?

A1. No. If an institution is not required to collect home mortgage loan data by the HMDA, the institution need not collect home mortgage loan data under the CRA. Examiners will sample these loans to evaluate the institution's home mortgage lending. If an institution wants to ensure that examiners consider all of its home mortgage loans, the institution may collect and maintain data on these loans.

____.42(c) Optional data collection and maintenance

____.42(c)(1) Consumer loans

Q1. What are the data requirements regarding consumer loans?

A1. There are no data reporting requirements for consumer loans. Institutions may, however, opt to collect and maintain data on consumer loans. If an institution chooses to collect information on consumer loans, it may collect data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If an institution collects data for loans in a certain category, it must collect data for all loans originated or purchased within that category. The institution must maintain these data separately for each category for which it chooses to collect data. The data collected and maintained should include for each loan:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination or purchase;
- The loan location; and
- The gross annual income of the borrower that the institution considered in making its credit decision.

____.42(c)(1)(iv) Income of borrower

Q1. If an institution does not consider income when making an underwriting decision in connection with a consumer loan, must it collect income information?

A1. No. Further, if the institution routinely collects, but does not verify, a borrower's income when making a credit decision, it need not verify the income for purposes of data maintenance.

Q2. May an institution list ''0'' in the income field on consumer loans made to employees when collecting data for CRA purposes as the institution would be permitted to do under HMDA?

A2. Yes.

____.42(c)(2) Other loan data

Q1. Schedule RC–C, Part II of the Call Report and schedule SB of the TFR do not allow financial institutions to report loans for commercial and industrial purposes that are secured by residential real estate. Loans extended to small businesses with gross annual revenues of $1 million or less may, however, be secured by residential real estate. Is there a way to collect this information on the software to supplement an institution's small business lending data at the time of examination?

A1. Yes. If these loans promote community development, as defined in the regulation, the institution should collect and report information about these loans as community development loans. Otherwise, *at an institution's option,* it may collect and maintain data concerning loans, purchases, and lines of credit extended to small businesses and secured by residential real estate for consideration in the CRA evaluation of its small business lending. To facilitate this optional data collection, the software distributed free-of-charge by the FFIEC provides that an institution may collect this information to supplement its small business lending data by choosing loan type, ''Other Secured Lines/Loans for Purposes of Small Business,'' in the individual loan data. (The title of the loan type, ''Other Secured Lines of Credit for Purposes of Small Business,'' which was found in the instructions accompanying the 1996 data collection software, is being changed to ''Other Secured Lines/Loans for Purposes of Small Business'' in order to accurately reflect that lines of credit *and* loans may be reported under this loan type.) This information should be maintained at the institution but should *not* be submitted for central reporting purposes.

Q2. Must an institution collect data on loan commitments and letters of credit?

A2. No. Institutions are not required to collect data on loan commitments and letters of credit. Institutions may, however, provide for examiner consideration information on letters of credit and commitments.

Q3. Are commercial and consumer leases considered loans for purposes of CRA data collection?

A3. Commercial and consumer leases are not considered small business or small farm loans or consumer loans for purposes of the data collection requirements in 12 CFR §____.42(a) & (c)(1). However, if an institution wishes to collect and maintain data about leases, the institution may provide this data to examiners as ''other loan data'' under 12 CFR §____.42(c)(2) for consideration under the lending test.

____.42(d) Data on affiliate lending

Q1. If an institution elects to have an affiliate's home mortgage lending considered in its CRA evaluation, what data must the institution make available to examiners?

A1. If the affiliate is a HMDA reporter, the institution must identify those loans reported by its affiliate under 12 CFR part 203 (Regulation C, implementing HMDA). At its option, the institution may either provide examiners with the affiliate's entire HMDA Disclosure Statement or just those portions covering the loans in its assessment area(s) that it is electing to consider. If the affiliate is not required by HMDA to report home mortgage loans, the institution must provide sufficient data concerning the affiliate's home mortgage loans for the examiners to apply the performance tests.

Section ____.43—Content and availability of public file

____.43(a) Information available to the public

____.43(a)(1) Public comments

Q1. What happens to comments received by the agencies?

A1. Comments received by a Federal financial supervisory agency will be on file at the agency for use by examiners. Those comments are also available to the public unless they are exempt from disclosure under the Freedom of Information Act.

Q2. Is an institution required to respond to public comments?

A2. No. All institutions should review comments and complaints carefully to determine whether any response or other action is warranted. A small institution subject to the small institution performance standards is specifically evaluated on its record of taking action, if warranted, in response to written complaints about its performance in helping to meet the credit needs in its assessment area(s) (§____.26(a)(5)). For all institutions, responding to comments may help to foster a dialogue with members of the community or to present relevant information to an institution's Federal financial supervisory agency. If an institution responds in writing to a letter in the public file, the response must also be placed in that file, unless the response reflects adversely on any person or placing it in the public file violates a law.

Q3. May an institution include a response to its CRA Performance Evaluation in its public file?

A3. Yes. However, the format and content of the evaluation, as transmitted by the supervisory agency, may not be altered or abridged in any manner. In addition, an institution that received a less than satisfactory rating during it most recent examination must include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The institution must update the description on a quarterly basis.

____.43(b) Additional information available to the public

____.43(b)(1) Institutions other than small institutions

Q1. Must an institution that elects to have affiliate lending considered include data on this lending in its public file?

A1. Yes. The lending data to be contained in an institution's public file covers the lending of the institution's affiliates, as well as of the institution itself, considered in the assessment of the institution's CRA performance. An institution that has elected to have mortgage loans of an affiliate considered must include either the affiliate's HMDA Disclosure Statements for the two prior years or the parts of the Disclosure Statements that relate to the institution's assessment area(s), at the institution's option.

____.43(c) Location of public information

Q1. What is an institution's ''main office''?

A1. An institution's main office is the main, home, or principal office as designated in its charter.

Section ____.44—Public notice by institutions

Q1. Are there any placement or size requirements for an institution's public notice?

A1. The notice must be placed in the institution's public lobby, but the size and placement may vary. The notice should be placed in a location and be of a sufficient size that customers can easily see and read it.

Section ____.45—Publication of planned examination schedule

Q1. Where will the agencies publish the planned examination schedule for the upcoming calendar quarter?

A1. The agencies may use the Federal Register, a press release, the Internet, or other existing agency publications for disseminating the list of the institutions scheduled to for CRA examinations during the upcoming calendar quarter. Interested parties should contact the appropriate Federal financial supervisory agency for information on how the agency is publishing the planned examination schedule.

Appendix B to Part ____—CRA Notice

Q1. What agency information should be added to the CRA notice form?

A1. The following information should be added to the form:

OCC-supervised institutions only: The address of the deputy comptroller of the district in which the institution is located should be inserted in the appropriate blank. These addresses can be found at 12 CFR § 4.5(a).

OCC-, FDIC-, and Board-supervised institutions: ''Officer in Charge of Supervision'' is the title of the responsible official at the appropriate Federal Reserve Bank.

Appendix A—Regional Offices of the Bureau of the Census

To obtain median family income levels of census tracts, MSAs, block numbering areas and statewide nonmetropolitan areas, contact the appropriate regional office of the Bureau of the Census as indicated below. The list shows the states covered by each regional office.

Atlanta

(404) 730–3833.

Alabama, Florida, Georgia

Boston

(617) 424–0510.

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Charlotte

(704) 344–6144.

District of Columbia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia

Chicago

(708) 562–1740.

Illinois, Indiana, Wisconsin

Dallas

(214) 640–4470 or (800) 835–9752.

Louisiana, Mississippi, Texas

Denver

(303) 969–7750.

Arizona, Colorado, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming

Detroit

(313) 259–1875.

Michigan, Ohio, West Virginia

Kansas City

(913) 551–6711.

Arkansas, Iowa, Kansas, Minnesota, Missouri, Oklahoma

Los Angeles

(818) 904–6339.

California

New York

(212) 264–4730.

New York, Puerto Rico

Philadelphia

(215) 597–8313 or (215) 597–8312.

Delaware, Maryland, New Jersey, Pennsylvania

Seattle

(206) 728–5314.

Alaska, Hawaii, Idaho, Montana, Nevada, Oregon, Washington

End of text of the Interagency Questions and Answers.

Dated: October 11, 1996.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 96–26743 Filed 10–18–96; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011223–014.

Title: Transpacific Stabilization Agreement.

Parties:

American President Lines, Ltd.
Evergreen Marine Corp. (Taiwan), Ltd.
Hanjin Shipping Co., Ltd.
Hapag-Lloyd A.G.
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Nedlloyd Lines B.V.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
P&O Containers, Ltd.
Sea-Land Service, Inc.
Yangming Marine Transport Corp.

Synopsis: The proposed amendment reinstates and modifies the parties' capacity management program, under which member lines set aside a portion of their excess container capacity in the Asia-U.S. trade.

Agreement No.: 217–011556.

Title: Matson/OOCL Slot Charter Agreement.

Parties:

Matson Navigation Company, Inc. (''Matson'')
Orient Overseas Container Line, Ltd. (''OOCL'')

Synopsis: The proposed agreement would permit OOCL to charter space from Matson aboard vessels operated by Matson in the trade from United States West Coast ports and points to ports and points in the Republic of Korea.

Agreement No.: 224–200599–004.

Title: Port Oakland/Yusen Terminals Terminal Agreement.

Parties:

Port of Oakland (''Port'')
Yusen Terminals, Inc. (''Yusen'')

Synopsis: The proposed amendment would increase Yusen's assigned premises at Berth 23 at the Port's Outer Harbor Area by 6.2 acres and would make various adjustments in the compensation and incentives to be paid by each of the parties.

By order of the Federal Maritime Commission.

Dated: October 15, 1996.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 96–26855 Filed 10–18–96; 8:45 am]

BILLING CODE 6730–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Thursday, October 31, 1996, from 9:00 A.M. to 4:00 P.M. in room 4N30 of the General Accounting Office building, 441 G St., N.W., Washington, D.C

The purpose of the meeting is to discuss and review the following: (1) Management Discussion & Analysis (MD&A), (2) Interpretations requested, and (3) Contractor-developed software.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Acting Executive Director, 750 First St., NE., Room 1001, Washington, D.C. 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: October 15, 1996.

Wendy M. Comes,

Acting Executive Director.

[FR Doc. 96–26862 Filed 10–18–96; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1996:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 13–15, 1996, 9:00 a.m.

Place: Conference Room ''O'', Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on November 13, 1996, 9:00 a.m.–10:00 a.m.

Closed for remainder of meeting

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Science, Education and Analysis, Maternal and Child Health Bureau, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 13 at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Associate Administrator for Policy Coordination, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr.P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443–2190.

Agenda Items are subject to change as priorities dictate.

Dated: October 15, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–26922 Filed 10–18–96; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Office of Public Health and Science; Secretary's Council on Health Promotion and Disease Prevention Objectives for 2010

AGENCY: Office of Disease Prevention and Health Promotion/OPHS/DHHS.

SUMMARY: The Department of Health and Human Services (HHS) is providing notice of the chartering of the Secretary's Council on Health Promotion and Disease Prevention Objectives for 2010.

FOR FURTHER INFORMATION CONTACT: Claude Earl Fox, M.D., M.P.H., Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), Room 738G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 401–6295.

SUPPLEMENTARY INFORMATION:

Council's Task

Pursuant to the Federal Advisory Committee Act, Public Law 92–493 as amended (5 U.S.C. App. 2), and section 222 of the Public Health Service Act as amended (42 U.S.C. 217a), the Secretary's Council on Health Promotion and Disease Prevention Objectives for 2010 is established to provide assistance to the Secretary and the Department of Health and Human Services in the development of health promotion and disease prevention objectives to enhance the health of Americans by 2010. The Council is charged to advise the Secretary on the development of national health promotion and disease prevention goals and objectives and to provide links with States, communities, and the private sector to ensure their involvement in the process of developing these goals and objectives.

Structure and Duration

The Council is to be chaired by the Secretary of Health and Human Services with the Assistant Secretary for Health as a vice chair. The Council will consist of Operating Division Heads of the Department of Health and Human Services and the former Assistant Secretaries for Health. The total membership may be increased by the addition of Assistant Secretaries for Health as they resign from the office. Management and support services will be provided by the Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Office of the Secretary. Unless renewed by appropriate action prior to expiration, the Council will terminate two years from its charter date of September 5, 1996.

Meetings

The Council will meet approximately once a year, at the call of the co-chairs, who will aslo approve the agenda. Meetings will be open to the public, unless the Secretary should determine otherwise, and notice of all meetings will be provided to the public. Meetings will be conducted and records of the proceedings kept as required by applicable laws and departmental regulations.

Dated: October 10, 1996.

Philip R. Lee,

Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 96–26850 Filed 10–18–96; 8:45 am]

BILLING CODE 4160–17–M

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Drug Abuse Warning Network (DAWN)—Extension of a currently approved collection—The Drug Abuse Warning Network (DAWN) collects data on drug-related medical emergencies and deaths as reported from about 660 hospitals and medical examiners nationwide. Used by Federal, State and local agencies, this on-going data system supports efforts to identify

drug abuse trends; assesses health hazards associated with substance abuse; and schedules substances under the Controlled Substances Act. The annual burden estimate is 27,747 hours as shown below:

	Number of respondents	Number of responses per respondent	Average burden per response (hrs.)	Total burden (hrs.)
Hospitals	512	367	0.135	24,909
Medical Examiners	149	121	0.157	2,838

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Proposed Project: 1997 Client/Patient Sample Survey of Mental Health Programs—Reinstatement with change—This survey will update the previous client/patient sample survey conducted in 1986. National estimates will be generated on the number, utilization patterns, and characteristics of clients/patients treated in specialty mental health organizations. A sample of 2,500 organizations/programs will provide information on an average of 20 client/patient admissions and clients under care at those organizations. Where feasible, data will be collected electronically through State systems and sampled organizations may respond electronically. The annual burden estimate is shown below:

	Number. of respondents	Number. of responses per respondent	Avg. burden/response (hours)	Total annual burden (hours)
Mental Health Organizations	2,500	1	5.25	13,125

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 10236, Washington, D.C. 20503.

Dated: October 15, 1996.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 96–26921 Filed 10–18–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3960–N–07]

Office of the Assistant Secretary for Policy Development and Research; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The soliciting public comments on the subject proposal.

DATES: Comments are due December 20, 1996.

ADDRESSES: Interested people are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships—telephone (202) 708–1537. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) 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; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of information to be collected; and (4) Minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: Application for the Community Renaissance Fellows Program.

Description of the need for the information and proposed use: The information is being collected to select Fellows in this competitive selection program. The information is also being used to monitor the performance of the Fellows to ensure that they benefit from the program and that the public housing authorities.

Members of the affected public: Private citizens interested in becoming Community Renaissance Fellows: 300 applicants and 20 Fellows.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: Information pursuant to submitting applications will be submitted once. Information pursuant to

monitoring requirements will be submitted every month, generally electronically.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	300	300	16	4,800
Monthly reports	20	240	2	480
				5,280

Status of proposed information collection: OMB approved an emergency paperwork clearance for this information collection and assigned it OMB Control No. 2528–0183, expiration date December 31, 1996. OMB's approval of this regular paperwork clearance is pending.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 9, 1996.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 96–26880 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–62–M

[Docket No. FR–4086–N–65]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0846, for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended.)

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Financial Standards for Housing Authority-Owned Insurance Entities.

OMB Control Number: 2577–0186.

Description of the need for the information and proposed use: Public Housing Agency (PHA) and Indian Housing Authority (IHA) owned insurance organizations must furnish HUD with professional evaluations of performance consisting of an annual audit, actuarial report and claim audit 90 days after the end of each fiscal year. This is needed in order for HUD to continue to approve the entity as an organization to provide insurance to PHAs/IHAs.

Agency form number, if applicable: None.

Members of affected public: PHA/IHA-owned insurance entities. Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: on an annual basis, 16 respondents, 3 responses per respondent, 48 total responses, 200 total burden hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 11, 1996

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–26886 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–33–M

[Docket No. FR–4086–N–66]

Office of the Assistant Secretary for Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork

Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) 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; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Procedures for Appealing Section 8 Rent Adjustments.

OMB Control Number: 2502–0446.

Description of the need for the information and proposed use: Where the rent increase requests of certain cooperative, subsidized, and 202 projects are denied, in full or in part, owners may submit to HUD an appeal letter outlining the basis for the appeal. Letters must be submitted to the field office for this process to begin.

Agency form numbers: None applicable.

Members of affected public: Businesses or other for-profit, federal agencies or employees and non-profit organizations.

Status of the proposed information collection: Extension without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 11, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–26887 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–4086–N–60]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 7, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Comprehensive Improvement Assistance Program (CIAP); Application Requirements.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0044.

Description of the Need for the Information and its Proposed Use: CIAP provides modernization funds to housing authorities (HAs) that own or operate fewer than 250 units. HUD announces annually in the Federal Register a Notice of Funding Availability (NOFA). HAs apply for these funds by submitting the information on HUD forms. HUD reviews, ranks, and approves/disapproves the applications. The grantees receive written notification of their funding awards.

Form Number: HUD-52820, 52822, 52825, 53001, 50071, and 2880.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: On Occasion and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	1,375		1		9		12,375
Progress Reports	900		1		23.43		21,090

Total Estimated Burden Hours: 33,465.

Status: Reinstatement, with changes.

Contact: Pris Peake, HUD, (202) 708–1640; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 7, 1996.

[FR Doc. 96–26881 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4086–N–61]

Office of Administration; Submission for OMB review: comment request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 7, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Multifamily Insurance Benefit Claim Forms.

Office: Housing.

OMB Approval Number: 2502–0415.

Description of the Need for the Information and its Proposed Use: Form HUD–2742 will be used by lenders, who are participating in the multifamily insurance program and are entitled to insurance benefits, to present a claim for insurance benefits. Forms HUD–2744 A through E will be used to collect the information required by the statutory provisions and regulations so that an expeditious examination and correct claim settlement can be made.

Form Number: HUD–2742 and HUD–2744 A thru E.

Respondents: Business or Other For-Profit and the Federal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Claim Forms	118		1		3.5		411

Total Estimated Burden Hours: 411.

Status: Reinstatement, without changes.

Contact: Betty Belin, HUD, (202) 401–2168 x2807; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 7, 1996.

[FR Doc. 96–26882 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4086–N–62]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of

an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 7, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Mortgagee's Application for Partial Settlement (Multifamily Mortgage).

Office: Housing.

OMB Approval Number: 2502–0427.

Description of the Need for the Information and Its Proposed Use: The data on form HUD–2537 is needed to process a partial claim settlement. The partial settlement is used to give mortgagees a cash settlement immediately upon conveyance of title or assignment of the mortgage.

Form Number: HUD–2537.

Respondents: Business or Other For-Profit and State, Local, or Tribal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of responde	×	Hours per response	=	Burden hours
HUD–2537	215		1		.25		54

Total Estimated Burden Hours: 54.

Status: Reinstatement, without changes.

Contact: Betty Belin, HUD, (202) 401–2168 x2807; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 7, 1996.

[FR Doc. 96–26883 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4086–N–63]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 7, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Single Family Accounting Management System (SAMS) Public Reporting Forms.

Office: Housing.

OMB Approval Number: 2502–0486.

Description of the Need for the Information and its Proposed Use: In managing its program to dispose of acquired single family properties, HUD reimburses contractors and vendors for their services in maintaining, marketing, and selling HUD homes. HUD also collects funds from the sale of these properties. Several forms capture the information necessary for HUD to record and process financial transaction in this automated Single Family Accounting Management System.

Form Number: SAMS–1100, 1101, 1103, 1106, 1108, 1110, 1111, and 1117.

Respondents: Business or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	1–75,000		Varies		Varies		51,720

Total Estimated Burden Hours: 51,720.

Status: Reinstatement, with changes.

Contact: A. Paul DiIonno, HUD, (202) 708–4029 x226; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 7, 1996.

[FR Doc. 96–26884 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4086–N–64]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 20, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 9, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Survey of Habitat for Humanity Homeowners and Affiliates.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and its Proposed Use: Habitat for Humanity International (HFHI) has successfully provided housing to thousands of low-income families located throughout the United States and other countries. Working through a network of local affiliates, HFHI employs a variety of techniques for lowering the cost of housing, including interest-free mortgages, volunteer labor, donated construction materials, and prospective homeowners' labor (sweat equity). This survey is to assist HUD in learning as much as possible from the benefits of homeownership among low-income families participating in the HFHI program.

Form Number: None.

Respondents: Individuals or Households.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	300		Varies		1.20		161

Total Estimated Burden Hours: 161.

Status: New.

Contact: Kevin J. Neary, HUD, (202) 708–0574 x133; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 9, 1996.

[FR Doc. 96–26885 Filed 10–18–96; 8:45 am]

BILLING CODE 4210–01–M

INTER–AMERICAN FOUNDATION

Sunshine Act Meeting

TIME AND DATE: October 28, 1996, 11:30 a.m.–3:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open Session.

MATTERS TO BE CONSIDERED:

1. Discussion on Petróleos de Venezuela, S.A./Inter-American Foundation Joint Venture in Venezuela.
2. Approval of the Minutes of the March 18, 1996, Meeting of the Board of Directors.
3. President's Report.
4. Discussion on Tulane University/Inter-American Foundation Collaborative Proposal.
5. Discussion on Reorganization of the Foundation's Learning and Dissemination and Program Offices.

CONTACT PERSON FOR FURTHER INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: October 17, 1996.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 96–27091 Filed 10–17–96; 3:41 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Bitterroot Ecosystem Recovery Plan Chapter for the Grizzly Bear Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: To further the recovery of the grizzly bear (*Ursus arctos horribilis*), the Fish and Wildlife Service announces the availability of the Bitterroot Ecosystem Grizzly Bear Recovery Plan Chapter. The Bitterroot ecosystem is located in Idaho and Montana. This chapter has been appended to the existing Grizzly Bear Recovery Plan approved in 1993. The availability of the draft of the chapter was announced to the public in the Federal Register on August 16, 1993 (58 FR 43373).

DATES: Bitterroot Ecosystem Chapter of the revised Grizzly Bear Recovery Plan was signed by the Regional Director, Denver Regional Office, Fish and Wildlife Service, on September 11, 1996.

ADDRESSES: The document announced in this notice is available from: Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, University of Montana, Missoula, Montana 59812.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see **ADDRESSES** above), at telephone (406) 329–3223.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to a point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Fish and Wildlife Service's (Service) 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 conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for starting the needed recovery measures.

Under the provisions of the Endangered Species Act of 1973 (Act) as amended (16 U.S.C. 1531 *et seq.*), the Service approved the revised Grizzly Bear Recovery Plan on September 10, 1993 (U.S. Fish and Wildlife Service 1993). The Plan approved in 1993 did not contain a complete chapter on the Bitterroot ecosystem because the specific information necessary to develop this chapter was not available. On September 11, 1996, the Service approved the Bitterroot Ecosystem Grizzly Bear Recovery Plan Chapter. The agencies responsible for development of this chapter included the Service, U.S. Forest Service, Idaho Fish and Game Department, and Montana Department of Fish, Wildlife, and Parks. This chapter was developed by a cooperative effort of the involved agencies and a wide range of interested citizens from throughout the area. Public involvement in drafting the chapter identified issues that include livestock depredation, effects on big game species/hunting, human health and safety, land use policy/restrictions, the role of the grizzly bear in the ecosystem (naturalness), economics, State and Federal authorities, private property rights, illegal killing/poaching, effects of grizzly bears on other species (such as listed salmon), and the size of the recovery area. The availability of the draft of the chapter was announced to the public in the Federal Register on August 16, 1993 (58 FR 43373).

The grizzly bear was once a common inhabitant of the Bitterroot ecosystem in east-central Idaho and western Montana. Grizzly bears were removed from the Bitterroot ecosystem by humans as they settled the West. Primary reasons for these removals included livestock protection, uncontrolled hunting, and trapping and shooting for sale of hides. The last documented grizzly was killed in the Bitterroot ecosystem in 1932 and the last known track was seen in 1946. The grizzly bear was listed as a threatened species in the conterminous 48 States in 1975 under the Act. The Recovery Plan Chapter for the Bitterroot ecosystem outlines the necessary actions to recover the grizzly bear in this ecosystem. Alternative actions to recover the grizzly bears in the Bitterroot ecosystem, including reintroduction, will be considered in a draft Environmental Impact Statement (EIS) being prepared by the Service. The notice of intent to prepare this EIS was announced to the public in January 1995. On January 9, 1995, a notice was published in the Federal Register (60 FR 2399). This draft EIS is expected to be available in 1996.

References Cited

U.S. Fish and Wildlife Service. 1993. Grizzly bear recovery plan. Missoula, Montana. 181 pp.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 11, 1996.

Paul E. Gertler,

Acting Regional Director, Denver, Colorado.

[FR Doc. 96–26879 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–55–M

Extension of Public Comment Period on a Permit Application and a Recirculated Draft Environmental Impact Report/Environmental Impact Statement for Issuance of Permits To Allow Incidental Take of Threatened and Endangered Species Within the Multiple Species Conservation Program Planning Area in San Diego County, CA

AGENCY: Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: This notice announces the extension of the public comment period on the above named permit application and recirculated draft Environmental Impact Report/Environmental Impact Statement for the proposed incidental take of species listed pursuant to the Endangered Species Act of 1973, as amended. In response to requests for a time extension, the original public comment period that closed October 15, 1996 (61 FR 45983), is reopened until October 29, 1996, to allow adequate time for review and response by the public.

DATES: Written comments on the Multiple Species Conservation Program Plan, Subarea Plans, Recirculated Draft Environmental Impact Report/Environmental Impact Statement, and City of San Diego Implementation Agreement should be received on or before October 29, 1996.

ADDRESSES: Comments should be addressed to Mr. Gail Kobetich, Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments also may be sent by facsimile to telephone (619) 431–9618.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Gilbert, Fish and Wildlife Biologist, at the above address, telephone (619) 431–9440.

SUPPLEMENTARY INFORMATION: This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended, and National Environmental Policy Act regulations (40 CFR 1506.6). All comments received will become part of the public record and may be released.

Dated: October 15, 1996.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–26877 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–55–P

National Park Service

Draft Lake Crescent Management Plan/ Environmental Impact Statement, Olympic National Park, WA

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: This Notice announces the availability of a draft management plan and environmental impact statement for the Lake Crescent watershed in Olympic National Park. This Notice also announces public meetings for the purpose of receiving comments on the draft document. All comments received will become part of the public record and copies of comments, including any names, addresses and telephone numbers provided by respondents, may be released for public inspection.

DATES: Comments on the draft Plan/EIS should be received no later than December 18, 1996. Public meetings will be held as follows:

Wednesday, November 20, 1996, from 7:00 to 9:30 p.m. at the Mountaineers Building, 300 3rd Ave. West, Seattle, WA.

Thursday, November 21, 1996, from 7:00 to 9:30 p.m. at the Port Angeles Senior Center, 328 E. 7th St., Port Angeles, WA.

ADDRESSES: Comments on the draft Management Plan/EIS should be sent to Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362. Public reading copies of the draft Management Plan/EIS will be available for review at the following locations, as well as other local libraries around the Olympic Peninsula and Puget Sound area: Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240. Telephone: (202) 208–6843; Columbia/ Cascades System Support Office, National Park Service, Rm. 650, 909 First Avenue, Seattle, WA, 98104–1060. Telephone: (206) 220–4154; Olympic National Park, National Park Service, 600 East Park Avenue, Port Angeles, WA 98362. Telephone: (360) 452–4501, extension 207; North Olympic Library System, Port Angeles Branch, 207 S. Lincoln Street, Port Angeles, WA 98362. Telephone: (360) 452–9253; Seattle Public Library, 1000 4th Avenue, Seattle, WA 98104–1193. Telephone: (206) 386–4686.

FOR FURTHER INFORMATION CONTACT: Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362, Telephone (360) 452–4501 ext. 207. A limited number of copies of the document are available upon request.

SUPPLEMENTARY INFORMATION: This draft management plan/EIS describes and analyzes the environmental consequences of a proposed action and three alternatives for the management and use of the Lake Crescent watershed in Olympic National Park. Alternative A (the proposed action and preferred alternative) is based on the need to protect the watershed's natural environment while supporting recreational pursuits that complement and capitalize on the lake's history. As part of the overall goal of protecting Lake Crescent's peaceful ambience, extensive consideration was given to motorized recreation, including the use of personal watercraft (PWCs). This alternative calls for zoning the use of PWCs. Four possible zoning options are presented for public review and comment. Alternative B (No Action) continues the Park's existing management activities, including those for water recreation. Existing roads, trails, and visitor facilities would be maintained to support current levels of activity, with limited improvements made only on an as-needed basis and as funding becomes available. Alternative C emphasizes increased recreational opportunities for visitors, while continuing to protect natural and cultural resources. Visitors would have a broader range of options for recreation. Alternative D emphasizes the protection of the watershed's natural resources while continuing to support the recreational use of the area. This alternative establishes a greater limitation for motorized water recreation. Development of new facilities would be somewhat limited compared to other alternatives, and some existing uses would be eliminated. The restoration of natural areas that have been degraded through overuse is emphasized.

Impacts are analyzed according to the following topics: air quality, water resources, geology/soils, vegetation, wildlife, threatened and endangered species and rare plants, archeological resources, historic structures, cultural landscapes, administration and visitor use/experience.

Issuance of a Record of Decision on the final Management Plan/EIS would constitute an amendment to the 1976 Olympic National Park Master Plan.

Dated: October 10, 1996.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 96–26941 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–70–U

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the twentieth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The Public meeting will be held on October 24, 1996, from 7:00 p.m.–9:00 p.m.

LOCATION: The meeting will be held at Gettysburg Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-Committee Reports, Facilities Development Planning Process, Deer Management, Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: September 18, 1996.

Marie Rust,

Field Director, Northeast Field Area.

[FR Doc. 96–26940 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–10–M

Jean Lafitte National Historical Park and Preserve; Notice of Advisory Commission Meeting

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7 p.m., at the following location and date.

DATES: November 13, 1996.

LOCATION: Chalmette Unit Visitor Center, 8606 West Saint Bernard Highway, Chalmette, Louisiana 70043.

FOR FURTHER INFORMATION CONTACT: Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 3080, New Orleans, Louisiana 70130–1142, (504) 589–3882 extension 108.

SUPPLEMENTARY INFORMATION: The Delta Region Preservation Commission was established pursuant to Section 907 of Public Law 95–625 (16 U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in the Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of natural, historic and cultural resources of the Region.

The purpose of the meeting is to afford Superintendent Smith an opportunity to update the Commission on park issues such as visitation and to open the floor for any questions concerning park issues. The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 10, 1996.

Stuart Johnson,

Acting Superintendent, Gulf Coast System Support Office.

[FR Doc. 96–26831 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council, Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council (Council).

DATES: The meeting is scheduled to begin at about 8:00 a.m., Tuesday, October 22, 1996, and recess at about 12:00 m. (noon). The council will briefly reconvene at about 11:00 a.m. the following day after the Colorado River Basin Salinity Control Forum meeting.

ADDRESSES: The meeting will be held at the Doubletree Resort, Palm Desert, California. Call (800) 637–0577 for reservation information.

FOR FURTHER INFORMATION CONTACT: Mr. David Trueman, Colorado River Salinity Control Program Manager, Bureau of Reclamation, UC–228, Mail Room 6107, 125 South State Street, Salt Lake City, Utah, 84138–1102; Telephone: (801) 524–6292, ext. 1.

SUPPLEMENTARY INFORMATION: Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Department of the Interior, the Department of Agriculture, and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities and the content of their report.

The meeting of the Council is open to the public. Any member of the public may file written statements with the Council before, during, or after the meeting, in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

Dated: September 30, 1996.

Charles A. Calhoun,

Regional Director.

[FR Doc. 96–26945 Filed 10–18–96; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–370]

Advice on Providing Additional GSP Benefits for Least-Developed Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: October 11, 1996.

SUMMARY: Following receipt on September 17, 1996, of a letter from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–370, Advice on Providing Additional GSP Benefits for Least-Developed Countries, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) in order that it might—

(1) In accordance with sections 503(a)(1)(B), 503(e), and 131(a) of the Trade Act of 1974 (1974 Act), with respect to each article listed in Part A of the attached annex, provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the Generalized System of Preferences (GSP) and, to the extent possible, the level of U.S. import sensitivity of such articles in the context of imports from the least-developed beneficiary developing countries (LDBCs); and

(2) In accordance with section 503(a)(1)(B), 503(b)(1)(B), 503(e), and 131(a) of the 1974 Act, with respect to the watches identified in Part B of the attached annex, provide advice as to the probable economic effect on watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the U.S. insular possessions and on consumers of the elimination of U.S. import duties under the GSP and, to the extent possible, the level of U.S. import sensitivity of such watches in the context of imports from the LDBCs.

USTR also requested that the Commission, with respect to the watches identified in Part B of the attached annex, (1) in order to form a basis for the material injury determination required by section 503(b)(1)(B) of the 1974 Act, provide, to the degree possible, data on the following factors for the most recent 3-year period for the watch and watch band, strap, and bracelet manufacturing and assembly operations in the United States or U.S. insular possessions: annual production, capacity, capacity utilization, domestic shipments, exports, inventories, employment, wages, and financial experience (including prices); and (2) provide data for the most recent 3-year period, to the extent possible, on the following factors for current and potential LDBCs: current and potential production capacity and capacity utilization, domestic shipments, and exports to U.S. and other markets.

As requested by USTR, the Commission will assume that the benefits of the GSP would continue to apply to imports that would be normally excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act (an exemption from the application of the competitive need limits for the LDBCs is provided for in section 503(c)(2)(D) of the 1974 Act).

As requested by USTR, the Commission expects to submit its report by March 3, 1997. The Commission will publish shortly thereafter a public version of the report, deleting information that has been classified by USTR or which the Commission considers to be confidential business information.

FOR FURTHER INFORMATION CONTACT: Information on general topics may be obtained from Robert Wallace (202–205–3458) of the Office of Industries and on legal aspects, from William

Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired persons are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810. For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

(1) Agriculture and forest products, Lowell Grant (202–205–3312)
(2) Energy, chemicals, and textiles, Mary Elizabeth Sweet (202–205–3455)
(3) Minerals, metals, machinery, and miscellaneous manufactures, Karl Tsuji (202–205–3434)
(4) Services, electronics, and transportation, John Davitt (202–205–3407)

BACKGROUND: The letter from USTR noted that the Trade Policy Staff Committee pursuant to legislation reauthorizing the GSP has determined to institute an investigation and request the advice of the Commission on the designation of certain articles as eligible articles under the GSP for countries designated as LDBCs for purposes of the GSP program. Legislation amending the GSP provisions and extending the program was signed by the President on August 20, 1996 (Public Law 104–188, 110 Stat. 1755) (Small Business Job Protection Act of 1996—for the GSP related provisions, *see* subtitle J of title I of the Act). The amendments apply to articles entered on or after October 1, 1996.

Watches, along with several other categories of ''import-sensitive articles,'' were excluded from GSP eligibility in the 1974 Act, which implemented the GSP program. The 1974 Act was amended by the Omnibus Trade and Competitiveness Act of 1988 to permit the President to designate watches as GSP-eligible articles if he determines that such designation will not cause ''material injury'' to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the U.S. insular possessions. The legislative history of section 503(c)(1) of the 1974 Act defines material injury to mean ''substantial or significant injury.''

PUBLIC HEARING: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on November 19, 1996, and continuing, as required on November 20. The Commission asks that testimony focus on the issues stated in the **SUMMARY** above. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., November 6, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., November 13, 1996; the deadline for filing posthearing briefs or statements is 5:15 p.m., December 6, 1996.

In the event that, as of the close of business on November 6, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after November 12, 1996, to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested persons are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. The Commission may include confidential business information submitted in the course of this investigation in the report that it sends to the President and USTR. However, the Commission will not publish such information in the public version of its report in a manner that would reveal the individual operations of the firm supplying the information.

To be assured of consideration by the Commission, written statements relating to the investigation should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on December 6, 1996. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: October 11, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Attachment

ANNEX

PART A

0101.20.20	0202.20.30	0207.35.00	0402.91.03	0404.10.50
0101.20.40	0202.20.50	0207.36.00	0402.91.06	0404.90.28
0102.90.40	0202.30.04	0208.10.00	0402.91.10	0404.90.30
0104.20.00	0202.30.06	0208.90.40	0402.91.30	0404.90.70
0105.11.00	0202.30.30	0210.11.00	0402.99.03	0405.10.05
0105.12.00	0202.30.50	0210.19.00	0402.99.06	0405.10.10
0105.19.00	0203.12.10	0304.10.10	0402.99.10	0405.20.10
0105.92.00	0203.19.20	0304.20.30	0402.99.30	0405.20.20
0105.93.00	0204.10.00	0305.30.20	0402.99.68	0405.20.40
0105.99.00	0204.21.00	0305.30.40	0402.99.70	0405.20.50
0106.00.30	0204.22.20	0305.41.00	0403.10.05	0405.20.60
0201.10.05	0204.22.40	0305.49.20	0403.10.10	0405.90.05
0201.10.10	0204.23.20	0305.61.20	0403.10.90	0405.90.10
0201.20.02	0204.23.40	0305.69.20	0403.90.02	0406.10.12
0201.20.04	0204.30.00	0305.69.40	0403.90.04	0406.10.14
0201.20.06	0204.41.00	0401.10.00	0403.90.20	0406.10.24

ANNEX—Continued

0201.20.10	0204.42.20	0401.20.20	0403.90.37	0406.10.34
0201.20.30	0204.42.40	0401.30.02	0403.90.41	0406.10.44
0201.20.50	0204.43.20	0401.30.05	0403.90.47	0406.10.54
0201.30.02	0204.43.40	0401.30.42	0403.90.51	0406.10.64
0201.30.04	0207.11.00	0401.30.50	0403.90.57	0406.10.74
0201.30.06	0207.12.00	0402.10.05	0403.90.61	0406.10.84
0201.30.10	0207.13.00	0402.10.10	0403.90.72	0406.10.95
0201.30.30	0207.14.00	0402.21.02	0403.90.74	0406.20.10
0201.30.50	0207.24.00	0402.21.05	0403.90.85	0406.20.22
0202.10.05	0207.25.20	0402.21.27	0403.90.87	0406.20.24
0202.10.10	0207.25.40	0402.21.30	0403.90.90	0406.20.29
0202.20.02	0207.26.00	0402.21.73	0404.10.08	0406.20.31
0202.20.04	0207.27.00	0402.21.75	0404.10.11	0406.20.34
0202.20.06	0207.32.00	0402.29.05	0404.10.20	0406.20.36
0202.20.10	0207.34.00	0402.29.10	0404.10.48	0406.20.43
0406.20.44	0406.30.77	0406.90.61	0708.20.90	0714.90.40
0406.20.49	0406.30.81	0406.90.63	0708.90.40	0802.11.00
0406.20.51	0406.30.85	0406.90.66	0709.20.90	0802.12.00
0406.20.54	0406.30.89	0406.90.72	0709.40.20	0802.21.00
0406.20.55	0406.30.95	0406.90.76	0709.40.60	0802.22.00
0406.20.56	0406.40.20	0406.90.82	0709.51.00	0802.32.00
0406.20.57	0406.40.40	0406.90.86	0709.70.00	0802.90.10
0406.20.61	0406.40.51	0406.90.90	0709.90.30	0802.90.90
0406.20.65	0406.40.52	0406.90.93	0709.90.35	0804.10.20
0406.20.69	0406.40.54	0406.90.95	0709.90.45	0804.10.40
0406.20.73	0406.40.58	0406.90.99	0709.90.90	0804.10.60
0406.20.77	0406.90.05	0408.11.00	0710.10.00	0804.10.80
0406.20.81	0406.90.06	0408.19.00	0710.22.37	0804.20.40
0406.20.85	0406.90.08	0408.91.00	0710.22.40	0804.20.80
0406.20.89	0406.90.14	0408.99.00	0710.29.40	0804.30.20
0406.20.95	0406.90.16	0409.00.00	0710.30.00	0804.30.40
0406.30.12	0406.90.20	0509.00.00	0710.40.00	0804.30.60
0406.30.14	0406.90.25	0601.10.30	0710.80.20	0804.40.00
0406.30.22	0406.90.28	0601.10.85	0710.80.40	0805.10.00
0406.30.24	0406.90.31	0601.20.10	0710.80.45	0805.20.00
0406.30.32	0406.90.33	0602.90.50	0710.80.60	0805.30.20
0406.30.34	0406.90.34	0603.10.60	0710.80.85	0805.40.40
0406.30.42	0406.90.36	0701.10.00	0710.80.97	0805.40.60
0406.30.44	0406.90.38	0701.90.50	0710.90.90	0805.40.80
0406.30.49	0406.90.39	0702.00.20	0711.20.38	0806.10.20
0406.30.51	0406.90.41	0702.00.40	0711.20.40	0806.10.60
0406.30.55	0406.90.43	0703.10.40	0711.90.40	0806.20.10
0406.30.56	0406.90.44	0703.90.00	0712.20.20	0806.20.20
0406.30.57	0406.90.46	0704.90.40	0712.20.40	0806.20.90
0406.30.61	0406.90.49	0706.10.05	0712.30.20	0807.11.40
0406.30.65	0406.90.51	0706.10.20	0712.90.20	0807.19.10
0406.30.69	0406.90.52	0706.90.40	0712.90.40	0807.19.80
0406.30.73	0406.90.59	0707.00.50	0712.90.75	0808.20.40
0809.10.00	1006.30.90	1302.39.00	1602.41.90	1704.90.52
0809.30.20	1006.40.00	1401.90.20	1602.42.40	1704.90.54
0809.40.40	1008.20.00	1402.90.10	1602.50.60	1704.90.74
0810.20.10	1008.90.00	1403.10.00	1603.00.10	1704.90.90
0811.90.22	1101.00.00	1501.00.00	1604.11.20	1806.20.79
0811.90.40	1102.10.00	1502.00.00	1604.11.40	1806.20.81
0811.90.80	1103.11.00	1503.00.00	1604.12.20	1806.20.85
0812.10.00	1103.19.00	1504.10.40	1604.12.40	1806.20.95
0812.20.00	1104.11.00	1507.10.00	1604.13.10	1806.20.99
0812.90.10	1104.19.00	1507.90.40	1604.13.20	1901.10.05
0812.90.20	1104.21.00	1508.10.00	1604.13.30	1901.10.15
0812.90.30	1105.20.00	1508.90.00	1604.14.10	1901.10.35
0812.90.40	1107.10.00	1512.11.00	1604.14.20	1901.10.45
0812.90.90	1107.20.00	1512.19.00	1604.14.30	1901.10.55
0813.20.10	1108.13.00	1512.21.00	1604.14.40	1901.10.60
0813.20.20	1202.10.05	1512.29.00	1604.14.70	1901.10.80
0813.40.15	1202.10.40	1514.10.90	1604.14.80	1901.10.95
0813.40.30	1202.20.05	1514.90.50	1604.19.10	1901.90.10
0813.40.40	1202.20.40	1514.90.90	1604.19.40	1901.90.20
0813.40.90	1204.00.00	1515.11.00	1604.19.50	1901.90.32
0813.50.00	1205.00.00	1515.19.00	1604.20.15	1901.90.33
0814.00.80	1207.20.00	1515.21.00	1604.20.25	1901.90.34
0901.90.20	1208.10.00	1515.29.00	1604.20.30	1901.90.38
0904.20.40	1208.90.00	1516.20.10	1604.20.40	1901.90.42
0910.40.40	1209.22.20	1516.20.90	1604.20.50	1901.90.44

ANNEX—Continued

1001.10.00	1209.24.00	1517.10.00	1604.20.60	1901.90.46
1001.90.10	1209.25.00	1517.90.45	1604.30.30	1901.90.48
1001.90.20	1209.91.10	1517.90.50	1605.90.06	1901.90.56
1003.00.20	1209.91.50	1517.90.90	1605.90.50	1901.90.70
1003.00.40	1212.30.00	1518.00.20	1702.11.00	1903.00.40
1006.10.00	1212.91.00	1522.00.00	1702.19.00	1904.20.10
1006.20.20	1214.10.00	1602.10.00	1702.50.00	1904.20.90
1006.20.40	1302.13.00	1602.20.20	1704.90.10	2001.90.20
2001.90.35	2008.11.42	2009.20.20	2202.90.35	2309.90.22
2001.90.60	2008.11.45	2009.20.40	2204.21.20	2309.90.24
2002.10.00	2008.19.20	2009.30.40	2204.21.50	2309.90.42
2002.90.00	2008.19.40	2009.30.60	2204.29.20	2309.90.44
2003.10.00	2008.19.50	2009.40.20	2204.29.40	2309.90.60
2004.10.80	2008.19.85	2009.40.40	2204.29.60	2309.90.95
2004.90.90	2008.20.00	2009.60.00	2204.29.80	2401.10.61
2005.51.20	2008.30.20	2009.80.40	2204.30.00	2401.10.63
2005.60.00	2008.30.30	2009.90.40	2205.90.40	2401.20.05
2005.70.50	2008.30.35	2101.30.00	2206.00.30	2401.20.31
2005.70.60	2008.30.40	2103.20.40	2206.00.60	2401.20.33
2005.70.70	2008.30.46	2105.00.05	2207.10.60	2401.20.83
2005.70.91	2008.30.65	2105.00.10	2207.20.00	2401.20.85
2005.70.97	2008.30.70	2105.00.25	2208.20.20	2401.30.25
2005.90.30	2008.30.80	2105.00.30	2208.20.30	2401.30.27
2005.90.50	2008.30.85	2105.00.50	2208.20.40	2401.30.35
2005.90.80	2008.40.00	2106.90.22	2208.20.50	2401.30.37
2006.00.20	2008.50.40	2106.90.24	2208.20.60	2402.10.30
2006.00.40	2008.60.00	2106.90.28	2208.30.30	2402.10.60
2006.00.50	2008.70.00	2106.90.32	2208.30.60	2402.20.80
2006.00.60	2008.80.00	2106.90.34	2208.40.00	2402.90.00
2007.10.00	2008.92.10	2106.90.38	2208.90.01	2403.10.20
2007.91.10	2008.92.90	2106.90.48	2208.90.20	2403.10.30
2007.99.15	2008.99.05	2106.90.62	2208.90.25	2403.10.60
2007.99.35	2008.99.10	2106.90.64	2208.90.30	2403.91.43
2007.99.55	2008.99.18	2106.90.78	2208.90.35	2403.91.45
2007.99.60	2008.99.25	2106.90.83	2208.90.40	2403.99.20
2007.99.65	2008.99.29	2106.90.85	2302.50.00	2403.99.30
2007.99.70	2008.99.42	2106.90.95	2303.10.00	2403.99.60
2008.11.02	2008.99.60	2202.90.10	2304.00.00	2507.00.00
2008.11.05	2009.11.00	2202.90.22	2306.10.00	2508.10.00
2008.11.22	2009.19.25	2202.90.24	2308.10.00	2508.20.00
2008.11.25	2009.19.45	2202.90.30	2308.90.80	2508.30.00
2508.40.00	2844.10.50	2904.90.08	2909.30.60	2916.34.55
2509.00.20	2849.90.30	2904.90.20	2909.49.10	2916.35.25
2511.20.00	2850.00.10	2904.90.30	2909.49.15	2916.35.55
2519.90.20	2901.10.40	2904.90.40	2909.50.10	2916.39.03
2525.20.00	2901.10.50	2904.90.47	2909.50.45	2916.39.45
2613.10.00	2901.24.20	2905.17.00	2909.50.50	2916.39.75
2613.90.00	2901.24.50	2906.12.00	2909.60.10	2917.12.10
2616.10.00	2901.29.10	2606.21.00	2909.60.20	2917.12.50
2616.90.00	2901.29.50	2906.29.60	2910.90.20	2917.19.20
2620.11.00	2902.19.00	2907.13.00	2912.21.00	2917.19.27
2709.00.10	2902.90.30	2907.15.60	2912.30.10	2917.19.40
2709.00.20	2902.90.90	2907.19.10	2913.00.40	2917.20.00
2710.00.05	2903.30.05	2907.19.20	2914.11.10	2917.36.00
2710.00.10	2903.59.05	2907.19.80	2914.40.40	2917.39.04
2710.00.15	2903.59.15	2907.21.00	2914.50.30	2917.39.15
2710.00.18	2903.59.20	2907.22.50	2914.69.20	2917.39.17
2710.00.20	2903.61.20	2907.29.90	2914.69.90	2917.39.30
2710.00.25	2903.62.00	2907.30.00	2914.70.40	2917.39.70
2710.00.30	2903.69.10	2908.10.10	2915.39.30	2918.17.50
2710.00.45	2903.69.20	2908.10.25	2915.39.35	2918.19.10
2710.00.60	2903.69.23	2908.10.35	2915.40.20	2918.19.20
2801.30.20	2903.69.27	2908.10.60	2915.40.30	2918.19.30
2804.61.00	2903.69.70	2908.20.04	2915.90.18	2918.19.90
2804.69.50	2904.10.10	2908.20.20	2916.11.00	2918.23.30
2805.11.00	2904.10.15	2908.20.60	2916.13.00	2918.23.50
2805.19.00	2904.10.32	2908.90.08	2916.15.10	2918.29.04
2805.21.00	2904.10.37	2908.90.28	2916.19.30	2918.29.20
2805.30.00	2904.10.50	2908.90.40	2916.31.30	2918.29.65
2825.90.30	2904.20.10	2908.90.50	2916.31.50	2918.29.75
2827.39.40	2904.20.15	2909.30.05	2916.32.10	2918.30.10
2841.80.00	2904.20.35	2909.30.07	2916.32.20	2918.30.25
2842.10.00	2904.20.40	2909.30.09	2916.34.10	2918.30.30

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2843.10.00	2904.20.45	2909.30.40	2916.34.25	2918.90.05
2918.90.43	2921.59.08	2922.50.25	2930.90.29	2933.40.20
2918.90.47	2921.59.30	2922.50.35	2930.90.45	2933.40.26
2919.00.30	2921.59.40	2922.50.40	2931.00.10	2933.40.60
2920.90.20	2921.59.80	2924.10.80	2931.00.15	2933.40.70
2921.22.10	2922.19.18	2924.21.20	2931.00.22	2933.51.90
2921.30.10	2922.19.20	2924.21.45	2931.00.27	2933.59.21
2921.30.30	2922.19.60	2924.22.00	2931.00.30	2933.59.22
2921.41.10	2922.19.70	2924.29.05	2931.00.60	2933.59.36
2921.41.20	2922.21.10	2924.29.20	2932.19.10	2933.59.45
2921.42.10	2922.21.40	2924.29.31	2932.29.20	2933.59.53
2921.42.18	2922.21.50	2924.29.70	2932.29.30	2933.59.70
2921.42.22	2922.22.10	2924.29.75	2932.29.45	2933.59.80
2921.42.65	2922.22.20	2925.19.10	2932.91.00	2933.79.09
2921.42.90	2922.22.50	2925.19.40	2932.92.00	2933.79.15
2921.43.08	2922.29.10	2925.20.10	2932.93.00	2933.90.13
2921.43.15	2922.29.15	2925.20.20	2932.99.35	2933.90.26
2921.43.40	2922.29.20	2925.20.60	2932.99.39	2933.90.46
2921.43.80	2922.29.27	2926.90.05	2932.99.60	2933.90.53
2921.44.10	2922.29.60	2926.90.12	2932.99.70	2933.90.61
2921.44.20	2922.29.80	2926.90.44	2933.19.08	2933.90.65
2921.44.70	2922.30.10	2926.90.47	2933.19.37	2933.90.70
2921.45.10	2922.30.25	2927.00.06	2933.19.43	2933.90.75
2921.45.20	2922.30.45	2927.00.40	2933.29.10	2933.90.79
2921.45.60	2922.42.10	2927.00.50	2933.29.35	2933.90.82
2921.45.90	2922.43.10	2928.00.25	2933.29.43	2934.10.10
2921.49.10	2922.43.50	2929.10.10	2933.32.10	2934.10.20
2921.49.37	2922.49.10	2929.10.20	2933.32.50	2934.20.20
2921.49.43	2922.49.27	2929.10.35	2933.39.20	2934.20.30
2921.49.45	2922.49.30	2929.10.55	2933.39.30	2934.20.40
2921.49.50	2922.49.37	2929.10.80	2933.39.41	2934.20.80
2921.51.10	2922.50.10	2929.90.15	2933.39.61	2934.30.12
2921.51.30	2922.50.14	2929.90.20	2933.39.91	2934.30.23
2921.51.50	2922.50.17	2930.20.20	2933.40.15	2934.30.27
2934.30.43	3204.14.30	3403.91.50	3815.90.50	3926.90.55
2934.30.50	3204.14.50	3403.99.00	3817.10.10	3926.90.59
2934.90.05	3204.15.10	3404.90.10	3817.20.00	3926.90.65
2934.90.06	3204.15.20	3407.00.40	3819.00.00	3926.90.77
2934.90.39	3204.15.30	3502.11.00	3820.00.00	3926.90.85
2934.90.44	3204.15.35	3502.19.00	3821.00.00	4007.00.00
2935.00.10	3204.15.40	3503.00.20	3823.13.00	4008.21.00
2935.00.15	3204.15.80	3503.00.40	3823.19.40	4010.12.90
2935.00.48	3204.16.10	3506.10.10	3823.70.20	4010.19.80
2935.00.60	3204.16.20	3606.90.30	3823.70.40	4010.21.30
2935.00.75	3204.16.30	3804.00.50	3823.70.60	4010.22.30
2935.00.95	3204.16.50	3805.90.00	3824.10.00	4010.23.50
2942.00.05	3204.17.04	3806.90.00	3824.40.10	4010.24.50
2942.00.10	3204.17.20	3808.10.50	3824.40.50	4010.29.10
2942.00.35	3204.17.60	3808.20.50	3824.71.00	4010.29.50
3202.10.50	3204.17.90	3808.30.50	3824.79.00	4012.20.60
3204.11.10	3204.19.11	3808.90.95	3824.90.28	4012.20.80
3204.11.15	3204.19.20	3809.92.10	3824.90.35	4015.19.50
3204.11.35	3204.19.25	3809.92.50	3824.90.45	4015.90.00
3204.11.50	3204.19.30	3809.93.10	3824.90.47	4104.10.60
3204.12.17	3204.19.40	3809.93.50	3824.90.90	4104.10.80
3204.12.20	3204.19.50	3810.10.00	3912.20.00	4105.12.00
3204.12.30	3205.00.40	3810.90.10	3916.90.30	4105.19.10
3204.12.45	3205.00.50	3810.90.50	3918.10.32	4105.19.20
3204.12.50	3206.49.20	3811.19.00	3918.10.40	4105.20.30
3204.13.10	3206.50.00	3811.21.00	3918.90.20	4107.10.20
3204.13.20	3207.40.50	3811.29.00	3918.90.30	4107.10.30
3204.13.25	3211.00.00	3811.90.00	3921.13.19	4107.90.30
3204.13.60	3214.90.50	3812.10.50	3921.90.19	4109.00.30
3204.13.80	3301.13.00	3812.20.50	3921.90.21	4109.00.40
3204.14.10	3302.10.90	3812.30.90	3921.90.29	4304.00.00
3204.14.20	3403.11.20	3814.00.10	3926.20.40	4405.00.00
3204.14.25	3403.19.10	3814.00.50	3926.30.50	4409.10.65
4409.20.65	7013.21.20	7019.19.90	7208.40.30	7211.14.00
4412.19.50	7013.21.30	7019.90.10	7208.40.60	7211.19.15
4420.90.65	7013.29.05	7104.20.00	7208.51.00	7211.19.20
4421.10.00	7013.29.10	7108.12.50	7208.52.00	7211.19.30
4421.90.20	7013.29.20	7108.13.50	7208.53.00	7211.19.45
4421.90.40	7013.29.30	7114.11.45	7208.54.00	7211.19.60

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4421.90.80	7013.29.40	7201.50.60	7208.90.00	7211.19.75
4421.90.85	7013.29.50	7202.11.50	7209.15.00	7211.23.15
4610.99.00	7013.29.60	7202.21.75	7209.16.00	7211.23.20
6901.00.00	7013.31.10	7202.21.90	7209.17.00	7211.23.30
6907.10.00	7013.31.20	7202.49.10	7209.18.15	7211.23.45
6907.90.00	7013.32.10	7202.70.00	7209.18.25	7211.23.60
6908.10.10	7013.32.20	7202.91.00	7209.18.60	7211.29.20
6908.10.50	7013.32.30	7202.92.00	7209.25.00	7211.29.45
6908.90.00	7013.32.40	7202.93.00	7209.26.00	7211.29.60
6911.10.10	7013.39.10	7202.99.10	7209.27.00	7211.90.00
6911.10.52	7013.39.20	7202.99.50	7209.28.00	7212.10.00
6911.10.58	7013.39.30	7206.10.00	7209.90.00	7212.20.00
6911.10.80	7013.39.40	7207.11.00	7210.11.00	7212.30.10
6912.00.20	7013.39.50	7207.12.00	7210.12.00	7212.30.30
6912.00.39	7013.39.60	7207.19.00	7210.20.00	7212.30.50
6912.00.45	7013.91.10	7207.20.00	7210.30.00	7212.40.10
7002.10.10	7013.91.20	7208.10.15	7210.41.00	7212.40.50
7004.90.05	7013.91.30	7208.10.30	7210.49.00	7212.50.00
7004.90.10	7013.99.10	7208.10.60	7210.50.00	7212.60.00
7004.90.15	7013.99.20	7208.25.30	7210.61.00	7213.10.00
7004.90.20	7013.99.40	7208.25.60	7210.69.00	7213.20.00
7005.21.10	7013.99.50	7208.26.00	7210.70.30	7213.91.30
7005.21.20	7013.99.60	7208.27.00	7210.70.60	7213.91.45
7005.29.08	7013.99.70	7208.36.00	7210.90.10	7213.91.60
7005.29.18	7013.99.80	7208.37.00	7210.90.60	7213.99.00
7013.10.50	7013.99.90	7208.38.00	7210.90.90	7214.10.00
7013.21.10	7018.20.00	7208.39.00	7211.13.00	7214.20.00
7214.30.00	7217.30.45	7222.19.00	7226.91.70	7229.90.50
7214.91.00	7217.30.60	7222.20.00	7226.91.80	7229.90.90
7214.99.00	7217.30.75	7222.30.00	7226.92.10	7301.10.00
7215.10.00	7217.90.10	7222.40.30	7226.92.30	7301.20.10
7215.50.00	7217.90.50	7222.40.60	7226.92.50	7301.20.50
7215.90.10	7218.10.00	7223.00.10	7226.92.70	7301.10.10
7215.90.30	7218.91.00	7223.00.50	7226.92.80	7302.10.50
7216.10.00	7218.99.00	7223.00.90	7226.93.00	7302.20.00
7216.21.00	7219.11.00	7224.10.00	7226.94.00	7302.40.00
7216.22.00	7219.12.00	7224.90.00	7226.99.00	7304.10.10
7216.31.00	7219.13.00	7225.11.00	7227.10.00	7304.10.50
7216.32.00	7219.14.00	7225.19.00	7227.20.00	7304.21.30
7216.33.00	7219.21.00	7225.20.00	7227.90.10	7304.21.60
7216.40.00	7219.22.00	7225.30.10	7227.90.20	7304.29.10
7216.50.00	7219.23.00	7225.30.30	7227.90.60	7304.29.20
7216.91.00	7219.24.00	7225.30.50	7228.10.00	7304.29.30
7216.99.00	7219.31.00	7225.30.70	7228.20.10	7304.29.40
7217.10.10	7219.32.00	7225.40.10	7228.20.50	7304.29.50
7217.10.20	7219.33.00	7225.40.30	7228.30.20	7304.29.60
7217.10.30	7219.34.00	7225.40.50	7228.30.60	7304.31.30
7217.10.40	7219.35.00	7225.40.70	7228.30.80	7304.31.60
7217.10.50	7219.90.00	7225.50.10	7228.40.00	7304.39.00
7217.10.60	7220.11.00	7225.50.60	7228.50.10	7304.41.30
7217.10.70	7220.12.10	7225.50.70	7228.50.50	7304.41.60
7217.10.80	7220.12.50	7225.50.80	7228.60.10	7304.49.00
7217.10.90	7220.20.10	7226.11.10	7228.60.60	7304.51.10
7217.20.15	7220.20.60	7226.11.90	7228.60.80	7304.51.50
7217.20.30	7220.20.70	7226.19.10	7228.70.30	7304.59.10
7217.20.45	7220.20.80	7226.19.90	7228.70.60	7304.59.20
7217.20.60	7220.20.90	7226.20.00	7228.80.00	7304.59.60
7217.20.75	7220.90.00	7226.91.15	7229.10.00	7304.59.80
7217.30.15	7221.00.00	7226.91.25	7229.20.00	7304.90.10
7217.30.30	7222.11.00	7226.91.50	7229.90.10	7304.90.30
7304.90.50	7306.60.30	8101.93.00	8301.10.80	8528.12.32
7304.90.70	7306.60.50	8102.10.00	8302.30.60	8528.12.40
7305.11.10	7306.60.70	8102.91.10	8430.49.40	8528.12.48
7305.11.50	7306.90.10	8104.19.00	8431.43.40	8528.12.56
7305.12.10	7306.90.50	8104.30.00	8482.10.10	8528.12.68
7305.12.50	7307.19.90	8105.10.30	8482.10.50	8528.12.72
7305.19.10	7307.93.30	8108.10.50	8482.20.00	8528.12.84
7305.19.50	7308.90.30	8109.10.60	8482.91.00	8528.12.88
7305.20.20	7308.90.60	8111.00.45	8482.99.05	8528.13.00
7305.20.40	7312.10.30	8112.40.60	8482.99.15	8528.21.10
7305.20.60	7312.10.50	8112.91.40	8482.99.25	8528.21.24
7305.20.80	7312.10.60	8112.91.60	8482.99.35	8528.21.29
7305.31.40	7312.10.70	8203.20.40	8482.99.45	8528.21.39

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7305.31.60	7312.10.90	8205.90.00	8482.99.65	8528.21.42
7305.39.10	7314.31.10	8206.00.00	8483.20.80	8528.21.49
7305.39.50	7314.41.00	8211.10.00	8483.30.80	8528.21.52
7305.90.10	7314.42.00	8211.91.20	8483.60.80	8528.21.65
7305.90.50	7317.00.55	8211.91.25	8483.90.30	8528.21.70
7306.10.10	7318.11.00	8211.91.30	8483.90.70	8528.21.85
7306.10.50	7318.14.10	8211.91.40	8483.90.80	8528.21.90
7306.20.10	7318.14.50	8213.00.90	8521.90.00	8528.22.00
7306.20.20	7320.10.60	8214.90.30	8525.10.20	8528.30.20
7306.20.30	7324.90.00	8215.10.00	8527.13.20	8528.30.40
7306.20.40	7601.10.30	8215.20.00	8527.13.40	8528.30.60
7306.20.60	7601.20.30	8215.99.01	8527.21.40	8528.30.66
7306.20.80	7601.20.60	8215.99.05	8527.29.80	8528.30.68
7306.30.10	7604.21.00	8215.99.10	8527.31.05	8528.30.78
7306.30.50	7614.10.10	8215.99.15	8527.31.50	8528.30.90
7306.40.10	7614.90.40	8215.99.26	8527.31.60	8529.10.20
7306.40.50	7901.12.10	8215.99.30	8527.90.40	8529.90.03
7306.50.10	8101.10.00	8215.99.35	8528.12.08	8529.90.06
7306.50.50	8101.91.50	8301.10.20	8528.12.20	8529.90.13
7306.60.10	8101.92.00	8301.10.40	8528.12.24	8529.90.33
8529.90.36	8529.90.43	8540.20.40	8703.22.00	8714.93.28
8529.90.39	8529.90.46	8540.40.00	8703.23.00	8714.93.35
	8529.90.49	8540.50.00	8703.24.00	8714.94.90
	8529.90.53	8540.60.00	8703.31.00	8714.95.00
	8529.90.69	8540.71.40	8703.32.00	8714.96.10
	8529.90.83	8540.72.00	8703.33.00	8714.96.90
	8529.90.86	8540.79.00	8703.90.00	8714.99.10
	8529.90.89	8540.81.00	8704.10.10	8714.99.80
	8529.90.93	8540.89.00	8704.10.50	9029.20.20
	8532.10.00	8540.91.15	8704.21.00	9029.90.40
	8532.21.00	8540.91.20	8704.22.10	9103.10.20
	8532.22.00	8540.91.50	8704.22.50	9103.10.40
	8532.23.00	8540.99.40	8704.23.00	9103.10.80
	8532.24.00	8540.99.80	8704.31.00	9103.90.00
	8532.25.00	8607.19.03	8704.32.00	9104.00.05
	8532.30.00	8607.19.06	8704.90.00	9104.00.10
	8533.21.00	8701.20.00	8706.00.03	9104.00.20
	8533.29.00	8703.10.10	8706.00.05	9104.00.25
	8533.31.00	8703.21.00	8706.00.15	9104.00.30
	8533.39.00		8706.00.25	
	8533.40.80		8707.10.00	
	8533.90.40		8707.90.50	
	8533.90.80		8708.92.50	
	8540.11.10		8712.00.15	
	8540.11.24		8712.00.25	
	8540.11.28		8712.00.35	
	8540.11.30		8712.00.44	
	8540.11.44		8712.00.48	
	8540.11.48		8713.90.00	
	8540.11.50		8714.91.30	
	8540.12.50		8714.91.50	
	8540.12.70		8714.91.90	
	8540.20.20		8714.92.10	
9104.00.40	9108.20.40	9109.19.60	9302.00.00	
9104.00.45	9108.20.80	9109.90.20	9305.10.20	
9104.00.50	9108.91.10	9109.90.40	9404.29.10	
9104.00.60	9108.91.20	9109.90.60	9506.99.08	
9105.11.40	9108.91.30	9110.11.00	9507.10.00	
9105.11.80	9108.91.40	9110.12.00	9507.30.20	
9105.19.20	9108.91.50	9110.19.00	9507.30.40	
9105.19.30	9108.91.60	9110.90.20	9507.90.70	
9105.19.50	9108.99.20	9110.90.40	9603.10.05	
9105.21.40	9108.99.40	9110.90.60	9603.10.15	
9105.21.80	9108.99.60	9111.10.00	9603.10.35	
9105.29.10	9108.99.80	9111.20.20	9603.10.40	
9105.29.20	9109.11.10	9111.20.40	9603.10.50	
9105.29.30	9109.11.20	9111.80.00	9603.10.60	
9105.29.40	9109.11.40	9111.90.40	9608.31.00	
9105.29.50	9109.11.60	9111.90.50	9608.39.00	
9105.91.40	9109.19.10	9111.90.70	9608.50.00	
9105.91.80	9109.19.20	9112.10.00	9612.20.00	
9105.99.20	9109.19.40	9113.20.40	9616.20.00	
9105.99.30		9113.90.40		

ANNEX—Continued

9105.99.40		9114.10.40		
9105.99.50		9114.10.80		
9105.99.60		9114.30.40		
9106.10.00		9114.30.80		
9106.20.00		9114.40.20		
9106.90.75		9114.40.40		
9106.90.85		9114.40.60		
9107.00.80		9114.40.80		
9108.11.40		9114.90.15		
9108.11.80		9114.90.30		
9108.12.00		9114.90.40		
9108.19.40		9114.90.50		
9108.19.80		9209.91.80		
PART B				
9101.11.40	9101.29.30	9102.11.65	9102.21.25	9102.29.30
9101.11.80	9101.29.40	9102.11.70	9102.21.30	9102.29.35
9101.12.20	9101.29.50	9102.11.95	9102.21.50	9102.29.40
9101.19.40	9101.29.70	9102.12.20	9102.21.70	9102.29.45
9101.19.80	9102.11.10	9102.19.20	9102.21.90	9102.29.50
9101.21.10	9102.11.25	9102.19.40	9102.29.02	9102.29.55
9101.21.80	9102.11.30	9102.19.60	9102.29.15	9102.29.60
9101.29.10	9102.11.45	9102.19.80	9102.29.20	9102.91.40
9101.29.20	9102.11.50	9102.21.10	9102.29.25	9102.91.80

PART C

Least-developed beneficiary developing countries

Angola
Bangladesh
Benin
Bhutan
Burkina Faso
Burundi
Cape Verde
Central African Republic
Chad
Comoros
Djibouti
Equatorial Guinea
Ethiopia
Gambia, The
Guinea
Guinea-Bissau
Haiti
Kiribati
Lesotho
Madagascar
Malawi
Mali
Mozambique
Nepal
Niger
Rwanda
Sao Tome and Principe
Sierra Leone
Somalia
Tanzania
Togo
Tuvalu
Uganda
Vanuatu
Yemen
Zaire
Zambia

[FR Doc. 96–26898 Filed 10–18–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–368]

Crawfish: Competitive Conditions in the U.S. Market

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: October 8, 1996.

SUMMARY: Following receipt of a request from the Committee on Ways and Means of the U.S. House of Representatives on July 31, 1996, the Commission instituted investigation No. 332–368 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Notice of institution of the investigation was published in the Federal Register of September 5, 1996 (61 F.R. 46821). On September 30, 1996, the Commission received a letter from the Committee requesting that the Commission terminate the investigation, noting that domestic crawfish producers had recently filed a petition with the U.S. Department of Commerce and the Commission under the U.S. antidumping law with respect to imports of crawfish from China. Accordingly, on October 8, 1996, the Commission terminated investigation No. 332–368.

FOR FURTHER INFORMATION CONTACT: Mr. David E. Ludwick (202–205–3329), Agricultural and Forest Products Division, Office of Industries, or Mr. William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: October 11, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–26899 Filed 10–18–96; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review: Comment Request

Title of Proposed Collection: National Science Foundation Proposal Evaluation Process.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at Federal Register 42371, dated August 14, 1996. No public comments were received.

The materials are now being sent to OMB for review. Send any written comments to Desk Officer: OMB No. 3145–0060, OIRA, Office of Management and Budget, Washington, DC 20503. Comments should be received by November 18, 1996.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed project. Proposal Evaluation Process. The missions of the NSF are to: increase the Nation's base of scientific and engineering knowledge and strengthen its ability to support research in all areas of science and engineering; promote innovative science and engineering education programs that can better prepare the Nation to meet the challenges of the future; and promote international cooperation in science and engineering. The Foundation is also committed to ensuring the Nation's supply of scientists, engineers, and science educators. In its role as leading Federal supporter of science and engineering, NSF also has an important role in national policy planning.

The Foundation fulfills this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. This support is made primarily through grants, contracts, and other agreements awarded to approximately 2,800 colleges, universities, academic consortia, nonprofit institutions, and small businesses.

The Foundation relies heavily on the advice and assistance of external advisory committees, ad-hoc proposal reviewers, and to other experts to ensure that the Foundation is able to reach fair and knowledgeable judgments. These scientists and educators come from colleges and universities, nonprofit research and education organizations, industry, and other Government agencies.

In making its decisions on proposals the counsel of these merit reviewers has proven invaluable to the Foundation both in the identification of meritorious projects and in providing sound basis for project restructuring.

Review of proposals may involve large panel sessions, small groups, or use of a mail-review system. Proposals are reviewed carefully by scientists or engineers who are expert in the particular field represented by the proposal. About one-fourth are reviewed by mail reviewers alone. Another one-forth are reviewed exclusively by panels of reviewers who gather, usually in Washington, to discuss their advice as well as to deliver it. The remaining one-half are reviewed first by mail reviewers expert in the particular field, then by panels, usually of persons with more diverse expertise, who help the NSF decide among proposals from multiple fields or sub-fields.

Use of the Information. The information collected is used to support grant programs of the Foundation.

The information collected on the proposal evaluation forms is used by the Foundation to determine the following criteria when awarding or declining proposals submitted to the agency: (1) Research performance competence; (2) Intrinsic merit of the research; (3) Utility or relevance of the research; and (4) Effect of the research on the infrastructure of science and engineering.

The information collected on reviewer background questionnaires is used by managers to maintain an automated data base of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, ethnicity is used in meeting NSF needs for data to permit response to congressional and other queries into equity issues. These data are also used in the design, implementation, and monitoring of NSF efforts to increase the participation on various groups in science, engineering, and education.

Confidentiality. Verbatim but anonymous copies of reviews are sent to the principal investigators/project directors. Subject to this NSF policy and applicable laws, including the Freedom of Information Act, reviewers' comments will be given maximum protection from disclosure.

While listings of panelists' names are released, the names of individual reviewers, associated with individual proposals, are not released to anyone.

Because the Foundation is committed to monitoring and identifying any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s), the Foundation also collects race, ethnicity, disability, and gender. This information is also protected by the Privacy Act.

Burden on the Public. The Foundation estimates that anywhere from one hour to twenty hours may be required to review a proposal. It is estimated that approximately five hours are required to review an average proposal. Each proposal receives an average of seven reviews.

Dated: October 15, 1996.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 96–26842 Filed 10–18–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological Sciences (BIO); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (BIO) (1110).

Date and Time:

November 7, 1996; 8:45 a.m.–5:00 p.m.
November 8, 1996; 8:45 a.m.–1:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 306–1400.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Long-term Planning and Discussion of BIOAC Workshops.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–26844 Filed 10–18–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: October 30, 1996 from 4:00 p.m. to 8:00 p.m. and October 31 from 8:00 a.m. to 4:00 p.m.

Place: Room 380, NSF 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Rolf Sinclair, Program Director for Special Programs, Division of Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1809.

Purpose of Meeting: To review proposals in the Research Experiences for Undergraduates (REU) Program in the Division of Physics.

Agenda: To review and evaluate the REU proposals as part of the selection process for award.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 15, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–26843 Filed 10–18–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on November 14–15, 1996. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public, except where specifically noted otherwise.

Topics of discussion will include: (1) Discussion of Strategic Assessment and Direction Setting Issues Papers, (2) Status reports on (a) the Advance Notice for Proposed Rulemaking for Part 33, ''Specific Domestic Licensees of Broad Scope for Byproduct Material,'' (b) Modules for Regulatory Guide 10.8, ''Guide for the Preparation of Applications for Medical Use Programs,'' (c) Memorandum of Understanding with the U.S. Food and Drug Administration, and (d) Continuing Implementation of the Quality Management Rule; (3) discussion of regulatory authorization for intravascular brachytherapy, including the petition of IsoStent intravascular brachytherapy and the development of criteria and training and experience requirements; (4) discussion of security and control of byproduct materials in medical and university settings; (5) discussion of mobile high-dose-rate afterloader applications; and (6) discussion of inspection guidance for the final rule on patient release. The staff will also provide an update on several rulemakings and regulatory guides: (1) Petition by Tri-Med for carbon-14 use; (2) Release of Patients (10 CFR 35.75); (3) ''Reporting Requirements for Unauthorized Use of Licensed Radioactive Material;'' and (4) Regulatory Guide for the final rule, ''Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use.'' In addition, on November 14, 1996, 8:00 a.m.—9:00 a.m., there will be a closed session of the ACMUI to discuss ethics rules and their application. This session will be closed to prevent invasion of personal privacy of committee members.

DATES: The meeting will begin at 9 a.m., on November 14, 1996, and 8:00 a.m. on November 15, 1996.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Torre Taylor, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, Telephone (301) 415–7900.

Conduct of the Meeting

Judith Ann Stitt, M.D., will chair the meeting. Dr. Stitt will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Torre Taylor (address listed previously), by November 8, 1996. Statements must pertain to the topics on the agenda for the meeting.
2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.
3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street, N.W., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about November 22, 1996. Minutes of the meeting will be available on or about December 20, 1996.
4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

Dated: October 15, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–26888 Filed 10–18–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Joint Meeting of the Subcommittees on Materials and Metallurgy and on Severe Accidents; Postponement

A joint meeting of the ACRS Subcommittees on Materials and Metallurgy and on Severe Accidents scheduled to be held on October 22, 1996, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been postponed due to the need for additional information from the NRC staff. The meeting has been rescheduled for Tuesday, November 5, 1996, 8:30 a.m. until 5:00 p.m. and Wednesday, November 6, 1996, 8:30 a.m. until 12:00 Noon. All other items pertaining to this meeting remain the same as previously published in the Federal Register on Wednesday, October 9, 1996 (61 FR 52961).

For further information contact: Mr. Noel F. Dudley, the cognizant ACRS staff engineer, (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: October 15, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–26889 Filed 10–18–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Severe Accidents; Notice of Meeting

The ACRS Subcommittee on Severe Accidents will hold a meeting on November 6, 1996, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 6, 1996—1:00 p.m. until the conclusion of business

The Subcommittee will discuss the proposed Commission Paper, ''Use of NUREG–1465 Source Term at Operating Reactors,'' the Electric Power Research Institute (EPRI) Technical Report TR–105909, ''Generic Framework for Application of Revised Accident Source Term to Operating Plants,'' and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineers named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, EPRI, Grand Gulf nuclear power plant licensee, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineers, Mr. Noel Dudley (telephone 301/415–6888) or Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact one of the above named individuals one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 15, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–26890 Filed 10–18–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on November 5, 1996, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, November 5, 1996—12:00 noon until 1:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 15, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–26891 Filed 10–18–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26593]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 11, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 5, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities, Inc. (70–8113)

General Public Utilities, Inc. (''GPU''), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a post-effective amendment to its declaration under section 12(b) of the Act and rules 45 and 54 thereunder.

By orders dated December 10, 1987 (HCAR No. 24522) and April 23, 1993

(HCAR No. 25805) (''Original Orders''), the Commission, among other things, authorized GPU to guarantee the payment of non-funded benefits under employee benefit plans of GPU Service, Inc. (''GPUS'') and GPU Nuclear, Inc. (''GPUN''), each of which is a subsidiary service company of GPU (collectively, ''Original Subsidiaries''), from time-to-time until December 31, 2002, in an aggregate amount not to exceed $50 million. These plans (collectively, ''Plans'') included, among others, the GPUS and GPUN Elected Officers Deferred Compensation Plans and Short-Term and Long-Term Disability Plans, the GPUS Senior Officers Deferred Compensation Plan, the GPUS and GPUN Employees Pension Plans, life annuities or supplemental pension payments for retired officers or other individuals (''Participants'') performing services for the Original Subsidiaries which are awarded on an individual basis, severance payment plans in effect from time-to-time for officers of GPUS and GPUN, the GPUS Senior Executive Life Insurance Program, under which GPU is obligated to make premium payments on ''split-dollar'' senior executive life insurance policies, and any other employee benefit plans that may be adopted in the future.

Since the issuance of the April 23, 1993 Order, GPU has: (1) organized GPU Generation, Inc. (''Genco'') to operate the non-nuclear generating facilities of the GPU System; (2) expanded the activities of GPU International, Inc. (formerly, Energy Initiatives, Inc.) (''International''), a non-utility subsidiary which develops, owns and operates independent power projects; and (3) organized GPU Power, Inc. (formerly, EI Power, Inc.) (''Power''), and GPU Electric, Inc. (formerly, EI Energy, Inc.) (''Electric'') to pursue investments in exempt wholesale generators and foreign utility companies, respectively. Genco, International, Power, Electric and all other existing or yet-to-be formed subsidiaries of GPU are collectively referred to as the ''Additional Subsidiaries.''

GPU now requests authority from time-to-time through December 31, 2002 to: (1) guarantee the payment of non-funded benefits due under the existing or future Plans of the Additional Subsidiaries; and (2) increase the aggregate amount of non-funded benefits under the Plans for which it may assure payment for the Original Subsidiaries and the Additional Subsidiaries to an aggregate of $100 million. The Additional Subsidiaries may include Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, the electric utility subsidiaries of GPU, to enable GPU to provide officers and other Participants of such subsidiaries with equivalent assurance of payment of benefits as may be provided for the officers and other officers and Participants of other GPU subsidiaries.

WPL Holdings, Inc., et al. (70–8891)

WPL Holdings, Inc. (''WPLH''), 222 West Washington Avenue, Madison, Wisconsin 53703, and IES Industries Inc. (''IES''), 200 First Street S.E., Cedar Rapids, Iowa 52401, both public utility holding companies exempt from regulation under all but section 9(a)(2) of the Act, and Interstate Power Company (''IPC''), 1000 Main Street, Dubuque, Iowa 52004, a combination gas and electric public utility company (collectively, ''Applicants''), have filed jointly an application-declaration under sections 4, 5, 6(a), 7, 8, 9, 10, 11, 12(b), 13(b), 32 and 33 of the Act and rules 42, 54, 82, 83, 86, 88, 90 and 91 thereunder.

The Applicants propose to combine WPLH, IES and IPC, pursuant to an amended Agreement and Plan of Merger, dated November 10, 1995 (''Merger Agreement''), under which IES' utility subsidiary, IES Utilities, Inc. (''Utilities''), and IPC will become subsidiaries of WPLH (the ''Transaction''). WPLH will be renamed Interstate Energy Corporation (''Interstate Energy'') at or prior to such time, and will register with the Commission under section 5 of the Act. The Applicants also propose to engage in other Transaction-related activities, including Interstate Energy's retention of combination gas and electric public utilities, retention of combination gas and electric public utilities, retention of all of the Applicants' nonutility subsidiaries, and formation of a service company.

The Applicants

WPLH has one direct public utility subsidiary company, Wisconsin Power & Light Company (''WP&L''), a combination electric and gas public utility that, in turn, is an exempt public utility holding company with 100% and 33⅓% ownership interests, respectively, in two public utility subsidiary companies: South Beloit Water, Gas and Electric Company (''South Beloit''), a combination electric and gas public utility, and Wisconsin River Power Company (''WRPC''), which owns and operates two hydroelectric facilities on the Wisconsin River.

WP&L is engaged principally in the generation, purchase, distribution and sale of electric energy in 35 counties in southern and central Wisconsin. WP&L provides retail electric service to approximately 370,000 customers in 663 cities, villages and towns, and wholesale service to 27 municipal utilities, three rural electric cooperatives, the Wisconsin Public Power Incorporated System, which provides retail service to nine communities, and one privately owned utility. WP&L also purchases natural gas and distributes and sells natural gas to approximately 141,000 retail customers in 22 counties in southern and central Wisconsin. WP&L supplies water to approximately 31,620 customers in two Wisconsin communities, including the cities of Ripon and Beloit and adjacent areas. South Beloit supplies retail electric, gas and water services to customers in the cities of South Beloit and Rockton, Illinois, and the adjacent rural areas, serving approximately 7,005 electric customers, 5,128 gas customers, and 1,598 water customers. South Beloit's service territory is located in Illinois and is adjacent to the service territory of WP&L in Wisconsin.

WPLH owns 98.1% of one nonutility subsidiary, Heartland Development Corporation (''HDC''),[1] a holding company for WPLH's nonutility activities. HDC has six subsidiaries that engage, directly and indirectly, in: environmental consulting and engineering;[2] the development, ownership, underwriting and sales of, and asset management services in connection with, affordable multi-family housing;[3] financing services, including the origination, sale and servicing of mortgages, for tax advantaged affordable housing properties;[4] energy-related businesses, which include brokering and marketing of natural gas, gas supply and fuel management services, and energy project development and implementation for energy supply projects;[5] and consulting on the

[1] The remaining 1.9% interest in HDC held by two officers will be eliminated in connection with the Transaction.

[2] These activities are performed by Heartland Environmental Holding Company (''HEHC'') and its subsidiaries: RMT, Inc.; RMT/Jones & Neuse, Inc.; Quality Environmental Services, Inc.; RMT North Carolina and RMT New York; and Advanced Environmental Management, Ltd., which is a Finish start-up environmental consulting and engineering business.

[3] These activities are performed by Heartland Properties, Inc. and its direct and indirect subsidiaries: Heartland Affordable Housing, Inc.; Capital Company, L.L.C.; and Heartland Asset Management, Inc.

[4] Capital Square Financial Corp.

[5] Heartland Environmental Group and its subsidiaries, Heartland Energy Services and Enserv. Enserv performs turnkey energy project development and implementation for customer energy supply projects, including feasibility studies, engineering, financing, construction, management, and project ownership.

development, maintenance and marketing of electric generation computer software programs, models and options.[6]

WPLH also has indirect interests in nonutility businesses through WP&L and South Beloit. WP&L owns and operates the Ripon Water System and the Beloit Water System. WP&L's wholly owned subsidiary, Reac, Inc., purchases and holds real property primarily for use in WP&L's public utility operations. WP&L also owns a 13% interest in Wisconsin Valley Improvement Company, which manages and controls water flow through a series of reservoirs and dams on the upper Wisconsin River. In addition, WP&L's Board of Directors elects annually the directors of the Wisconsin Power and Light Foundation, a Wisconsin non-stock, non-profit corporation that uses WP&L contributions for charitable, literary and scientific purposes. South Beloit owns and operates the South Beloit Water system.

WPLH common stock is listed on the New York Stock Exchange (''NYSE''), the Boston Stock Exchange (''BSE''), the Chicago Stock Exchange (''CSE'') and the Pacific Stock Exchange (''PSE''). As of July 10, 1996, there were 30,795,260 shares of WPLH common stock outstanding. WPLH has no shares of preferred stock outstanding, although as of July 10, 1996, there were 1,049,225 shares of WP&L preferred stock outstanding. The rights of holders of WP&L's outstanding preferred stock will not be impacted by the Transaction.

For the year ended December 31, 1995, WPLH's operating revenues on a consolidated basis were approximately $811 million, of which approximately $550 million were derived from electric operations, $139 million from gas operations and $122 million from other operations. Approximately 15% of the WPLH's consolidated operating revenues were derived from its nonutility investments. Consolidated assets of WPLH and its subsidiaries at December 31, 1995, were approximately $1.875 billion, consisting of approximately $1.23 billion in identifiable electric utility property, plant and equipment; approximately $250 million in identifiable gas utility property, plant and equipment; and approximately $395 million in other corporate assets. Less than 13.34% of WPLH's consolidated assets were invested in nonutility businesses.

IES has one wholly owned combination electric and gas public utility company subsidiary, Utilities. Utilities provides retail electric service to approximately 333,000 customers in 525 communities and natural gas to 174,000 retail customers in 222 communities across Iowa. Utilities also provides wholesale electric service to 30 Iowa municipalities. To a limited extent, Utilities also provides steam used for heating and industrial purposes in downtown Cedar Rapids, Iowa.[7] In addition, Utilities owns a 70% interest in and operates a nuclear generating station, Duane Arnold Energy Center.

IES's wholly owned subsidiary, IES Diversified, Inc. (''Diversified'') was formed as a holding company for most of IES's nonutility activities, which include: transportation;[8] non-regulated energy businesses;[9] foreign utility investments;[10] and investments in telecommunications, real estate and other miscellaneous projects.[11] IES also has indirect interests in certain other nonutility activities through Utilities and its wholly owned subsidiary, Ventures, whose two subsidiaries are: IES Midland Development Inc., which owns and operates a landfill in Ottumwa, Iowa; and Aqua Ventures, L.C., which operates an aquaculture facility that raises fish for human consumption.[12] Utilities also owns 33.3% of Unitrain Services, which is a coal car management company.

IES is a member of the Cedar Rapids Electric Transportation Consortium (''CRETC''), a joint venture with the City of Cedar Rapids, Iowa, Westinghouse Electric Corp. and Blue Bird Co., formed to evaluate electric mass transit vehicle technology in northern climates. CRETC is partially funded through federal grants.

IES Industries Charitable Foundation is a non-profit corporation, which funds a broad spectrum of agencies and institutions in the educational, arts, health and social concern fields.

IES common stock is listed on the NYSE, the BSE, the CSE and the PSE. As of July 10, 1996, there were 29,923,233 shares of IES common stock outstanding. IES has no shares of preferred stock outstanding, although as of July 10, 1996, there were 120,000 shares of Utilities 4.30% Preferred Stock, 146,354 shares of Utilities 4.80% Preferred Stock, and 100,000 shares of Utilities 6.10% Preferred Stock outstanding. As of December 31, 1995, IES's revenues on a consolidated basis were approximately $851 million, of which approximately $560 million were derived from electric operations, $190 million from gas operations and $100 million from other operations. IES's consolidated assets as of December 31, 1995, were approximately $1.986 billion, consisting of approximately $1.396 billion in identifiable electric utility property, plant and equipment; $199 million in identifiable gas utility property, plant and equipment; and $391 million in other corporate assets. IES's nonutility subsidiaries and investments constituted approximately 20% of IES's consolidated assets, and operating revenues from the nonutility activities represented approximately 12% of IES's consolidated total operating revenues for the year ended December 31, 1995.

IPC is engaged primarily in the generation, purchase, transmission, distribution and sale of electric energy

[6] Entec.

[7] Utilities currently delivers low- and high-pressure steam to more than 200 residential and business customers; steam sales make up approximately 1.7% of Utilities' operating revenues.

[8] IES Transportation Inc. was formed as a holding company for IES's transportation subsidiaries: (1) Cedar Rapids & Iowa City Railway Company (''CRANDIC''), which directly and indirectly owns and operates a shortline railway for rail freight service between Cedar Rapids, Iowa City and Amana, Iowa, owns and operates rail lines between Council Bluffs, Iowa and Bureau, Illinois, and operates trackage rights between Bureau and Chicago, Illinois; (2) IES Barge Services Inc., which provides private harbor barge terminal facilities for rail car and barge loading and unloading; and (3) IES Transfer Services Inc., which owns and operates a warehouse and outdoor storage facility linked to CRANDIC.

[9] IES Energy Inc. (''IES Energy'') was formed to hold IES's energy-related businesses: (1) Industrial Energy Applications, which brokers and markets energy and designs, builds and operates generating facilities; (2) Whiting Petroleum Corporation that, through its subsidiaries, purchases, develops and produces crude oil and natural gas; and (3) Ely Inc., which is currently inactive.

[10] IES International was formed to hold IES's foreign utility investments; its sole subsidiary is IES New Zealand Inc., which owns, respectively, a 6% and 7% interest in two New Zealand utility distribution companies.

[11] IES Investments Inc. (''Investments''), through subsidiaries, holds investments in: (1) Iowa Land and Building Company, a real estate holding company subsidiary that, primarily for economic development, acquires, manages and sells real estate largely within Utilities' service area, including an interest in the development of a business park in Cedar Rapids; (2) 2001 Development Corporation, organized to promote economic development in downtown Cedar Rapids (which through affiliate real estate entities invests in the construction and operation of multifamily rental apartments in Cedar Rapids, the Five Seasons Hotel, a downtown hotel and conference center, and the management and sale of resort properties); and (3) IES Investco Inc., a wholly-owned holding company with equity investments in DLJ Partners, an investment fund, and McLeod, Inc., a provider of integrated local and long distance telecommunications services. Investments also has equity and debt holdings in certain economic development and venture capital investments in Utilities' service territory.

[12] Ventures holds a 35% interest in Aqua Ventures.

in parts of twenty-five counties in northern and northeastern Iowa, twenty-two counties in southern Minnesota, and four counties in northwestern Illinois. IPC also engages in the distribution and sale of natural gas in 41 communities, including Albert Lea, Minnesota; Clinton, Mason City and Clear Lake, Iowa; Fulton and Savanna, Illinois; and a number of smaller Minnesota, Iowa and Illinois communities. As of December 31, 1995, IPC provided electric service to 163,344 retail customers and 19 full and partial requirements wholesales customers, and natural gas to 48,823 retail customers. IPC also engages in the transportation of natural gas within Iowa, Minnesota and in interstate commerce.

IPC has one wholly owned nonutility subsidiary, IPC Development, which provides real estate services that consist principally of buying homes from IPC employees who have been relocated by the company and purchasing real estate intended for future use in IPC's utility operations.

IPC's common stock is listed on the NYSE, the CSE and the PSE. As of July 10, 1996, there were 9,595,028 shares of IPC common stock and 761,381 shares of IPC preferred stock outstanding. For the year ended December 31, 1995, IPC's operating revenues were approximately $319 million, of which approximately $275 million were derived from electric operations and $44 million from gas operations. IPC's assets at December 31, 1995, were approximately $634 million, consisting of approximately $459 million in identifiable net electric utility property, plant and equipment, and $39 million in identifiable net gas utility property, plant and equipment, and $135 million in other corporate assets. IPC's nonutility investments constituted less than 0.2% of IPC's consolidated assets, and there were no operating revenues from IPC's nonutility activities, all as of December 31, 1995.

Summary of Merger Related Transactions

In addition to the Transaction itself, described more fully below, the Applicants propose: (1) to transfer certain of Interstate Energy's nonutility interests to its subsidiary, Interstate Hold; (2) to form under rule 88 of the Act a new service company, Interstate Services, Inc. (''Interstate Services''), which will issue and sell 9,000 shares of its $0.01 par value stock to Interstate Energy; [13] (3) to execute utility and nonutility and nonutility system companies; (4) to retain, under Interstate Energy, the gas properties of WP&L, Utilities and IPC and continue their operation as combination gas and electric utilities; (5) to retain under Interstate Energy the nonutility businesses and affiliates of WPLH, IES and IPC; (6) to retain all outstanding intra-system obligations and guarantees; (7) to issue shares of Interstate Energy common stock, $0.01 par value (''Interstate Energy Common Stock'') in connection with the Transaction; (8) to issue, and/or acquire in open-market or privately negotiated transactions, for up to five years from the date of an order in this matter, up to 11 million shares of Interstate Energy Common Stock under dividend reinvestment and stock-based management incentive and employee benefit plans; (9) to issue rights to purchase shares of Interstate Energy Common Stock under the terms of the Rights Agreement, dated February 22, 1989, between WPLH and Morgan Shareholder Services Trust Company, as Rights Agent, and to sell and issue Interstate Energy Common Stock upon exercise of the rights and other transactions encompassed in the Rights Agreement; and (10) to obtain an exemption from the at cost standards of rules 90 and 91 with respect to certain transactions described below.

The Transaction

The Transaction will be effected by merging IES with and into WPLH, with WPLH as the surviving corporation, and merging WPLH Acquisition Co., a wholly owned subsidiary of WPLH formed for purposes of the Transaction, with and into IPC, which will result in IPC becoming a subsidiary of WPLH.[14] The shareholders of each of the Applicants have approved the Transaction.

The common shareholders of IES and IPC will have the right to receive 1.14 and 1.11 shares, respectively, of Interstate Energy Common Stock in exchange for one share of IES and IPC Common Stock (excluding shares owned directly or indirectly by WPLH, IES or IPC). The Transaction will have no effect on the outstanding shares of Utilities Preferred Stock, $50 par value, or IPC's Preferred Stock, $50 par value (other than shares held by IPC preferred stockholders who perfect dissenter's rights under applicable state law); each series and each share of Utilities Preferred Stock and IPC Preferred Stock will remain unchanged.[15] Each issued and outstanding share of WPLH common stock will remain outstanding and unchanged as one share of Interstate Energy Common Stock. The Applicants believe that the Transaction will qualify as a tax-free reorganization and will be treated as a pooling of interests for accounting purposes.

Upon completion of the Transaction, Interstate Energy will own, directly and indirectly, four combination electric and gas utility companies: WP&L, South Beloit, Utilities, and IPC. The headquarters of Interstate Energy will be in Madison, Wisconsin, and its board of directors will consist of fifteen members, designated as follows: six by IES, six by WPLH, and three by IPC.

Services

Interstate Services proposes to enter service agreements with WP&L, Utilities, IPC and South Beloit (''Utility Service Agreement'') and the nonutility companies in the system (''Nonutility Service Agreement''). Functions that Interstate Services may provide under the Utility Service Agreement include: information systems; meters; transportation; electric and gas system maintenance; marketing and customer relations; electric and gas transmission and distribution engineering and construction; human resources; materials management; facilities; accounting; power planning; public affairs; legal; rates; finance; land and rights of way; internal auditing; environmental affairs; fuels, including procurement and transportation; investor relations; planning; executive; gas acquisition and dispatch; gas production engineering and construction; steam system maintenance; steam distribution and supply engineering and construction; steam planning; water system maintenance and water distribution and supply engineering and construction; and water planning. Costs for services will be directly assigned or allocated between the utility companies; charges will be on an at cost basis in accordance with section 13(b) of the Act and rules 90 and 91 thereunder. Interstate Services will be staffed primarily by transferring personnel from WP&L, IES and IPC and their subsidiaries.

The Nonutility Service Agreement provides for services to nonutility

[13] Interstate Services will be incorporated in Wisconsin to serve as the service company for the Interstate Energy system providing administrative, management and support services.

[14] If the Applicants determine, however, that Wisconsin regulatory requirements mandate that the utility subsidiaries of Interstate Energy be Wisconsin corporations, then the transaction will be consummated in a manner designed to comply with such requirements (''Alternative Transaction'').

[15] Under the Alternative Transaction, the shareholders of preferred stock will exchange their shares (other than dissenting shareholders) for preferred stock, with terms and designations substantially identical, in the requisite Wisconsin corporations.

associate companies to be charged on an ''at cost'' basis except as permitted by rule or order of the Commission. The Applicants request an exemption from section 13(b) of the Act and the at cost standards of rules 90 and 91 thereunder for services provided by Interstate Services to foreign utility companies (''FUCOs'') or to any associate company which does not derive, directly or indirectly, any material part of its income from sources within the United States and which is not a public utility operating within the United States.

The Applicants also propose that Interstate Energy subsidiaries may provide goods and services, including operation and maintenance and consulting, and request an exemption from the at cost standards of section 13(b) and the rules thereunder for the sale of such services and goods, to entities that will qualify as FUCOs following the Transaction.

Finally, the Applicants state that WP&L, South Beloit, Utilities and IPC may provide each other with services incidental to their utility businesses, in accordance with rule 87(a)(3), such as meter reading, materials management, gas purchasing, transportation, and line and gas trouble crews. The Applicants state such services will be provided at cost.

Issuance of Stock: Benefits and Shareholder Protection Plans

The Applicants propose, from time to time for five years from the date of an order issued in this matter, to issue and/or acquire in open market or privately negotiated transactions up to 11 million shares of authorized Interstate Energy Common Stock under its dividend reinvestment and stock purchase plan, long-term equity incentive plan and certain other employee benefit plans.

Each of the Applicants has an existing dividend reinvestment and stock purchase plan. Following consummation of the Transaction, the IES and IPC plans will cease and participants in those plans may elect to participate in the WPLH plan, which will become the Interstate Energy dividend reinvestment plan (''DRIP''). Participants in the DRIP may invest cash dividends and/or optional cash payments in shares of Interstate Energy. Shares purchased directly from Interstate Energy will be authorized but unissued Treasury shares. Following the Transaction, decisions to purchase shares for the DRIP directly from Interstate Energy, in the open market, or in privately negotiated transactions will be based on Interstate Energy's need for common equity and other relevant factors. Proceeds from the purchase of shares from Interstate Energy will be available for general corporate purposes, and Interstate Energy will not use such proceeds to acquire an interest in any EWG or FUCO.

WPLH currently has in effect a Long-Term Equity Incentive Plan, which will remain in place and become Interstate Energy's plan (the ''Long-Term Plan'') following consummation of the Transaction. The Long-Term Plan will provide stock awards to key employees of Interstate Energy and its subsidiaries, and will replace the IES Long-Term Incentive Plan. Pursuant to the Merger Agreement, participants in the IES plan will receive, based on awards and outstanding options and tandem stock appreciation rights, the right to exchange shares of IES common stock, using the exchange ratio, for Interstate Energy Common Stock.

Each of WPLH, IES and IPC also has plans that provide for the issuance of shares of its common stock to employees participating in various stock purchase plans, such as retirement savings plans, employee savings plans, bonus stock ownership plans, and 401(k) plans. The plans will remain in effect following the consummation of the Transaction, and each plan will be modified to provide for the acquisition of Interstate Energy Common Stock.

The Applicants also propose to implement the terms of the Rights Agreement to: (1) issue the right, attached to each outstanding share of Interstate Energy Common Stock (including shares issued to effect the Transaction), to purchase additional shares of Interstate Energy Common Stock under certain circumstances (''Rights''); (2) issue and sell Interstate Energy Common Stock or other Interstate Energy securities or assets upon the exercise of the Rights; (3) redeem the Rights of issue Interstate Energy Common Stock or other Interstate Energy securities in exchange for the Rights; and (4) amend the Rights Agreement as permitted by its terms. If the Rights become exercisable, holders (excluding 20% shareholders) will be entitled to purchase one-half share of Interstate Energy Common Stock for $30; additional rights may accrue under certain circumstances. The Rights become exercisable upon the acquisition of 20% or more of Interstate Energy Common Stock. Rights may be redeemed at $0.01 per Right before a 20% acquiring party exists, and may thereafter be exchanged for one share of Interstate Energy Common Stock per Right until the existence of a 50% acquirer. The Rights do not have voting or dividend rights, and expire on February 22, 1999.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26930 Filed 10–18–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37808; File No. SR–CBOE–96–35]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc., to Amend the Firm Facilitation Exemption

October 10, 1996.

I. Introduction

On June 12, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its firm facilitation exemption.

Notice of the proposed rule change appeared in the Federal Register on July 11, 1996.[3] No comments were received on the proposed rule change. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on September 25, 1996.[4] This order approves the CBOE's proposal, as amended.

II. Background and Description

Earlier in 1996, the CBOE obtained Commission approval to expand the firm facilitation exemption [5] that was available for SPX index options and interest rate options to all non-multiply-listed Exchange option classes.[6] Currently, only a member firm who

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 37393 (July 2, 1996), 61 FR 36592 (July 11, 1996).

[4] In Amendment No. 1, the CBOE revised the proposed rule language of Interpretation .06 to Exchange Rule 4.11 so that ''a member firm who receives a customer order for execution only against the member firm's proprietary account'' may qualify for the facilitation exemption. *See* letter from Patricia L. Cerny, Director, Department of Market Regulation, to Holly Smith, Associate Director, Division of Market Regulation, Commission, dated September 25, 1996 (''Amendment No. 1'').

[5] The CBOE notes that a facilitation trade is a transaction that involves crossing an order of a member firm's public customer with an order from the member firm's proprietary account.

[6] *See* Securities Exchange Act Release No. 36964 (March 13, 1996), 61 FR 11453 (March 20, 1996) (File No. SR–CBOE–95–68).

facilitates and executes an order for its own customer[7] may qualify for a firm facilitation exemption.[8]

The CBOE is proposing to amend the firm facilitation exemption in two ways. First, a member firm who facilitates its own customer whose account it carries, whether the firm executes the order itself or gives the order to an independent broker for execution may qualify for the exemption. Second, the facilitation exemption will be expanded to include member firms who facilitate another member's customer order. Such customer order must be for execution only against the member firm's proprietary account. Further, unlike a member firm that facilitates its own customer, the resulting position will not be carried by the facilitating member firm.[9]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[10] Specifically, the Commission believes that by allowing member firms an exemption from position limits to facilitate large customer orders, whether they are firms who accept customer orders for execution only against the member firm's proprietary account, or they are firms who carry their own customers' accounts and positions, the depth and liquidity of the market will be enhanced in a manner consistent with the protection of investors and the public interest. Further, permitting a member firm who facilitates its own customer order to qualify for the exemption whether it executes the order itself or gives it to an independent broker for execution should provide firms with flexibility in handling such orders while still requiring compliance with the rule's requirements.[11]

The Commission believes that the CBOE's proposal to amend its firm facilitation exemption will accommodate the needs of investors as well as market participants without substantially increasing concerns regarding the potential for manipulation and other trading abuses. The Commission also believes that the proposed rule change will further enhance the potential depth and liquidity of the options market as well as the underlying markets by providing Exchange members greater flexibility in executing large customer orders. Moreover, the Commission is relying on the absence of discernible manipulation problems under the CBOE's current firm facilitation exemption as an indicator that the proposal is appropriate.

In addition, the CBOE's existing safeguards that apply to the current facilitation exemption will continue to serve to minimize any potential disruption or manipulation concerns. First, the facilitation firm must receive approval from the Exchange's Exemption Committee prior to executing facilitating trades.[12] Second, a facilitation firm must, within five business days after the execution of a facilitation exemption order, hedge all exempt options positions that have not previously been liquidated, and furnish to the Exchange's Department of Market Regulation documentation reflecting the resulting hedging positions.[13] In meeting this requirement, the facilitation firm must liquidate and establish its customer's and its own options and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes.[14] In addition, a facilitation firm is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage.[15] The Commission believes that these requirements will help to ensure that the facilitation exemption will not have an undue market impact on the options or on any underlying stock positions.

Third, the facilitation firm is required to promptly provide to the Exchange any information or documents requested concerning the exempted options positions and the positions hedging them, as well as to promptly notify the Exchange of any material change in the exempted options position or the hedge.[16]

Fourth, neither the member's nor the customer's order may be contingent on ''all or none'' or ''fill or kill'' instructions, and the orders may not be executed until Exchange Rule 6.74(b) (crossing order) procedures have been satisfied and crowd members have been given a reasonable time to participate in the trade.[17]

Fifth, the facilitation firm may not increase the exempted option position once it is closed, unless approval from the CBOE is again received pursuant to a reapplication.[18]

Lastly, violation of any of these provisions, absent reasonable justification or excuse, will result in the withdrawal of the facilitation exemption and may form the basis for subsequent denial of an application for a facilitation exemption.[19]

In summary, the Commission continues to believe that the safeguards built into the facilitation exemptive process will serve to minimize the potential for disruption and manipulation concerns, while at the same time benefitting market participants by allowing member firms greater flexibility to facilitate large customer orders. The Commission also notes that the facilitation exemption will be monitored in the same manner, whether the facilitation is done by the member firm for its own customer and executed by the firm itself or given to an independent broker for execution, or whether the facilitation is done by another member firm willing to facilitate the order of another member firm's customer. Further, as noted above, any firm solicitation to facilitate a customer order must comply with the CBOE's solicitation rules as well as with the CBOE's facilitation and crossing rules.[20] Lastly, the Commission believes that the CBOE has adequate surveillance procedures to surveil for compliance with the rule's requirements. Based on these reasons, the Commission believes that it is appropriate for the CBOE to amend its firm facilitation exemption.

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, because the revised rule langugage contained in Amendment No. 1 only serves to clarify the Exchange's original intent, no new regulatory concerns are raised. In addition, the CBOE's rule proposal was published for the entire twenty-one day comment period and generated no responses. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and

[7] The CBOE defines a customer order as one that is entered, cleared, and in which the resulting position is carried with the firm.

[8] *See* Interpretation .06 to Exchange Rule 4.11.

[9] The Commission notes that any solicitation of a member by another member or customer to facilitate a customer order must comply with Exchange Rule 6.9 concerning solicited transactions.

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] *See infra* notes 9 and 17 and accompanying text.

[12] *See* Interpretation .06(a) to Exchange Rule 4.11.

[13] *See* Interpretation .06(d) to Exchange Rule 4.11.

[14] *See* Interpretation .06(e)(1) to Exchange Rule 4.11.

[15] *Id.*

[16] *See* Interpretations .06(b) and .06(e)(2) to Exchange Rule 4.11.

[17] *See* Interpretations .06(c)(1) and .06(c)(2) to Exchange Rule 4.11.

[18] *See* Interpretation .06(e)(3) to Exchange Rule 4.11.

[19] *See* Interpretation .06(f) to Exchange Rule 4.11.

[20] *See supra* notes 9 and 17.

19(b)(2) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–35 and should be submitted by November 12, 1996.

IV. Conclusion

For the foregoing reasons, the Commission finds that the CBOE's proposal to amend its firm facilitation exemption is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CBOE–96–35), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26856 Filed 10–18–96; 8:45 am]

BILLING CODE 8010–01–M

[21] 15 U.S.C. 78s(b)(2) (1988).

[22] 17 CFR 200.30–3(a)(12).

[Release No. 34–37815; File No. SR–CBOE–96–61]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Opening of New Series of OEX Index Options

October 11, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on October 9, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 24.9, Interpretation and Policy .01 regarding the listing of additional series of index options on the Standard & Poor's 100 (''S&P 100'' or ''OEX'') Index options in order to take into account the signficantly increased levels of the S&P 100 since the listing procedures were implemented. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose. The purpose of the proposed rule change is to amend the procedures for listing additional series of index options on the S&P 100 Index (OEX ®) in order to take into account the significantly increased levels of the S&P 100 Index since these procedures were first put in place. Under existing Interpretation and Policy .01 under Exchange Rule 24.9, when the Exchange introduces trading in a new expiration month for a class of OEX options, it may initially list series of options with strike prices at four strike price intervals above and four strike price intervals below the current value of the Index. Subsequently, as the value of the Index moves up or down, the Exchange may list additional series of options (up until the fifth day prior to expiration), such that under ordinary circumstances there may be available for trading series of OEX options with a given expiration date having strike prices at up to five strike price intervals above and up to five strike intervals below the current value of the Index. In unusual market conditions (such as at times of heightened volatility) additional series may be added at up to six strike price intervals above and six strike price intervals below the current value of the Index. Of course, series of options previously opened continue to be available, so that there may be more than the stated number of series traded at strike price intervals opposite to the direction in which the index value has moved.

For example, if a new expiration month is introduced in an OEX option at a time when the current value of the S&P 100 Index is 598, so long as the strike price interval for OEX options remains at 5 points, series of OEX options will be available at 580, 585, 590 and 595 (four intervals below the current Index value) and at 600, 605, 610, and 615 (four intervals above the current Index value). If the value of the Index then moves to 608, under normal conditions the Exchange would be able to add series with strike prices of 620, 625 and 630, which, together with the 610s and the 615s, provide five series above the current level of the Index. In unusual market conditions, the Exchange could add sixth series with a strike price of 635. In this example, there would continue to be traded six series with strike prices below the current level of the Index (that is, the 580, 585, 590, 595, 600 and 605 series).

When the current methodology for adding series of OEX options was adopted in 1992, the S&P Index was at 380. This meant that five intervals (25 points) constituted over 6½% of the value of the index, and six intervals (30 points) constituted almost 8% of the index value.[3] Since that time, the value of the S&P 100 Index has increased considerably, to the point where it has recently exceeded 670. At this level, five strike price intervals constitutes less

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This was consistent with the prior methodology for adding new series of OEX options, which permitted up to four strike price intervals and was adopted at a time when the value of the index was 265, thus allowing OEX options to be added up to 7½% away from the market.

than 3¾%, and six intervals less than 4½%, of the value of the Index.

Application of the current rule, together with a sustained bull market, has led to an absence of OEX call series that are more than nominally out-of-the-money, since even under unusual market conditions, which the Exchange has determined now exist, an OEX call can be only a little over 4% out-of-the-money when first opened for trading, as contrasted with approximately 8% out-of-the-money at times when the level of the Index was lower. And, so long as the Index continues to move in a generally upward direction, out-of-the-money calls become less out-of-the-money with the passage of time. The adverse consequences of this trend is exemplified in at least three ways: (1) the number of OEX calls eligible for trading through the Exchange's automatic execution system (RAES) is limited; (2) institutional customers, which often apply specific parameters to conservative options strategies that involve writing out-of-the-money OEX calls, are limited in their ability to pursue these strategies; and (3) retail customers have fewer low-priced OEX calls available to trade. Each of these negative consequences is discussed in turn below.

(1) *Fewer OEX series on RAES.* The guidelines followed by the OEX Floor Procedure Committee in designating series of OEX options as eligible for trading on RAES provide that up to eight series in each of the two near term expiration months may be so designated, provided the option in any designated series is priced below $7. Historically, when the index was at a lower level and thus further out-of-the-money series were available as illustrated above, customers have had as many as sixteen series [4] of RAES-eligible OEX calls to choose from. Recently, however, there have been as few as six RAES-eligible OEX calls, four in the near term month and only two in the next-out expiration. This, of course, reflects that at only 4% out-of-the-money an OEX call with any significant time remaining until expiration will have a price above the $7 cutoff.

(2) *Institutional covered writing curtailed.* The Exchange has recently observed a decline in institutional OEX activity. When looking into possible causes, the Exchange learned that some institutional customers follow strategies involving the writing of out-of-the-money OEX calls as a hedge against a diversified stock portfolio. In some cases, these strategies require that the calls written must be at least 5% out-of-the-money. Obviously, if the furthest out-of-the-money OEX call is only 4% out-of-the-money, this strategy cannot be pursued.

(3) *Lower-priced OEX series unavailable for retail customers.* The Exchange has long noticed that OEX order flow from retail customers is concentrated in options priced below $5, and that when the number of available lower priced options increases, so does retail order flow. Under current index levels in light of the existing restrictions under Interpretation and Policy 24.9.01, there are a few low price OEX call options available with any significant time remaining before expiration, such that at times there are no OEX calls available at less than $6 premiums having more than two months remaining until expiration. For example, recently the least expensive third month OEX call was offered at 6⅝, and the least expensive fourth month call at 9½. The effect of this is to preclude retail investors from participating in the OEX call market, except at higher than desired price levels.

In response to these concerns, CBOE is now proposing to change the measure of when additional series of OEX options may be traded from the current inflexible test based on the number of strike price intervals away from the market to a more flexible test which measures the extent to which an away from the market series may be opened by reference to a percentage of the current value of the index. Based on historical patterns, it is proposed that under ordinary conditions the Exchange should be able to add additional series of OEX options that are as much as 8% away from the market, and under unusual conditions it should be able to add series that are as much as 10% away from the market.[5] Applying these percentages to current index levels, there could be as many as ten series [6] of OEX options above and below the market under normal circumstances, and up to 13 series in unusual circumstances.

The number of additional series that will result from this proposed rule change, which affects OEX options only, will not be significant. For this reason, CBOE does not believe that the proposed change raises any capacity issues. In any event, with prior notice CBOE would continue to have the ability to delist series that become inactive if the market were to move away from exercise price levels at which the series were previously opened. Indeed, CBOE has recently acted to delist over 400 inactive series on this basis.

2. *Statutory basis.* By responding to the current historically high values of the S&P 100 Index in a manner that will increase the availability to investors of lower priced OEX options, the proposed rule change is consistent with the provisions of Section 6 of the Act, and Section 6(b)(5) in particular, in that it will promote just and equitable principles of trade, will protect investors and the public interest, and will remove impediments to and perfect the mechanisms of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange states that it believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act. Specifically, the Commission believes that the proposal will enable the CBOE to respond to changing market conditions, and list index options series that provide market participants with an effective means to transfer risk and implement their trading strategies. The Commission believes that the discretion to list

[4] The proposed rule change as originally filed incorrectly states that in the example above, customers have had as many as fourteen series of RAES-eligible OEX calls to choose from. Telephone conversation between Tim Thompson, CBOE, and John Ayanian, SEC on October 11, 1996.

[5] This proposed test would apply only to OEX. All other index options are currently subject to Interpretation and Policy .05 under Rule 24.9, which applies a percentage test, subject to a maximum number of points, to adding away from the market series. Under that test, for all but long term options, the percentages are 15% under normal conditions and 30% where there is ''demonstrated customer interest'' in additional strike prices.

[6] The proposed rule change, as originally filed, incorrectly states that there would be eight strikes at current values. Telephone conversation between Tim Thompson, CBOE, and Janice Mitnick, SEC on October 10, 1996.

additional series of index options will help to ensure the consistent availability of index options series tailored to meet the needs of investors during periods of market volatility. In addition, the Commission notes the CBOE's proposal is similar to Rule 24.9, Interpretation and Policy .05 which applies a percentage test, subject to a maximum of 15%, for adding away from the market series.[7] Further, the rule allows CBOE to use a maximum of 30% for adding series when there is ''demonstrated consumer interest'' in additional strike prices.[8] Finally, American Stock Exchange (''Amex'') Rule 930C(b) allows the Amex to list additional series of the same class of index options as the numerical index value of the underlying stock index moves substantially from the initial exercise price or prices.

The Commission believes that the CBOE's proposal strikes a reasonable balance between accommodating the needs of market participants and avoiding the excessive proliferation of options series. In this regard, the proposal provides that the options price of each series of options opened for trading shall be reasonably related to the current value of the underlying index, as discussed below. The proposed rule change also allows the Exchange to open additional series of index options for trading only after a substantial movement in the value of the underlying index.[9]

The Commission believes that the change in the level of the S&P 100 Index since the series listing rules were put into place has affected the availability of series of options on the index. More specifically, CBOE states that when the methodology for adding series of options was adopted in 1992, the S&P 100 Index was at 380. At that time, the options available under normal market conditions, five intervals (25 points), constituted over 6½% of the value of the index. Further, the options available under the standard for unusual market conditions, six intervals (30 points), constituted almost 8% of the index value at the time the standards were implemented.

The S&P 100 Index has recently exceeded 670. Under the current standard, five strike price intervals constitute less than 3¾% of the index, and six intervals constitute less than 4½% of the value of the index. The proposed rule will permit the addition of options series at 8% away from the market and, under unusual market conditions, as much as 10% away from the market. Using current index levels, there could be as many as ten series of OEX options above and below the market under normal circumstances, and up to 13 series in unusual market conditions. The Commission believes that these requirements provide the Exchange with the flexibility to open additional index options series and, at the same time, appropriately limit the number of index options series that may be outstanding at any one time. In addition, the Commission notes that although the proposal permits the CBOE to open additional index option series, the CBOE retains the discretion to list fewer series than those allowed under the proposal.[10]

The CBOE has represented that due to the fact that this proposed rule change applies only to OEX options, the number of additional series will not be significant. The Options Price Reporting Authority has represented that CBOE's current system capacity is sufficient to meet the expected demands of the additional strike prices.[11] Nevertheless, the Commission requests that the CBOE monitor the volume of additional series listed as a result of this rule change and the effect of these additional series on the capacity of CBOE's, and OPRA's and vendors' automated systems. The Commission encourages the CBOE to exercise its available discretion when appropriate to delist inactive series that have no open interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. Specifically, as stated above, the Commission previously approved a CBOE rule similar to the proposed rule,[12] and believes that the proposed rule change raises no new regulatory issues. Further, the Commission believes that the proposed rule will help the CBOE to accommodate the needs of investors by helping to ensure the availability of a proper range of option strikes. Accordingly, the Commission believes, consistent with Section 6(b)(5) of the Act, that good cause exists to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–96–61 and should be submitted by November 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–96–61) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret McFarland,

Deputy Secretary.

[FR Doc. 96–26857 Filed 10–18–96; 8:45 am]

BILLING CODE 8010–01–M

[7] The 15% maximum applies to all index options (excluding OEX), but not to long term options. CBOE Rule 24.9, Interpretation and Policy .05. *See* Securities Exchange Act Release No. 31683 (December 31, 1992), 58 FR 3307 (order approving SR–CBOE–92–36).

[8] CBOE Rule 24.9, Interpretation and Policy .05. Again, this standard applies to all index options (except OEX), but not to long term options.

[9] The Commission notes, however, that the Exchange is not obligated to open new series every time the index value changes. Opening of new series must be done in a manner that is consistent with the maintenance of a fair and orderly market.

[10] See supra note 9.

[11] *See* Letter from Joe Corrigan, OPRA, to Mike Walinskas, Senior Special Counsel, Office of Market Supervision, Division of Market Regulation, SEC, dated October 11, 1996.

[12] Securities Exchange Act Release No. 31683 (December 31, 1992), 58 FR 3307 (approving CBOE–92–36).

[13] 15 U.S.C. § 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Release No. 34–37818; File No. SR–NSCC–96–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change to Process Corporate Reorganizations Involving Elections Through NSCC's Continuous Net Settlement System

October 11, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] notice is hereby given that on August 7, 1996, the National Securities Clearing Corporation (''NSCC'') filed

[1] 15 U.S.C. § 78s(b)(1) (1988)

with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–96–15) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. On August 9, 1996, and October 1, 1995, NSCC amended the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

NSCC has filed a proposed rule change that will enable members with long positions in securities subject to a tender offer with an election as to consideration to receive protection for receipt of the tender offer consideration.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

NSCC currently provides a service for participants with long positions in some securities subject to a tender offer. Pursuant to this service, NSCC guarantees to such participants the delivery of funds or securities pursuant to the terms of the tender offer. NSCC proposes to extend this protection to tender offers for which there are elections as to the form of consideration to be received.

Generally, a person who wishes to participate in a tender offer must notify the tenderer of its decision prior to the expiration of the tender offer. All shares to be exchanged in the tender offer must be delivered to the tenderer's agent prior to the end of the protect period, typically three days after the end of the expiration of the offer.[4] However, participants with long positions at NSCC (''long participants'') are dependent upon the delivery of the securities by participants with short positions at NSCC (''short participants'') prior to the end of the protect period. If short participants do not deliver in time, the long participants will not be able to participate in the offer. If a long participant has elected to have NSCC guarantee the delivery pursuant to the terms of the tender offer, certain short participants will be liable for delivery to the long participant of the consideration it would have received pursuant to the terms of the tender offer. The proposed rule change will extend this protection to tender offers that have an election as to the form of consideration.

Once NSCC receives timely notification of a tender offer and starting two business days prior to the expiration of an offer, long participants and short participants with positions in the subject security will receive information regarding the offer each business day on the CNS reorganization information report. On the day prior to the expiration of the protect period in a tender offer with an option as to the consideration to be received, long participants will be permitted to elect their preferences (*e.g.,* cash or securities) by submitting electronic instructions to NSCC through DTC's PTS Terminal system. Such participants will receive a preliminary protection report. On the same day, NSCC will issue a report to short participants advising them of their potential liability in the security if delivery is not made by the next business day.

If short participants deliver securities prior to the close of business on the expiration of the protect period, NSCC will redeliver these securities to long participants. Such participants can then participate in the tender offer outside the facilities of NSCC. If not all delivery obligations to the long participants are met, NSCC will issue to the remaining long participants a final protection report and will issue to the remaining short participants a final liability report, both of which reflect open positions remaining as of the close of business of that day.

At the expiration of the protect period, NSCC will establish two CNS subaccounts representing the alternative forms of consideration for each security subject to a tender offer. All open positions for which a long participant has made an election will be moved into the appropriate CNS reorganization subaccount. Positions in a CNS subaccount are frozen until the payable date for the tender offer (*i.e.,* short participants may not deliver in the securities). The short participants will immediately be charged a mark based on the difference between the market value of the subject securities and the consideration, and NSCC will retain such funds.[5] In addition, the long positions and short positions will continue to be marked to the market daily.

On payable date, the subaccounts will be closed. NSCC will credit the general CNS account of long participants with either the securities or cash that they have elected to receive. NSCC will debit the general account of short participants with either the cash or securities they have been assigned to deliver (*i.e.,* consideration securities). NSCC also will credit the account of short participants with the marks to the offer price being retained by NSCC. Some offers have limits on how many of the subject securities the offeror will accept or what percentage of consideration will be paid in cash or securities. At the end of the protect period, the offeror will reject on a pro rata basis excess securities. NSCC will similarly only hold short participants liable for the consideration for subject securities to the extent such securities would have been accepted by the tenderer.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it should facilitate the prompt and accurate clearance and settlement of securities transactions by expanding the types of reorganization that can be processed through CNS.[6]

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC perceives no impact on competition by reason of the proposed rule change.

[2] Letters from Julie Beyers, Associate Counsel, NSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission (August 8, 1996, and September 27, 1996, as revised October 1, 1996).

[3] The Commission has modified the text of the statements NSCC submitted.

[4] The purpose of the protect period is to accommodate persons who purchase securities on the expiration date with the intention of participating in the tender offer. Such persons generally will not receive the securities to forward to the tenderer until the settlement date three business days later.

[5] In the case of a long participant selecting cash as consideration, the corresponding short participant will be charged the difference between the cash offered in the tender offer and the market price of the securities. In the case of a long participant selecting securities as consideration, the corresponding short participant will be charged the difference between the market value of the subject securities and the market value of the consideration securities.

[6] 15 U.S.C. § 78q–1 (1988).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not solicited nor received comment on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number (File No. SR–NSCC–96–15) and should be submitted by November 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26929 Filed 10–18–96; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12) (1996).

Performance Review Board: Membership

AGENCY: Securities and Exchange Commission.

ACTION: Notice of membership of performance review board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Securities and Exchange Commission announces the appointment of Performance Review Board members.

EFFECTIVE DATE: November 1, 1996.

FOR FURTHER INFORMATION CONTACT: Carol S. Smith, U.S. Securities and Exchange Commission, Washington, DC 20549 (202) 942–4198.

The following are the names and present titles of the individuals appointed to the Performance Review Board established by the U.S. Securities and Exchange Commission.

NAME, TITLE, ORGANIZATION: Michael Schlein, Chief of Staff, Office of the Chairman James M. McConnell, Executive Director, Office of the Executive Director; Richard Walker, General Counsel, Office of the General Counsel.

For the Chairman, by the Executive Director, pursuant to delegated authority.

Dated: October 2, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26927 Filed 10–18–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending October 11, 1996

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1843.
Date filed: October 7, 1996.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 EUR–SEA 0002 dated September 27, 1996
r1–9
PTC23 EUR–SEA 0003 dated September 27, 1996 r10–19
PTC23 EUR–SEA 0004 dated September 27, 1996
r–20
Europe-Southeast Asia Expedited Resos
Intended effective date: as early as October 31, 1996

Docket Number: OST–96–1844.
Date filed: October 7, 1996.
Parties: Members of the International Air Transport Association.
Subject:
PTC31 S/CIRC 0003 dated September 27, 1996
TC31 Expedited Circle Pacific Reso 073c
Intended effective date: November 15, 1996

Docket Number: OST–96–1846.
Date filed: October 7, 1996.
Parties: Members of the International Air Transport Association.
Subject:
PTC 123 0002 dated October 4, 1996
Expedited North/Mid/South Atlantic Resos
r–1—002 r–2—015v
Intended effective date: November 1, 1996

Docket Number: OST–96–1853.
Date filed: October 9, 1996.
Parties: Members of the International Air Transport Association.
Subject:
PTC31 N/C 0004 dated October 8, 1996
PTC31 N/C 0005 dated October 8, 1996
North and Central Pacific Expedited Resos
r–1—311w r–2—002v r–3—073u
r–4—073v r–5—084hh r–6—071LL
r–7—071zz r–8—075r r–9—075w
Intended effective date: November 15, 1996

Docket Number: OST–96–1854.
Date filed: October 9, 1996.
Parties: Members of the International Air Transport Association.
Subject:
PTC31 N/C 0006 dated October 8, 1996
North and Central Pacific Expedited Resos
r–1—002z r–3—073p r–5—073u
r–2—070pp r–4—073r r–6—073v
r–7—084hh
Intended effective date: December 1, 1996

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–26947 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 11, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of

the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1845.

Date filed: October 7, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 4, 1996.

Description: Application of Air Europe, S.P.A., Trading as Air Europe Italy, pursuant to 49 U.S.C. 41302 and Subpart Q of the Regulations, for renewal of its foreign air carrier permit issued pursuant to Order 91–10–22, authorizing Air Europe to engage in charter foreign air transportation of persons and their accompanying baggage and property: Between a point or points in Italy and a point or points in the United States.

Docket Number: OST–96–1855.

Date filed: October 9, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 6, 1996.

Description: Application of Air Tindi Ltd., pursuant to 49 U.S.C. Section 41302, and Subpart Q of the Regulations, applies for an initial foreign air carrier permit authorizing it to engage in on-demand foreign charter air transportation of persons, property and mail between a point or points in Canada and a point or points in the United States of America. Air Tindi also requests authority to perform foreign charter air transportation between a point or points in the United States of America and a point or points not in the United States of America or Canada, pursuant to Part 212 of the Department's Economic Regulations.

Docket Number: OST–96–1857.

Date filed: October 10, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 7, 1996.

Description: Application of Pakistan International Airlines Corporation, pursuant to 49 U.S.C. Sections 41301 and Part 211 and Subpart Q of the Department's Regulations, applies for an amendment to its foreign air carrier permit to engage in: (a) foreign air transportation of persons, property, and mail, from Pakistan via intermediate points: Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, and Turkmenistan; the Middle East, and North Africa; Rome, Amsterdam, Frankfurt, Geneva, Zurich, Paris, London, Montreal, Toronto and three intermediate points on a transpacific routing; to New York and seven additional U.S. points, two of which are to be served through cooperative arrangements only; and beyond to the points listed above; and (b) foreign air transportation of property and mail from Pakistan via intermediate points to a point or points in the United States and beyond; and (c) foreign charter air transportation of persons, property, and mail between any point or points in Pakistan and any point or points in the United States and between any point or points in the United States and any point or points not in Pakistan or the United States and any other charter flights authorized pursuant to Part 212 of the Department's regulations.

Docket Number: OST–96–1862.

Date filed: October 11, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 8, 1996.

Description: Application of Air Atlantic Dominicana, C. Por A., pursuant to 49 U.S.C. § 41302 and Subpart Q of the Regulations, for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of persons, property and mail between Santo Domingo in the Dominican Republic, on the one hand, and the co-terminal points San Juan, P.R., Miami, FL and New York, NY on the other hand, and charter foreign air transportation between a point or points in the Dominican Republic and any point or points in the U.S.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–26946 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 3]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (''RSAC'') Meeting.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and 41 CFR 101–6.1015(b), the Federal Railroad Administration (FRA) gives notice of a meeting of the Railroad Safety Advisory Committee (''RSAC''). The meeting is designed to accomplish several things: (1) the RSAC's evaluation for consensus approval of the Track Safety Standards working group's proposal for the revision of the track safety standards contained in 49 CFR Part 213; (2) presentation to the RSAC of the Radio Communications and Power Brake working groups' consensus reports, which represent the principles the groups have agreed must be contained in any revision to these regulations (49 CFR Parts 220, 215, 229, and 232); (3) the RSAC's receipt of progress information about the Tourist and Historic Railroads working group's revision of the Steam Locomotive Inspection standards (49 CFR Part 230); (4) the agency's tasking of the RSAC with the revision of miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240); (5) the tasking of the RSAC with the development of On-Track Equipment safety standards; (6) the RSAC's consideration of the establishment of an interim working group to review and make recommendations about the agency's Report to Congress on Locomotive Crashworthiness and Working Conditions; and (7) the agency's engagement in exploratory discussions with the RSAC regarding several issues that may be tasked to the RSAC in the future (dispatcher training standards, blue signal protection, event recorders, and positive train control).

DATES: The meeting of the RSAC is scheduled to commence at 8:30 a.m. on both Thursday, October 31st and on Friday, November 1st, concluding at 12:00 p.m. on November 1st.

ADDRESSES: The meeting of the RSAC will be held at the Washington Vista Hotel, 1400 M Street, N.W., Washington, D.C. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign language interpreters will be available for individuals with hearing impediments.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3330, Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3309, or Lisa Levine, Office of Chief Counsel, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3189.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the Railroad Safety Advisory

Committee (''RSAC''). The meeting is scheduled to begin at 8:30 a.m. on both Thursday, October 31, 1996 and Friday, November 1, 1996 and will conclude at 5:00 p.m. on October 31st and 12:00 p.m. on November 1st. The meeting will be held at the Washington Vista Hotel, 1400 M Street, N.W., Washington, D.C. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from among 27 organizations representing various rail industry perspectives, and 2 associate non-voting representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico.

During this meeting, the RSAC will be considering, for consensus approval, the Track Safety Standards working group's proposal for the revision of the track safety standards contained in 49 CFR Part 213. The Committee will also be receiving presentations on the consensus reports of the Railroad Communications working group (addressing the revision of the radio standards and procedures contained in 49 CFR Part 220), and the Power Brake working group (addressing the revision of the power brake regulations applicable to freight service, and related topics, contained in 49 CFR Parts 215, 229, and 232). These two reports represent the principles the groups have agreed must be contained in any revision to these regulations. The RSAC will also be receiving a report from the Tourist and Historic Railroads working group (reviewing existing and proposed regulations to determine appropriate applicability to tourist and historic railroads, and examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation) on the progress made by its task force to revise Part 230, Steam Locomotive Inspection standards.

The Committee will also be receiving two new tasks: (1) Miscellaneous revisions to the regulations addressing Locomotive Engineer Certification (49 CFR Part 240); and (2) the creation of On-Track Equipment safety standards. The agency will also be requesting, during this meeting, that the Committee consider establishing an interim working group to review and make recommendations about the agency's Report to Congress on Locomotive Crash-worthiness and Working Conditions.

Finally, the agency will engage in exploratory discussion with the RSAC regarding the following issues, which may be tasked to the RSAC in the future:

- Dispatcher Training Standards: Discussion of an FRA issue paper and the timetable for the RSAC's consideration of this issue;
- Blue Signal Protection: Discussion of an FRA issue paper and the appropriate scope for any future proceeding;
- Event Recorders: Discussion of accident survivability standards for locomotive event recorder data (see 49 CFR § 229.135) (may be proposed for tasking at this meeting);
- Positive Train Control: Discussion of the status of technology demonstrations, as well as of various petitions the agency has received on this subject.

Please refer to the notice published in the Federal Register on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, D.C. on October 15, 1996.

Bruce Fine,

Associate Administrator for Safety.

[FR Doc. 96–26832 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice.

SUMMARY: In order to comply with the requirements of the Paperwork Reduction Act of 1995, the Financial Crimes Enforcement Network (''FinCEN'') intends to submit the recordkeeping requirements contained within the Bank Secrecy Act (BSA) regulations (31 CFR Part 103) for a three year extension of approval by the Office of Management and Budget. Prior to submission of an extension request, FinCEN is soliciting public comments on the recordkeeping requirements contained within the regulations.

DATES: Submit written comments by January 21, 1997.

ADDRESSES: Direct all written comments to the Financial Crimes Enforcement Network, Office of Regulatory Policy and Enforcement, Attn.: Recordkeeping Comments, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Charles D. Klingman, Office of Financial Institutions Policy, at (703) 905–3920; or Cynthia A. Langwiser, Attorney-Advisor, Office of Legal Counsel, at (703) 905–3590. A searchable guide to the Code of Federal Regulations can be found on the Internet at: http://law.house.gov/cfr.htm.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5330 (the ''BSA'') authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311–5314, 5316–5330) appear at 31 CFR Part 103. The authority of the Secretary to administer the BSA regulations was delegated to the Director of FinCEN in 1994.

This notice does not propose any change to the current recordkeeping requirements contained within the Bank Secrecy Act implementing regulations. However, reflecting the transfer of authority for the administration of the BSA to FinCEN, FinCEN will replace the current OMB Control Number for this information collection requirement (1505–0063) with a new OMB Control Number assigned specifically to FinCEN. FinCEN believes that by consolidating responsibility for BSA information collection requirements, it will be easier to maintain oversight over the collection requirements.

FinCEN intends to issue a later notice, based on comments received in response to this notice. The purpose of this notice is to assist FinCEN in refining its current estimates for the information collection recordkeeping burden. FinCEN has issued several significant regulatory changes, such as the requirement for banks to report suspicious transactions, and the creation of a streamlined exemption process for reports of currency transactions. Such broad changes have affected the information collection recordkeeping requirements, and in some cases significantly reduced the information collection recordkeeping burden of financial institutions. In keeping with this, FinCEN is interested in providing an estimate that best reflects the overall effect of these changes.

FinCEN has identified the following sections within 31 CFR Part 103 as imposing recordkeeping obligations. FinCEN requests that comments provided delineate the recordkeeping burden imposed by each separate section. Certain sections may also impose reporting requirements; only an estimate of the information collection

recordkeeping burden is requested for these sections.

Section	Type of record	Persons affected
31 CFR 103.21	Suspicious Transaction Reporting	Banks.
31 CFR 103.22(a)–(g)	Currency Transaction Reporting, Administrative Exemptions, Exemption Statement, Special Administrative Exemptions, and Exemption List.	Financial Institutions.
31 CFR 103.22(h)	Regulatory Exemption	Banks.
31 CFR 103.23	Report of Transportation of Currency or Monetary Instruments	All persons.
31 CFR 103.24	Foreign Financial Account Report	United States persons.
31 CFR 103.25–103.26	Special Reporting Requirements	Financial Institutions.
31 CFR 103.28	Identification Verification	Financial Institutions.
31 CFR 103.29	Monetary Instrument Purchases	Financial Institutions.
31 CFR 103.32	Foreign Financial Account Recordkeeping	United States persons.
31 CFR 103.33 (a)–(c)	Credit Extension Recordkeeping, Transfer of Monies Recordkeeping	Financial Institutions.
31 CFR 103.33 (e)–(f)	Funds Transfer Recordkeeping, Transmittal of Funds Recordkeeping	Financial Institutions.
31 CFR 103.33(g)	Transmittal of Funds Travel Requirements	Financial Institutions.
31 CFR 103.34	Recordkeeping	Banks.
31 CFR 103.35	Recordkeeping	Securities brokers and dealers.
31 CFR 103.36	Recordkeeping	Casinos.
31 CFR 103.37	Recordkeeping	Currency dealers or exchangers.
31 CFR 103.38	Nature of Recordkeeping	All persons.
31 CFR 103.54	Compliance Program	Casinos.

Commenters are requested to include the methodology used to reach their estimate of this information collection recordkeeping burden. In addition, the characteristics of any specific sample chosen as statistically representative are also requested. Finally, a breakdown, if performed, for each recordkeeping component of the Bank Secrecy Act regulations is also requested.

In addition, FinCEN requests that commenters, in providing a specific comment on the information collection recordkeeping burden, answer the following questions:

1. How many individual records are estimated to be recorded and maintained for each section of 31 CFR Part 103 in a calendar year? Please provide the type of financial institution for which this estimate is given.

2. What is the estimated hourly recordkeeping burden for a single record of the type described above?

3. What is the specific estimated burden for each recordkeeping section of 31 CFR Part 103? If the answer to this question is not the product of the answers to questions 1 and 2, please provide an explanation.

4. How was this estimate made? Please include an explanation of any statistical estimation used.

5. Are these records independently required to be kept by any other law, or regulation? If so, please cite.

6. Are these records required to be kept as a part of standard business practices for an industry? If so, please list industry.

7. Are there any 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?

8. Are there any additional costs associated with the recordkeeping requirements in these sections? If so, please be specific, and provide an estimate of these costs, and a description of the methodology of how these estimates were derived.

Responses to this notice will be summarized and included in FinCEN's second notice, in the form of a notice for comment, the results of which will be submitted for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: September 27, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–26906 Filed 10–18–96; 8:45 am]

BILLING CODE 4820–03–P

Submission for OMB Review; Comment Request

October 9, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in early November 1996, the Department of Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by October 21, 1996. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: M:SP:V 96–016–G.

Type of Review: Revision.

Title: IRS FAX–TIN Customer Satisfaction Survey.

Description: Tax practitioner input that details how well the FAX–TIN program is working and identifies areas needing improvement are valuable pieces of information that can be used to strengthen the program. In order to determine program effectiveness and identify what our customers value, timely and accurate information must be available. The Ogden Service Center is proposing to obtain this information through a customer satisfaction survey.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,255.

Estimated Burden Hours Per Respondent: 2 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 42 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service,

Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–26858 Filed 10–18–96; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

October 9, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0071.

Form Number: IRS Form 2120.

Type of Review: Extension.

Title: Multiple Support Declaration.

Description: A taxpayer who pays more than 10%, but less than 50%, of the support for an individual may claim that individual as a dependent provided the taxpayer attaches declarations from anyone else providing at least 10% support stating that they will not claim the dependent. This form is used to show that the other contributors have agreed not to claim the individual as a dependent.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 11,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 min.

Learning about the law or the form—3 min.

Preparing the form—7 min.

Copy, assembling, and sending the form to the IRS—10 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 4,950 hours.

OMB Number: 1545–0216.

Form Number: IRS Form 5713, Schedules A, B, and C.

Type of Review: Extension.

Title: International Boycott Report.

Description: Form 5713 and related Schedules A, B, and C are used by any entity that has operations in a ''boycotting'' country. If that entity cooperates with or participates in an international boycott it loses a portion of the foreign tax credit, or deferral of Foreign Sales Corporation (FSC) and Interest Charge-Domestic International Sales Corporation (IC–DISC) benefits. The IRS uses Form 5713 to determine if any of the above benefits should be lost. The information is also used as the basis for a report to the Congress.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 3,875.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
5713	21 hr., 31 min	1 hr., 58 min	3 hr., 36 min.
Sch. A	3 hr., 7 min	42 min	47 min.
Sch. B	3 hr., 21 min	1 hr., 35 min	1 hr., 43 min.
Sch. C	4 hr., 32 min	3 hr., 5 min	3 hr., 17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 99,809 hours.

OMB Number: 1545–0295.

Form Number: IRS Notice 210.

Type of Review: Revision.

Title: Preparation Instructions for Media Label.

Description: Notice 210, Preparation Instructions for Media Label, instructs the filers on how to prepare their own pressure sensitive label. This label must be attached to each and every piece of magnetic media to identify 8 specific items needed so that the media can be processed by the Internal Revenue Service.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 150,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12,765 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–26859 Filed 10–18–96; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

October 10, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0284.

Form Number: IRS Form 5309.

Type of Review: Extension.

Title: Application for Determination of Employee Stock Ownership Plan.

Description: Form 5309 is used in conjunction with Form 5300 or Form 5303 when applying for a determination letter as to a deferred compensation plan's qualification status under section 409 or 4975(e)(7) of the Internal Revenue Code. The information is used to determine whether the plan qualifies.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 462.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 30 min.
Learning about the law or the form—1 hr., 29 min.
Preparing and sending the form to the IRS—1 hr., 39 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 3,992 hours.

OMB Number: 1545–1414.

Form Number: IRS Form 8846.

Type of Review: Revision.

Title: Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

Description: Employers in food or beverage establishments where tipping is customary can claim an income tax credit for the amount of social security and Medicare Taxes paid (employer's share) on tips, other than tips used to meet the minimum wage requirements.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 11,250.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 hr., 28 min.
Learning about the law or the form—18 min.
Preparing and sending the form to the IRS—25 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 80,663 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–26860 Filed 10–18–96; 8:45 am]

BILLING CODE 4830–01–P

Customs Service

[T.D. 96–75]

Cancellation of Customs Broker License

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

ACTION: Cancellation of License.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker license has been canceled due to the death of the broker. This license was issued in the Port of New York.

Name	License No.
Thomas G. Coscette	6489

Dated: October 15, 1996.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 96–26840 Filed 10–18–96; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

Proposed Collection; Comment Request for Tip Reporting Alternative Commitment (Hairstyling Industry)

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 a Tip Reporting Alternative Commitment (Hairstyling Industry).

DATES: Written comments should be received on or before December 20, 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 information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tip Reporting Alternative Commitment (Hairstyling Industry).

OMB Number: To be assigned later.

Abstract: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,200.

Estimated Time Per Respondent: The estimated annual burden per respondent/recordkeeper varies from 12 hours to 51 hours, depending on individual circumstances, with an estimated average of 15 hours.

Estimated Total Annual Burden Hours: 47,733.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–26942 Filed 10–18–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Tip Rate Determination Agreement (Gaming Industry)

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 a Tip Rate Determination Agreement (Gaming Industry).

DATES: Written comments should be received on or before December 20, 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 information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tip Rate Determination Agreement (Gaming Industry).

OMB Number: To be assigned later.

Abstract: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: This is a new collection of information. Type of Review: New OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: The estimated annual burden per respondent/recordkeeper varies from 12 hours to 99 hours, depending on individual circumstances, with an estimated average of 43 hours.

Estimated Total Annual Burden Hours: 4,342.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–26943 Filed 10–18–96; 8:45 am]

BILLING CODE 4830–01–U

federal register

Monday
October 21, 1996

Part II

Department of Transportation

Federal Highway Administration
Surface Transportation Board

49 CFR Chapter III, et al.

Motor Carrier Transportation; Redesignation of Regulations From the Surface Transportation Board Pursuant to the ICC Termination Act of 1995; Compensated Inter Corporate Hauling and Agricultural Cooperative Association for Nonmembers; Final Rule and Proposed Rules

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Chapter III

Surface Transportation Board

49 CFR Chapter X

RIN 2125–AD96

Motor Carrier Transportation; Redesignation of Regulations From the Surface Transportation Board Pursuant to the ICC Termination Act of 1995

AGENCIES: Federal Highway Administration (FHWA) and Surface Transportation Board (STB), DOT.

ACTION: Final rule.

SUMMARY: This document transfers and redesignates certain motor carrier transportation regulations currently found in 49 CFR Chapter X, to the FHWA in 49 CFR Chapter III. The Interstate Commerce Commission Termination Act of 1995 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the STB and the DOT. The Secretary of Transportation delegated certain motor carrier provisions, which were transferred to the DOT from the ICC, to the FHWA and this rule implements that change.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. John F. Grimm, Director, Office of Motor Carrier Information Analysis, (202) 366–4039, or Mr. Michael Falk, Motor Carrier Law Division, Office of the Chief Counsel, (202) 366–0834, at 400 Seventh Street SW., Washington, DC 20590. For STB: Ms. Beryl Gordon, Deputy Director, Office of Proceedings, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: This document transfers and redesignates certain motor carrier transportation regulations currently found in 49 CFR Chapter X, to the FHWA in 49 CFR Chapter III. The ICCTA, Public Law 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain functions and proceedings to the STB and the DOT. Certain motor carrier functions previously under the jurisdiction of the ICC were transferred to the Secretary of Transportation, who subsequently delegated those functions to the FHWA. Implementing regulations for those motor carrier functions now delegated to the FHWA, which were previously the responsibility of the ICC, are still located in 49 CFR Chapter X. On January 24, 1996, the STB changed the name of the agency in the heading of chapter X of subtitle B of title 49, Code of Federal Regulations, from the ICC to the STB. 61 FR 1842. As a result, although all regulations in chapter X previously issued by the ICC remain in effect until modified or terminated, in order for the FHWA to administer, execute, or modify those former ICC motor carrier transportation regulations delegated to it by the Secretary pursuant to the ICCTA, those regulations must be transferred to and redesignated in 49 CFR Chapter III, which includes regulations under the authority of the FHWA.

For the most part, the transfer and redesignation procedure will simply entail moving the pertinent motor carrier transportation regulations from chapter X to Parts 365 through 379, 387, and 390 of 49 CFR, within chapter III. Although no substantive changes will be made to the regulations, the order of those regulations will be slightly modified.

In addition to the transfer of functions from the ICC to the DOT, and subsequently to the FHWA, the ICCTA also transferred certain residual functions of the ICC partly to the Secretary, who has delegated them to the FHWA, and partly to the STB. Thus, certain parts of chapter X embrace matters which fall within the jurisdiction of both the FHWA and the STB. For example, the loss and damage claims regulations in part 1005 pertain to rail carriers as well as motor carriers. Parts 1004, 1220 and 1325 also involve dual jurisdiction. The transfer of regulations involving dual jurisdiction will be published in the Federal Register in a separate action in the near future.

Rulemaking Analyses and Notices

Because the amendments made by this document relate to departmental management, organization, procedure, and practice, prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, prior notice and opportunity for comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B) because the process of transferring and redesignating the sections is merely technical in nature and proposes no substantive changes to which public comment could be solicited. Going straight to a final rule is also in the public interest because the sections now under the FHWA's jurisdiction may be modified or removed to correspond with the FHWA's new functions.

This final rule is made effective upon publication in the Federal Register. The FHWA believes that good cause exists for this final rule to be exempt from the 30-day delayed effective date requirement of 5 U.S.C. 553(d) for the above reason and because the process of transferring and redesignating the motor carrier transportation regulations makes no substantive changes to the regulations. In fact, the sooner the regulations are moved to chapter III, the more quickly the FHWA can begin the process of updating those regulations and making necessary changes to them.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This final rule simply provides notice to the public that the motor carrier transportation regulations currently found in 49 CFR Chapter X are transferred to 49 CFR Chapter III and redesignated there. The FHWA is not altering the existing regulations in any way; no substantive changes are being made to them. The regulations are simply receiving new citations within the Code of Federal Regulations so that the FHWA may administer and execute those motor carrier functions transferred to it from the ICC by the ICCTA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As noted above, this final rule simply provides notice to the public that the motor carrier transportation regulations currently found in 49 CFR Chapter X are transferred to 49 CFR Chapter III, and redesignated there. No substantive changes are being made to the regulations which will affect small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Issued on: September 30, 1996.

Rodney E. Slater,

Federal Highway Administrator.

Linda J. Morgan,

Chairman, Surface Transportation Board.

In consideration of the foregoing and under the authority of 49 U.S.C. 104 and 721(a), the FHWA and the STB hereby amend 49 CFR Chapters III and X as set forth below:

1. Parts 1008, 1023, 1044, 1045, 1056, 1057, 1167, and 1171 in 49 CFR Chapter X are transferred to 49 CFR Chapter III and redesignated as set forth in the following table:

REDESIGNATION TABLE

Old Part 49 CFR Chapter X	New Part 49 CFR Chapter III
1008	378
1023	367
1044	366
1045	371
1056	375
1057	376
1167	369
1171	368

PART 1067—[REMOVED]

2. 49 CFR Part 1067 is removed.

3. The table of contents and authority citation for a new part 365 is added to read as follows:

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

Subpart A—How to Apply for Operating Authority

Sec.
365.101 Applications governed by these rules.
365.103 Modified procedure.
365.105 Starting the application process: Form OP–1.
365.107 Types of applications.
365.109 Commission review of the application.
365.111 Appeals to rejections of the application.
365.113 Changing the request for authority or filing supplementary evidence after the application is filed.
365.115 After publication in the ICC Register.
365.117 Obtaining a copy of the application.
365.119 Opposed applications.
365.121 Filing a reply statement.
365.123 Applicant withdrawal.

Subpart B—How to Oppose Requests for Authority

Sec.
365.201 Definitions.
365.203 Time for filing.
365.205 Contents of the protest.
365.207 Withdrawal.

Subpart C—General Rules Governing the Application Process

Sec.
365.301 Applicable rules.
365.303 Contacting another party.
365.305 Serving copies of pleadings.
365.307 Replies to motions.
365.309 FAX filings.

Subpart D—Transfer of Operating Rights Under 49 U.S.C. 10926

Sec.
365.401 Scope of rules.
365.403 Definitions.
365.405 Applications.
365.407 Notice.
365.409 Commission action and criteria for approval.
365.411 Responsive pleadings.
365.413 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.48.

4. 49 CFR Part 1160 is redesignated as Part 365, subparts A, B, and C as set forth in the following table:

Old section	New section
1160 Part Heading	365 Part Heading
1160 Subpart A Heading.	365 Subpart A Heading
1160.1	365.101
1160.2	365.103
1160.3	365.105
1160.4	365.107
1160.5	365.109
1160.6	365.111
1160.7	365.113
1160.8	365.115
1160.9	365.117
1160.10	365.119
1160.11	365.121
1160.12	365.123
1160 Subpart B Heading.	365 Subpart B Heading
1160.40	365.201
1160.41	365.203
1160.42	365.205
1160.43	365.207
1160 Subpart C Heading.	365 Subpart C Heading
1160.60	365.301
1160.61	365.303
1160.62	365.305
1160.63	365.307
1160.64	365.309

5. 49 CFR Part 1181 is redesignated as Subpart D of Part 365 as set forth in the following table:

Old section	New section
1181 Part Heading	365 Subpart D Heading
1181.0	365.401
1181.1	365.403
1181.2	365.405
1181.3	365.407
1181.4	365.409
1181.5	365.411
1181.6	365.413

6. The table of contents, heading, and authority citation for a new part 372 are added to read as follows:

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

Subpart A—Exemptions

Sec.
372.101 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.
372.103 Motor vehicles employed solely in transporting school children and teachers to or from school.
372.105 Interstate operations by motor common carriers within a single State.
372.107 Definitions.
372.109 Computation of tonnage allowable in nonfarm-non-member transportation.
372.111 Nonmember transportation limitation and recordkeeping.
372.113 Notice to the FHWA.
372.115 Commodities that are not exempt under 49 U.S.C. 13506(a)(6).
372.117 Motor transportation of passengers incidental to transportation by aircraft.

Subpart B—Commercial Zones

Sec.
372.201 Albany, NY.
372.203 Beaumont, TX.
372.205 Charleston, SC.
372.207 Charleston, WV.
372.209 Lake Charles, LA.
372.211 Pittsburgh, PA.
372.213 Pueblo, CO.
372.215 Ravenswood, WV.
372.217 Seattle, WA.
372.219 Washington, DC.
372.221 Twin Cities.
372.223 Consolidated governments.
372.225 Lexington-Fayette Urban County, KY.
372.227 Syracuse, NY.
372.229 Spokane, WA.
372.231 Tacoma, WA.
372.233 Chicago, IL.
372.235 New York, NY.
372.237 Cameron, Hidalgo, Starr, and Willacy Counties, TX.
372.239 Definitions.
372.241 Commercial zones determined generally, with exceptions.
372.243 Controlling distances and population data.

Subpart C—Terminal Areas

Sec.
372.301 Terminal areas of motor carriers and household goods freight forwarders at municipalities served.
372.303 Terminal areas of motor carriers and household goods freight forwarders at unincorporated communities served.

Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

7. 49 CFR Part 1047 is redesignated as Subpart A of Part 372 as set forth in the following table:

Old section	New section
1047 Part Heading	372, Subpart A Heading
1047.1	372.101
1047.2	372.103
1047.10	372.105
1047.20	372.107
1047.21	372.109
1047.22	372.111
1047.23	372.113
1047.25	372.115
1047.45	372.117

7a. The undesignated center headings in Part 1047 are removed.

7b. The heading of § 372.115 is revised to read as set forth above.

8. 49 CFR Part 1048 is redesignated as Subpart B of Part 372 as set forth in the following table:

Old section	New section
1048 Part Heading	372, Subpart B Heading
1048.1	372.201
1048.2	372.203
1048.3	372.205
1048.4	372.207
1048.5	372.209
1048.6	372.211
1048.7	372.213
1048.8	372.215
1048.9	372.217
1048.10	372.219
1048.11	372.221
1048.12	372.223
1048.13	372.225
1048.14	372.227
1048.15	372.229
1048.16	372.231
1048.17	372.233
1048.18	372.235
1048.19	372.237
1048.100	372.239
1048.101	372.241
1048.102	372.243

9. 49 CFR Part 1049 is redesignated as Subpart C of Part 372 as set forth in the following table:

Old section	New section
1049 Part Heading	372, Subpart C Heading
1049.1	372.301
1049.2	372.303

10. The table of contents, part heading, and authority citation for a new Part 373 is added to read as follows:

PART 373—RECEIPTS AND BILLS

Subpart A—Motor Carrier Receipts and Bills

Sec.
373.101 Motor Carrier bills of lading.
373.103 Expense bills.
373.105 Low value packages.

Subpart B—Freight Forwarders; Bills of Lading

Sec.
373.201 Bills of lading for freight forwarders.

Authority: 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

11. 49 CFR Part 1051 is redesignated as Subpart A of Part 373 as set forth in the following table:

Old section	New section
1051 Part Heading	373, Subpart A Heading
1051.1	373.101
1051.2	373.103
1051.3	373.105

11a. The headings for subpart A and § 373.101 are revised to read as set forth above.

12. 49 CFR Part 1081 is redesignated as Subpart B of Part 373 as set forth in the following table:

Old section	New section
1081 Part Heading	373, Subpart B Heading
1081.1	373.201

12a. The headings for subpart B and § 373.201 are revised to read as set forth above.

13. The part heading, table of contents and authority citation for a new part 377 are added to read as follows:

PART 377—PAYMENT OF TRANSPORTATION CHARGES

Subpart A—Handling of C.O.D. Shipments

Sec.
377.101 Applicability.
377.103 Tariff requirements.
377.105 Collection and remittance.

Subpart B—Extension of Credit to Shippers by Motor Common Carriers, Water Common Carriers, and Household Goods Freight Forwarders

Sec.
377.201 Scope.
377.203 Extension of credit to shippers.
377.205 Presentation of freight bills.
377.207 Effect of mailing freight bills or payments.
377.209 Additional charges.
377.211 Computation of time.
377.213 Charges under average demurrage agreements.
377.215 Household goods shipments by motor common carriers.
377.217 Interline settlement of revenues.

Authority: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

14. 49 CFR Part 1052 is redesignated as Subpart A of Part 377 as set forth in the following table:

Old section	New section
1052 Part Heading	377, Subpart A Heading
1052.1	377.101
1052.2	377.103
1052.3	377.105

15. 49 CFR Part 1320 is redesignated as Subpart B of Part 377 as set forth in the following table:

Old section	New section
1320 Part Heading	377, Subpart B Heading
1320.1	377.201
1320.2	377.203
1320.3	377.205
1320.4	377.207
1320.5	377.209
1320.6	377.211
1320.7	377.213
1320.8	377.215
1320.17	377.217

15a. The heading of subpart B is revised to read as set forth above.

16. The heading, table of contents, and authority citation of new part 374 are added to read as follows:

PART 374—PASSENGER CARRIER REGULATIONS

Subpart A—Discrimination in Operations of Interstate Motor Common Carriers of Passengers

Sec.
374.101 Discrimination prohibited.
374.103 Notice to be printed on tickets.
374.105 Discrimination in terminal facilities.
374.107 Notice to be posted at terminal facilities.
374.109 Carriers not relieved of existing obligations.
374.111 Reports of interference with regulations.
374.113 Definitions.

Subpart B—Limitation of Smoking on Interstate Passenger Carrier Vehicles

Sec.
374.201 Prohibition against smoking on interstate passenger-carrying motor vehicles.

Subpart C—Adequacy of Intercity Motor Common Carrier Passenger Service

Sec.
374.301 Applicability.
374.303 Definitions.
374.305 Ticketing and information.
374.307 Baggage service.
374.309 Terminal facilities.
374.311 Service responsibility.
374.313 Equipment.
374.315 Transportation of passengers with disabilities.
374.317 Identification—bus and driver.
374.319 Relief from provisions.

Subpart D—Notice of and Procedures for Baggage Excess Value Declaration

Sec.
374.401 Minimum permissible limitations for baggage liability.
374.403 Notice of passenger's ability to declare excess value on baggage.
374.405 Baggage excess value declaration procedures.

Subpart E—Incidental Charter Rights

374.501 Applicability.
374.503 Authority.
374.505 Exceptions.

Authority: 49 U.S.C. 13301 and 14101; 49 CFR 1.48.

17. 49 CFR Part 1055 is redesignated as Subpart A of Part 374 as set forth in the following table:

Old Section	New Section
055 Part Heading	374, Subpart A Heading
1055.1	374.101
1055.2	374.103
1055.3	374.105
1055.4	374.107
1055.5	374.109
1055.6	374.111
1055.10	374.113

18. 49 CFR Part 1061 is redesignated as Subpart B of Part 374 as set forth in the following table:

Old Section	New Section
1061 Part Heading	374, Subpart b Heading
1061.1	374.201

19. 49 CFR Part 1063 is redesignated as Subpart C of Part 374 as set forth in the following table:

Old Section	New Section
1063 Part Heading	374, Subpart C Heading
1063.1	374.301
1063.2	374.303
1063.3	374.305
1063.4	374.307
1063.5	374.309
1063.6	374.311
1063.7	374.313
1063.8	374.315
1063.9	374.317
1063.10	374.319

20. 49 CFR Part 1064 is redesignated as Subpart D of Part 374 as set forth in the following table:

Old Section	New Section
1064 Part Heading	374, Subpart D Heading
1064.1	374.401
1064.2	374.403
1064.3	374.405

21. 49 CFR Part 1054 is redesignated as subpart E of Part 374 as set forth in the following table:

Old Section	New Section
054 Part Heading	374, subpart E Heading
1054.1	374.501
1054.2	374.503
1054.3	374.505

22. The authority citation for Part 387 is revised to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, and 14701; 49 CFR 1.48.

23. In Part 387, the table of contents is amended by adding new Subparts C and D to read as follows:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

* * * * *

Subpart C—Surety Bonds and Policies of Insurance for Motor Carriers and Property Brokers

Sec.
387.301 Surety bond, certificate of insurance, or other securities.
387.303 Security for the protection of the public: Minimum limits.
387.305 Combination vehicles.
387.307 Property broker surety bond or trust fund.
387.309 Qualifications as a self-insurer and other securities or agreements.
387.311 Bonds and certificates of insurance.
387.313 Forms and procedures.
387.315 Insurance and surety companies.
387.317 Refusal to accept, or revocation by the FHWA of surety bonds, etc.
387.319 Fiduciaries.
387.321 Operations in foreign commerce.
387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

Subpart D—Surety Bonds and Policies of Insurance for Freight Forwarders

Sec.
387.401 Definitions.
387.403 General requirements.
387.405 Limits of liability.
387.407 Surety bonds and certificates of insurance.
387.409 Insurance and surety companies.
387.411 Qualifications as a self-insurer and other securities or agreements.
387.413 Forms and procedure.
387.415 Acceptance and revocation by the FHWA.
387.417 Fiduciaries.
387.419 Electronic filing of surety bonds, certificates of insurance and cancellations.

24. 49 CFR Part 1043 is redesignated as Subpart C of Part 387 as set forth in the following table:

Old section	New section
1043 Part Heading	387, Subpart C Heading
1043.1	387.301
1043.2	387.303
1043.3	387.305
1043.4	387.307
1043.5	387.309
1043.6	387.311
1043.7	387.313
1043.8	387.315
1043.9	387.317
1043.10	387.319
1043.11	387.321
1043.12	387.323

24a. The headings of subpart C and § 387.317 are revesed to read as set forth above.

25. 49 CFR Part 1084 is redesignated as Subpart D of Part 387 as set forth in the following table:

Old section	New section
1084 Part Heading	387, Subpart D Heading
1084.1	387.401
1084.2	387.403
1084.3	387.405
1084.4	387.407
1084.5	387.409
1084.6	387.411
1084.7	387.413
1084.8	387.415
1084.9	387.417
1084.10	387.419

25a. The headings of subpart D and § 387.415 are revised to read as set forth above.

26. The authority citation for Part 390 is revised to read as follows:

Authority: 49 U.S.C. 5901–5907, 13301, 13902, 31132- 31133, 31136, 31502, and 31504; 49 CFR 1.48.

27. In Part 390, subpart D is added to read as follows:

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

* * * * *

Subpart D—Identification of Vehicles

Sec.

390.401 Applicability.
390.403 Method of identification.
390.405 Size, shape, and color.
390.407 Driveaway service.

28. 49 CFR Part 1058 is redesignated as subpart D of Part 390 as set forth in the following table:

Old section	New section
1058 Part Heading	390, subpart D Heading
1058.1	390.401
1058.2	390.403
1058.3	390.405
1058.4	390.407

29. In 49 CFR chapter X, the undesignated center headings for ''parts 1040–1069'' and ''parts 1080–1089'' are removed.

[FR Doc. 96–26667 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 369

[FHWA Docket No. MC–96–37]

RIN 2125–AE02

Compensated Intercorporate Hauling

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This document proposes to remove the regulation that delineates the scope and notice filing requirements of the statutory exemption for compensated intercorporate hauling. Section 103 of the ICC Termination Act of 1995 removed the requirement that a notice be filed before initiation of compensated intercorporate hauling operations. Removal of the regulation would reflect the statutory change and is consistent with the overall intent of the ICC Termination Act of 1995 to eliminate unnecessary regulation.

DATES: Written comments must be submitted on or before December 20, 1996.

ADDRESSES: Submit signed, written comments to FHWA Docket No. MC–96–37, FHWA, Office of the Chief Counsel, HCC–10, Room 4232, 400 Seventh Street SW., Washington, DC 20590. All comment received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA–30, (202) 927–5520, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 10524(b) for compensated transportation service by a member of a corporate family, for other members of the same family, if proper notice was given. To qualify for the exemption, the participants were required to be members of a corporate family in which the parent owned, either directly or indirectly, a 100 percent interest in the subsidiaries. Corporate entities availing themselves of the exemption were also required to file a notice, which was published in the Federal Register, listing the participating subsidiaries and certifying 100 percent ownership by the corporate parent.

The ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803, reenacted the substantive exemption for compensated intercorporate hauling, but removed the requirement for filing of a notice of operations under the exemption, 49 U.S.C. 13505(b). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for these regulations pursuant to the ICCTA, the continuing need for such a requirement, or for any regulations on this subject, is doubtful.

The provisions of 49 CFR Part 369 merely restate the scope of the exemption as set out in the statute. Sections 369.22 and 369.23 cover the form and content of the notice and when an updated notice must be filed. These regulations appear to serve little purpose. In particular, the information contained in the notice can be easily checked by the FHWA if it ever appears that a corporation is conducting operations which exceed the scope of the exemption. Because the ICCTA essentially limits licensing requirements to compliance with safety and insurance requirements, there also appears to be no incentive for a corporation to use the exemption as a cover for unlicensed transportation operations. The corporation could easily obtain operating authority for legitimate operations. Thus, the regulations at 49 CFR 369 no longer have any meaningful regulatory requirements and the FHWA proposes to remove them. The FHWA invites comments on this proposal.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely proposes to eliminate a notice filing requirement which applies to a small number of transportation entities. Neither the individual nor cumulative impact of this action will be significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The filing requirement currently only involves the preparation of a relatively simple notice by less than twenty transportation entities annually. Its elimination, while beneficial, will not have a significant economic impact.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It does eliminate a requirement that parties taking advantage of the exemption at 49 U.S.C. 13505(b) prepare and file a notice of their operations. This action is thus consistent with goals of the Paperwork Reduction Act.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR 369

Highways and roads.

Issued on: September 30, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803, and 49 CFR 1.48, the FHWA proposes to amend title 49, CFR, chapter III, by removing Part 369.

[FR Doc. 96–26668 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–22–P

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49 CFR Part 372

[FHWA Docket No. MC–96–38]

RIN 2125–AE03

Exemption of Notice Filing Requirements for Agricultural Cooperative Associations Which Conduct Compensated Transportation Operations for Nonmembers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This document proposes to remove the regulation that specifies the notice filing requirements for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. These operations are exempt from regulation if certain statutory limitations on their scope are observed. Section 103 of the ICC Termination Act of 1995 removed the requirement that a notice be filed before initiation of operations under the exemption. Removal of the regulation would reflect this statutory change and is consistent with the overall intent of the ICC Termination Act of 1995 to eliminate unnecessary regulation.

DATES: Written comments must be submitted on or before December 20, 1996.

ADDRESSES: Submit signed, written comments to FHWA Docket No. MC–96–38, FHWA, Office of the Chief Counsel, HCC–10, Room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA–30, (202) 927–5520, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The former Interstate Commerce Act contained an exemption from ICC regulation at former 49 U.S.C. 10526(a)(5)(now 49 U.S.C. 13506(a)(5)) for transportation provided by an agricultural cooperative association for nonmembers. To qualify for the exemption, the transportation services for nonmembers were required to be incidental to the cooperative's primary transportation operations, could not exceed annually 25 percent of the cooperative's total transportation between any two involved points, and, as a whole, could not exceed the transportation provided for the cooperative association and its members. The cooperative was also required to file a notice with the ICC of its intent to provide transportation for nonmembers.

The ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803, reenacted the substantive exemption for nonmember transportation services by agricultural cooperatives, but removed the notice filing requirement. 49 U.S.C. 13506(a)(5). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for this regulation pursuant to the ICCTA, the continuing need for any notice is doubtful.

The Secretary is granted authority at 49 U.S.C. 13508 to require agricultural cooperatives to maintain records of transportation provided for members and nonmembers. Section 13508 makes these records subject to inspection and imposes specific penalties for reporting and recordkeeping violations. Regulations at 49 CFR 372.111 delineate the scope of the required records. The information contained in these records can be inspected by the FHWA if it ever appears that a cooperative is performing transportation services for nonmembers which exceed the scope of the exemption. Moreover, it is unlikely that a cooperative would have any incentive to conduct unlawful operations. Under the ICCTA, licensing requirements are now essentially limited to compliance with safety and insurance standards. A cooperative could easily obtain operating authority for legitimate operations.

In these circumstances, the notice requirement at 49 CFR 372.113 no longer appears to serve any legitimate purpose. Removal of this regulation, and the adoption of conforming amendments to 49 CFR 372.111, would eliminate unnecessary regulatory requirements. The FHWA invites public comments on these preliminary conclusions.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely proposes to eliminate a notice filing requirement which applies to a small number of transportation entities. Neither the

individual nor cumulative impact of this action will be significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The filing requirement currently only involves the preparation of a relatively simple notice by a limited number of transportation entities. Its elimination, while beneficial, will not have a significant economic impact.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* On the contrary, it eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13506(a)(5) file Form OCP–102 (Office of Management and Budget #3120–0005, expired 11–30–95). This action is thus consistent with the goals of the Paperwork Reduction Act.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 372

Agricultural commodities, Buses, Cooperatives, Highways and roads, Motor Carriers, Reporting and recordkeeping requirements.

Issued on: October 8, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, CFR, chapter III, Part 372 as set forth below:

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

1. The authority citation for Part 372 is revised to read as follows:

Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

2. Section 372.111 is amended in paragraph (a) by removing the words ''which is required to give notice to the Commission under § 1047.23'', and in paragraph (b) by removing the words ''and required to give notice to this Commission under § 1047.23''.

§ 372.113 [Removed and reserved]

3. Section 372.113 is removed and reserved.

[FR Doc. 96–26669 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–22–P

federal register

Monday
October 21, 1996

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

Special Flight Rules in the Vicinity of Grand Canyon National Park; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

[Docket No. 28537, Notice No. 96–11; Docket No. 28653, Draft Environmental Assessment]

RIN 2120–AF93

Special Flight Rules in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking and draft environmental assessment; extension of comment period.

SUMMARY: This action extends the comment period on Notice No. 96–11, Special Flight Rules in the Vicinity of Grand Canyon National Park from September 30, 1996, to November 14, 1996, and also extends the comment period on the companion environmental assessment on the same subject from October 4, 1996, until November 18, 1996. These extensions were directed by the Congress in the Federal Aviation Authorization Act of 1996. The extensions of the comment periods will allow interested persons additional time to comment on the rulemaking proposal and draft environmental assessment.

DATES: Comments on Notice No. 96–11 must be received on or before November 14, 1996; comments on the environmental assessment (EA) must be received on or before November 18, 1996.

ADDRESSES: Comments on Notice No. 96–11 should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel (Attention: Rules Docket, AGC–200), Docket No. 28537, 800 Independence Ave., SW, Washington, DC 20591. Comments on the draft EA should be addressed to the same address, but directed to Docket No. 28653. Comments may be examined in room 915G on week days, except on Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: For Notice No. 96–11 contact Mr. Neil Saunders, Airspace and Rules Division, ATA–400, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591 Telephone: (202) 267–8783. For the draft EA contact Mr. William J. Marx, Division Manager, ATA–300 Federal Aviation Administration, 800 Independence Ave., SW Washington, DC, 20591 Telephone: (202) 267–9367.

SUPPLEMENTARY INFORMATION: On July 26, 1996, the Federal Aviation Administration (FAA) issued Notice No. 96–11; Special flight Rules in the Vicinity of Grand Canyon (61 FR 40120). Comments to Notice No. 96–11 were to be received on or before September 30, 1996. On August 21, 1996, the notice of availability of the draft EA was published in the Federal Register (61 FR 43196). Comments on the draft EA were to be received on or before October 4, 1996.

By letter dated August 6, 1996, the Helicopter Association International requested that the FAA extend the comment period for Notice No. 96–11 for 30 days. HAI stated that the vast changes in the special flight rules require adequate time for tour operators, park visitors, and others to fully comprehend the implications of the proposal. Likewise, Papillon Grand Canyon Helicopters requested, by letter of August 28, to extend the comment period for 45 days, saying that the proposed rule is very complex, with many options that could affect vendors, tour operators, and international visitors. The United States Air Tour Association also asked for a 45-day extension, noting that the notice contemplates significant action and that the series of substantive questions would require extensive research to answer. The Havasupai Tribal Council requested a 90-day extension in order to consider comments at their October 12 tribal meeting. Members of Congress requested an extension for reasons similar to those cited above.

The Federal Aviation Authorization Act of 1996 directed that the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, take such action as is necessary to provide 45 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon and the draft EA. This notice announces that 45-day extension of the comment periods.

Issued in Washington, DC, on October 11, 1996.

Jeff Griffith,

Program Director for Air Traffic Airspace Management.

[FR Doc. 96–26741 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
October 21, 1996

Part IV

The President

Proclamation 6942—To Amend the Generalized System of Preferences

Federal Register
Vol. 61, No. 204
Monday, October 21, 1996

Presidential Documents

Title 3—

The President

Proclamation 6942 of October 17, 1996

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Sections 501(1) and (4) of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2461(1) and (4)), provide that, in affording duty-free treatment under the Generalized System of Preferences (GSP), the President shall have due regard for, among other factors, the effect such action will have on furthering the economic development of a beneficiary developing country and the extent of the beneficiary developing country's competitiveness with respect to eligible articles. Section 502(c)(2) of the Trade Act (19 U.S.C. 2462(c)(2)) provides that, in determining whether to designate any country as a beneficiary developing country for purposes of the GSP, the President shall take into account various factors, including the country's level of economic development, the country's per capita gross national product, the living standards of its inhabitants, and any other economic factors he deems appropriate. Section 502(d) of the Trade Act (19 U.S.C. 2462(d)) authorizes the President to withdraw, suspend, or limit the application of duty-free treatment under the GSP with respect to any country after considering the factors set forth in sections 501 and 502(c) of the Trade Act. Section 502(f)(2) of the Trade Act (19 U.S.C. 2462(f)(2)) requires the President to notify the Congress and the affected country, at least 60 days before termination, of the President's intention to terminate the affected country's designation as a beneficiary developing country for purposes of the GSP.

2. Section 502(e) of the Trade Act (19 U.S.C. 2462(e)) provides that the President shall terminate the designation of a country as a beneficiary developing country if the President determines that such country has become a ''high income'' country as defined by the official statistics of the International Bank for Reconstruction and Development. Termination is effective on January 1 of the second year following the year in which such determination is made.

3. Section 502(c)(7) of the Trade Act (19 U.S.C. 2462(c)(7)) provides that, in determining whether to designate any country a beneficiary developing country under this section, the President shall take into account whether the country has taken or is taking steps to afford internationally recognized worker rights to workers in the country.

4. Section 502(a)(1) of the Trade Act (19 U.S.C. 2462(a)(1)) authorizes the President to designate countries as beneficiary developing countries for purposes of the GSP. Section 503(c)(2)(F) of the Trade Act (19 U.S.C. 2463(c)(2)(F)) authorizes the President to disregard the limitations provided in section 503(c)(2)(A)(i)(II) of the Trade Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year is *de minimis*.

5. Section 502(a)(2) of the Trade Act (19 U.S.C. 2462(a)(2)) authorizes the President to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of the GSP based on the considerations in sections 501 and 502(c) of the Trade Act.

6. Pursuant to section 502(d) of the Trade Act, and having considered the factors set forth in sections 501 and 502(c)(2), I have determined that Malaysia is sufficiently advanced in economic development and improved in trade competitiveness that continued preferential treatment under the GSP is not warranted, and that it is appropriate to terminate the designation of Malaysia as a beneficiary developing country for purposes of the GSP effective January 1, 1997. In order to take into account the termination of benefits under the GSP for articles imported from Malaysia, I have determined that it is appropriate to: (i) terminate the designation of Malaysia for GSP purposes as a member of the Association of South East Asian Nations (''ASEAN'') and to modify general note 4(a) of the Harmonized Tariff Schedule of the United States (''HTS'') to reflect such termination, (ii) delete from general note 4(d) of the HTS and from pertinent HTS subheadings all references to particular products of Malaysia which are currently excluded from preferential tariff treatment under the GSP, and (iii) to terminate any waivers of the competitive need limits granted to Malaysia pursuant to section 503(d) of the Trade Act (19 U.S.C. 2463(d)).

7. Pursuant to section 502(e) of the Trade Act, I have determined that Cyprus, Aruba, Macau, the Netherlands Antilles, Greenland, and the Cayman Islands meet the definition of a ''high income'' country as defined by the official statistics of the International Bank for Reconstruction and Development. As a result and pursuant to section 502(e) of the Trade Act, I am terminating the preferential treatment under the GSP for articles that are currently eligible for such treatment and that are imported from Cyprus, Aruba, Macau, the Netherlands Antilles, Greenland, and the Cayman Islands effective January 1, 1998.

8. Pursuant to section 502(d) of the Trade Act, and having considered the factors set forth in sections 501 and 502(c)(7), I have determined that it is appropriate to suspend some of Pakistan's GSP benefits because of insufficient progress on affording workers in that country internationally recognized worker rights. In order to reflect the suspension of benefits under the GSP for certain articles imported from Pakistan, I have determined that it is appropriate to modify general note 4(d) of the HTS and pertinent HTS subheadings so that Pakistan will no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles effective July 1, 1996.

9. Pursuant to section 502(a)(1) of the Trade Act, I am acting to correct the name of Guinea-Bissau and the Republic of Yemen in the HTS, beneficiary developing countries previously proclaimed. In addition, I have determined that it is appropriate to disregard section 503(c)(2)(A)(i)(II) of the Trade Act with respect to certain eligible articles from certain beneficiary developing countries based on imports for calendar year 1994 and to restore preferential treatment under the GSP to imports of such articles from such countries.

10. Pursuant to sections 502(a)(2) and 502(d) of the Trade Act, and having considered the factors set forth in sections 501 and 502(c), I have determined that Botswana and Western Samoa should be deleted from the list of least-developed beneficiary developing countries and Angola, Ethiopia, Madagascar, Zaire, and Zambia should be added.

11. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 301 of Title 3, United States Code, and Title V and section 604 of the Trade Act, do proclaim that:

(1) In order to terminate the designation of Malaysia as a beneficiary developing country under the GSP and to modify the list of beneficiary developing countries designated as least-developed beneficiary developing countries for purposes of the GSP, the HTS is modified as provided in Annex I to this proclamation.

(2) In order to terminate the designation of Cyprus, Aruba, Macau, the Netherlands Antilles, Greenland, and the Cayman Islands as beneficiary developing countries under the GSP, the HTS is modified as provided in Annex II to this proclamation.

(3) In order to reflect the suspension of benefits under the GSP for certain articles imported from Pakistan, the HTS is modified as provided in Annex III to this proclamation.

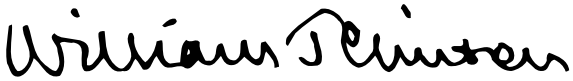
(4) In order to correct the name of Guinea-Bissau and Republic of Yemen and to restore preferential treatment to certain eligible articles from certain beneficiary developing countries as a result of granting of *de minimis* waivers to such articles, the HTS is modified as provided in Annex IV to this proclamation.

(5) I delegate to the United States Trade Representative the powers granted to me in section 502(f)(2) of the Trade Act to notify a country of my intention to terminate that country's status as a beneficiary developing country for the purposes of the GSP.

(6) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(7) The modifications to the HTS made in paragraphs (1) through (4) of this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date specified in the respective Annex.

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



Billing code 3195–01–P

Annex I

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after January 1, 1997.

Section A. Modification in the HTS of an article's preferential tariff treatment under the GSP.

For the following HTS provisions, the Rates of Duty 1 Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

4015.11.00	8521.10.90	8528.21.16	9006.53.00
4418.20.40	8528.12.12	8528.21.19	
8519.21.00	8528.12.16	8528.21.41	
8519.99.00	8528.12.36	8528.30.30	

Section B. Modifications to general note 4 of the HTS.

(1). General note 4(a) is modified by:

(a). deleting "Malaysia" from the list of independent countries.

(b). deleting "Malaysia" from the list of countries entitled "Members of the Association of South East Asian Nations (ASEAN) Eligible for GSP except Brunei Darussalam and Singapore".

(c). deleting the title "Members of the Association of South East Asian Nations (ASEAN) Eligible for GSP except Brunei Darussalam and Singapore" and inserting in lieu thereof "Members of the Association of South East Asian Nations (ASEAN) Eligible for GSP except Brunei Darussalam, Malaysia and Singapore".

(2). General note 4(b) is modified by:

(a). deleting "Botswana" and "Western Samoa".

(b). adding, in alphabetical order, the following countries:

Angola	Zaire
Ethiopia	Zambia
Madagascar	

(3). General note 4(d) is modified by:

(a). deleting the following HTS provisions and the countries set out opposite such provisions:

4015.11.00	Malaysia	8528.12.36	Malaysia
4418.20.40	Malaysia	8528.21.16	Malaysia
8519.21.00	Malaysia	8528.21.19	Malaysia
8519.99.00	Malaysia	8528.21.41	Malaysia
8521.10.90	Malaysia	8528.30.30	Malaysia
8528.12.12	Malaysia	9006.53.00	Malaysia
8528.12.16	Malaysia		

(b). deleting the countries set out opposite the following HTS subheadings:

1605.10.20	Malaysia	8471.49.26	Malaysia
3823.11.00	Malaysia	8471.49.29	Malaysia
3823.12.00	Malaysia	8471.60.35	Malaysia
3824.90.40	Malaysia	8471.60.45	Malaysia

Annex II

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after January 1, 1998.

General note 4(a) is modified by:

(A). deleting "Cyprus" from the list of independent countries.

(B). deleting, from the list of non-independent countries and territories, the following:

Aruba	Macau
Cayman Islands	Netherlands Antilles
Greenland	

Annex III

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1996.

Section A. Modification in the HTS of an article's preferential tariff treatment under the GSP.

For the following HTS subheadings, the Rates of Duty 1 Special subcolumn is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof.

3926.20.30	5702.91.20
4203.21.55	5805.00.20
4203.21.60	6304.99.10
4203.21.80	6304.99.40
5701.10.13	9506.62.80
5702.10.10	9506.91.00

Section B. Modifications to general note 4(d) of the HTS.

General note 4(d) is modified by:

(1). inserting, in numerical sequence, the following HTS subheadings and the country set out opposite such subheadings:

3926.20.30	Pakistan	5702.91.20	Pakistan
4203.21.55	Pakistan	5805.00.20	Pakistan
4203.21.60	Pakistan	6304.99.10	Pakistan
4203.21.80	Pakistan	6304.99.40	Pakistan
5701.10.13	Pakistan	9506.62.80	Pakistan
5702.10.10	Pakistan	9506.91.00	Pakistan

(2). inserting, in alphabetical order, after the HTS subheading enumerated in such note the country set out opposite the following HTS subheadings:

4203.21.20	Pakistan
9018.90.80	Pakistan

Annex IV

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after October 1, 1996.

Section A. Modification in the HTS of an article's preferential tariff treatment under the GSP.

For the following HTS provisions, the Rates of Duty 1 Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

0708.10.20	0811.90.50	2008.99.35	4823.90.20	8402.20.00
0708.10.40	0811.90.55	2106.90.52	5607.30.20	8414.90.30
0710.22.15	0813.40.10	2202.90.36	5609.00.20	8450.90.40
0710.29.05	0813.40.80	2202.90.37	6501.00.60	8483.50.40
0710.29.30	1106.30.20	2207.10.30	7002.10.20	8519.31.00
0710.80.50	1601.00.40	2208.90.10	7109.00.00	8528.12.04
0710.80.65	1604.16.30	2309.90.70	7113.20.21	8528.21.05
0710.80.93	1604.30.20	2401.20.57	7114.19.00	8528.30.10
0711.30.00	1605.10.05	2516.90.00	7308.20.00	8802.60.90
0711.40.00	1702.90.35	4104.31.20	7319.20.00	9102.29.04
0714.10.20	1703.90.30	4202.22.35	7407.29.15	9303.90.80
0714.20.20	1902.11.40	4412.19.30	7603.10.00	9401.90.15
0714.90.10	2005.80.00	4412.19.40	7614.90.50	9606.29.20
0802.50.20	2007.99.40	4412.92.40	8107.90.00	9614.20.60
0802.50.40	2008.19.30	4412.99.45	8112.91.50	9614.20.80
0804.50.80	2008.99.28	4421.90.10	8213.00.60	

Section B. Modifications to general note 4 of the HTS.

(1). General note 4(a) is modified by deleting "Guinea Bissau" and "Yemen Arab Republic (Sanaa)" from the list of independent countries and inserting "Guinea-Bissau" and "Republic of Yemen" in lieu thereof.

(2). General note 4(b) is modified by deleting "Yemen Arab Republic (Sanaa)" and inserting "Republic of Yemen" in lieu thereof.

(3). General note 4(d) is modified by:

(a). deleting the following HTS provisions and the countries set out opposite such provisions:

0708.10.20	Guatemala	1106.30.20	Ecuador
0708.10.40	Guatemala	1601.00.40	Brazil
0710.22.15	Guatemala	1604.16.30	Morocco
0710.29.05	Turkey	1604.30.20	Russia
0710.29.30	Dominican Republic	1605.10.05	Thailand
0710.80.50	Dominican Republic	1702.90.35	Belize
0710.80.65	Guatemala	1703.90.30	Lebanon
0710.80.93	Guatemala	1902.11.40	Thailand
0711.30.00	Turkey	2005.80.00	Thailand
0711.40.00	Sri Lanka	2007.99.40	Thailand
0714.10.20	Costa Rica	2008.19.30	Turkey
0714.20.20	Dominican Republic	2008.99.28	Turkey
0714.90.10	Costa Rica	2008.99.35	Thailand
0802.50.20	Turkey	2106.90.52	Philippines
0802.50.40	Turkey	2202.90.36	Colombia
0804.50.80	Thailand	2202.90.37	Dominican Republic
0811.90.50	Costa Rica	2207.10.30	Ecuador
0811.90.55	Guatemala	2208.90.10	Trinidad and Tobago
0813.40.10	Thailand	2309.90.70	Hungary
0813.40.80	Thailand	2401.20.57	Indonesia

Annex IV (continued)

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after October 1, 1996. (con.)

Section B. Modifications to general note 4 of the HTS. (con.)

(3). General note 4(d) is modified by: (con.)

(a). deleting the following HTS provisions and the countries set out opposite such provisions: (con.)

2516.90.00	South Africa	7614.90.50	Venezuela
4104.31.20	Thailand	8107.90.00	Bulgaria
4202.22.35	Philippines	8112.91.50	Chile
4412.19.30	Russia	8213.00.60	Brazil
4412.19.40	Indonesia	8402.20.00	Colombia
4412.92.40	Indonesia	8414.90.30	Slovenia
4412.99.45	Indonesia	8450.90.40	Brazil
4421.90.10	Honduras	8483.50.40	Malaysia
4823.90.20	Philippines	8519.31.00	Malaysia
5607.30.20	Philippines	8528.12.04	Hungary
5609.00.20	Philippines	8528.21.05	Hungary
6501.00.60	Czech Republic	8528.30.10	Hungary
7002.10.20	Malaysia	8802.60.90	Russia
7109.00.00	Chile	9102.29.04	Philippines
7113.20.21	Oman	9303.90.80	Russia
7114.19.00	Chile	9401.90.15	Czech Republic
7308.20.00	Brazil	9606.29.20	Thailand
7319.20.00	Malaysia	9614.20.60	Turkey
7407.29.15	Chile	9614.20.80	Turkey
7603.10.00	Bahrain		

(b). deleting the countries set out opposite the following HTS subheadings:

1701.99.05	Colombia	2910.20.00	Brazil
1701.99.10	Colombia	2915.34.00	Venezuela
2804.29.00	Ukraine	2915.35.00	Venezuela
2805.40.00	Russia	2917.14.10	Brazil
2825.30.00	South Africa	2917.37.00	Romania
2825.70.00	Chile	2933.40.08	Hungary
2840.11.00	Turkey	2938.10.00	Brazil
2843.21.00	Chile	7202.21.10	Macedonia, Former Yugoslav Republic of
2903.14.00	Brazil		
2903.23.00	Brazil	7403.12.00	Peru
2907.15.10	Russia		

[FR Doc. 96–27126
Filed 10–18–96; 8:45 am]
Billing code 3190–01–C

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
1–699	(869–028–00004–5)	26.00	Jan. 1, 1996
700–1199	(869–028–00005–3)	20.00	Jan. 1, 1996
1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
7 Parts:			
0–26	(869–028–00007–0)	22.00	Jan. 1, 1996
27–45	(869–028–00008–8)	11.00	Jan. 1, 1996
46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
52	(869–028–00010–0)	5.00	Jan. 1, 1996
53–209	(869–028–00011–8)	17.00	Jan. 1, 1996
210–299	(869–028–00012–6)	35.00	Jan. 1, 1996
300–399	(869–028–00013–4)	17.00	Jan. 1, 1996
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
700–899	(869–028–00015–1)	25.00	Jan. 1, 1996
900–999	(869–028–00016–9)	30.00	Jan. 1, 1996
1000–1199	(869–028–00017–7)	35.00	Jan. 1, 1996
1200–1499	(869–028–00018–5)	29.00	Jan. 1, 1996
1500–1899	(869–028–00019–3)	41.00	Jan. 1, 1996
1900–1939	(869–028–00020–7)	16.00	Jan. 1, 1996
1940–1949	(869–028–00021–5)	31.00	Jan. 1, 1996
1950–1999	(869–028–00022–3)	39.00	Jan. 1, 1996
2000–End	(869–028–00023–1)	15.00	Jan. 1, 1996
8	(869–028–00024–0)	23.00	Jan. 1, 1996
9 Parts:			
1–199	(869–028–00025–8)	30.00	Jan. 1, 1996
200–End	(869–028–00026–6)	25.00	Jan. 1, 1996
10 Parts:			
0–50	(869–028–00027–4)	30.00	Jan. 1, 1996
51–199	(869–028–00028–2)	24.00	Jan. 1, 1996
200–399	(869–028–00029–1)	5.00	Jan. 1, 1996
400–499	(869–028–00030–4)	21.00	Jan. 1, 1996
500–End	(869–028–00031–2)	34.00	Jan. 1, 1996
11	(869–028–00032–1)	15.00	Jan. 1, 1996
12 Parts:			
1–199	(869–028–00033–9)	12.00	Jan. 1, 1996
200–219	(869–028–00034–7)	17.00	Jan. 1, 1996
220–299	(869–028–00035–5)	29.00	Jan. 1, 1996
300–499	(869–028–00036–3)	21.00	Jan. 1, 1996
500–599	(869–028–00037–1)	20.00	Jan. 1, 1996
600–End	(869–028–00038–0)	31.00	Jan. 1, 1996
13	(869–028–00039–8)	18.00	Mar. 1, 1996
14 Parts:			
1–59	(869–028–00040–1)	34.00	Jan. 1, 1996
60–139	(869–028–00041–0)	30.00	Jan. 1, 1996
140–199	(869–028–00042–8)	13.00	Jan. 1, 1996
200–1199	(869–028–00043–6)	23.00	Jan. 1, 1996
1200–End	(869–028–00044–4)	16.00	Jan. 1, 1996
15 Parts:			
0–299	(869–028–00045–2)	16.00	Jan. 1, 1996
300–799	(869–028–00046–1)	26.00	Jan. 1, 1996
800–End	(869–028–00047–9)	18.00	Jan. 1, 1996
16 Parts:			
0–149	(869–028–00048–7)	6.50	Jan. 1, 1996
150–999	(869–028–00049–5)	19.00	Jan. 1, 1996
1000–End	(869–028–00050–9)	26.00	Jan. 1, 1996
17 Parts:			
1–199	(869–028–00052–5)	21.00	Apr. 1, 1996
200–239	(869–028–00053–3)	25.00	Apr. 1, 1996
240–End	(869–028–00054–1)	31.00	Apr. 1, 1996
18 Parts:			
1–149	(869–028–00055–0)	17.00	Apr. 1, 1996
150–279	(869–028–00056–8)	12.00	Apr. 1, 1996
280–399	(869–028–00057–6)	13.00	Apr. 1, 1996
400–End	(869–028–00058–4)	11.00	Apr. 1, 1996
19 Parts:			
1–140	(869–028–00059–2)	26.00	Apr. 1, 1996
141–199	(869–028–00060–6)	23.00	Apr. 1, 1996
200–End	(869–028–00061–4)	12.00	Apr. 1, 1996
20 Parts:			
1–399	(869–028–00062–2)	20.00	Apr. 1, 1996
400–499	(869–028–00063–1)	35.00	Apr. 1, 1996
500–End	(869–028–00064–9)	32.00	Apr. 1, 1996
21 Parts:			
1–99	(869–028–00065–7)	16.00	Apr. 1, 1996
100–169	(869–028–00066–5)	22.00	Apr. 1, 1996
170–199	(869–028–00067–3)	29.00	Apr. 1, 1996
200–299	(869–028–00068–1)	7.00	Apr. 1, 1996
300–499	(869–028–00069–0)	50.00	Apr. 1, 1996
500–599	(869–028–00070–3)	28.00	Apr. 1, 1996
600–799	(869–028–00071–1)	8.50	Apr. 1, 1996
800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
22 Parts:			
1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–028–00080–1)	14.00	May 1, 1996
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–028–00084–3)	32.00	May 1, 1996
26 Parts:			
§§ 1.0-1–1.60	(869–028–00085–1)	21.00	Apr. 1, 1996
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–028–00089–4)	31.00	Apr. 1, 1996
§§ 1.441-1.500	(869-028-00090-8)	22.00	Apr. 1, 1996
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–028–00092–4)	25.00	Apr. 1, 1996
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
43-end	(869-028-00107-6)	30.00	July 1, 1996
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–028–00110–6)	48.00	July 1, 1996
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–028–00114–9)	19.00	July 1, 1996
*1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
*1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–028–00118–1)	26.00	July 1, 1996
700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–028–00120–3)	20.00	July 1, 1996
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
*400–629	(869–028–00124–6)	34.00	July 1, 1996
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–028–00126–2)	28.00	July 1, 1996
*800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
*200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
1–51	(869–028–00141–6)	50.00	July 1, 1996
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
*61–71	(869–028–00145–9)	47.00	July 1, 1996
72–85	(869–026–00148–1)	41.00	July 1, 1995
*81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–026–00149–9)	40.00	July 1, 1995
87-135	(869–028–00149–1)	5.00	July 1, 1996
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–028–00152–1)	22.00	July 1, 1996
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–028–00155–6)	33.00	July 1, 1996
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–028–00157–2)	33.00	July 1, 1996
*790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–026–00174–0)	21.00	Oct. 1, 1995
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
200–499	(869–026–00181–2)	19.00	Oct. 1, 1995
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–026–00185–5)	14.00	Oct. 1, 1995
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–026–00187–1)	30.00	Oct. 1, 1995
48 Chapters:			
1 (Parts 1–51)	(869–026–00188–0)	39.00	Oct. 1, 1995
1 (Parts 52–99)	(869–026–00189–8)	24.00	Oct. 1, 1995
2 (Parts 201–251)	(869–026–00190–1)	17.00	Oct. 1, 1995
2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
3–6	(869–026–00192–8)	23.00	Oct. 1, 1995
7–14	(869–026–00193–6)	28.00	Oct. 1, 1995
15–28	(869–026–00194–4)	31.00	Oct. 1, 1995
29–End	(869–026–00195–2)	19.00	Oct. 1, 1995
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
100–177	(869–026–00197–9)	34.00	Oct. 1, 1995
178–199	(869–026–00198–7)	22.00	Oct. 1, 1995
200–399	(869–026–00199–5)	30.00	Oct. 1, 1995
400–999	(869–026–00200–2)	40.00	Oct. 1, 1995
1000–1199	(869–026–00201–1)	18.00	Oct. 1, 1995
1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–026–00203–7)	26.00	Oct. 1, 1995
200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
600–End	(869–026–00205–3)	27.00	Oct. 1, 1995

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996
Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.