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Wednesday
September 3, 1997

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Rules and Regulations

Federal Register
Vol. 62, No. 170
Wednesday, September 3, 1997

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

National Arboretum

AGENCY: Agricultural Research Service; USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is establishing a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA). This rule reformats and adds a new subpart to 7 CFR part 500. The title of part 500 is changed to ''National Arboretum.'' The current text regarding conduct on USNA property is designated as subpart A. New text added as subpart B contains the fee structures for use of USNA facilities and services. The USNA will charge fees for riding its new tram service, use of the grounds and facilities, as well as for commercial photography and cinematography. Fees generated will be used to defray USNA expenses or to promote the mission of the USNA. The public will not be charged an admission fee for visiting the USNA.

DATES: Effective September 3, 1997, except for §§ 500.22 and 500.23 which contain information collection requirements and will not be effective until approval by the Office of Management and Budget. The Agriculture Department will publish a document in the **Federal Register** announcing the effective date of these sections.

ADDRESSES: Address all correspondence to Thomas S. Elias, Director, U.S. National Arboretum, Beltsville Area, Agricultural Research Service, 3501 New York Avenue, NE., Washington, D.C. 20002.

FOR FURTHER INFORMATION CONTACT: Director, National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, D.C. 20002; (202) 245–4539.

SUPPLEMENTARY INFORMATION: This rule was published as a proposed rule for comment on June 19, 1997 (62 FR 33376). No comments were received. Accordingly, the proposed rule is published as the final rule without changes.

Classification

This rule has been reviewed under Executive Order 12866, and it has been determined that it is not a ''significant regulatory action'' rule because it will not have an annual effect on the economy of $100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. This rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Department of Agriculture certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96–354, as amended (5 U.S.C. 601, et seq.).

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements that will be imposed in implementation of this rule have been submitted to OMB for approval. Those requirements will not become effective prior to OMB approval.

Background

Section 890(b) of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104–127 (1996 Act), expands the authorities of the Secretary of Agriculture to charge reasonable fees for the use of USNA facilities and grounds. These new authorities include the ability to charge fees for temporary use by individuals or groups of USNA facilities and grounds in furtherance of the mission of the USNA. Also, authority is provided to charge fees for the use of the USNA for commercial photography and cinematography. All rules and regulations noted in 7 CFR 500, subpart A, Conduct on the U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities and grounds.

Fee Schedule for Tram

The USNA has purchased a 48-passenger tram (which accommodates 2 wheelchairs) to provide mobile tours throughout the USNA grounds. This rule establishes a fee to be charged to all riders except children under 4 sharing a seat with an adult. Fee amounts were determined after a survey of similar services provided by other Arboreta and Botanical Gardens. Fees generated will be used to offset costs or for the purposes of promoting the mission of the USNA.

Fee Schedule for Use of Facilities and Grounds

The USNA will charge a fee for temporary use by individuals or groups of USNA facilities and grounds. The fees have been established based on actual costs (i.e., electricity, heating, water, maintenance, security, scheduling, etc.). Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups in furtherance of the mission of the USNA. Agency initiatives may be granted first priority. Reservation requests should be made as far in advance of the need as possible to ensure consideration.

Fee Schedule for Use of Facilities and Grounds for Purposes of Photography or Cinematography

The USNA will charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. The fees have been established based on comparable opportunities provided by other Arboreta and Botanical Gardens across the nation. Facilities and Grounds are

available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of required date. The USNA does not intend to charge fees to the press for photography or cinematography related to stories concerning the USNA and its mission or for other noncommercial, First Amendment activity.

Payment Submission Requirements

Payment for use of the tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to be made in the form of a check or money order. Checks and money orders are to be made payable, in U.S. funds, to the U.S. National Arboretum. The USNA will provide receipts to requestors for their records or billing purposes.

List of Subjects in 7 CFR Part 500

Agricultural research, Cinematography, Federal buildings and facilities, Government property, National Arboretum, Photography, User fees.

For the reasons set out in the preamble, 7 CFR Part 500 is amended as set forth below:

PART 500—NATIONAL ARBORETUM

1. The heading for Part 500 is revised as set forth above.

2. The authority citation for part 500 is revised to read as follows:

Authority: 20 U.S.C. 196; secs. 2, 4, 62 Stat. 281; sec. 103, 63, Stat. 380; sec 205(d), 63 Stat. 389; 40 U.S.C. 318a, 318c, 486(d), 753, 34 FR 6406; 34 FR 7389.

3. Sections 500.1 through 500.15 are designated as subpart A and a subpart heading is added, to read as set forth below:

Subpart A—Conduct on U.S. National Arboretum Property

4. A new subpart B is added to read as follows:

Subpart B—Fee Schedule for Certain Uses of National Arboretum Facilities and Grounds

Sec.

§ 500.20 Scope.

The subpart sets forth schedules of fees for temporary use by individuals or groups of United States National Arboretum (USNA) facilities and grounds for any purpose that is consistent with the mission of the USNA. This part also sets forth schedules of fees for the use of the USNA for commercial photography and cinematography. Fees generated will be used to offset costs of services or for the purposes of promoting the mission of the USNA. All rules and regulations noted in 7 CFR 500, subpart A—Conduct on the U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities and grounds for the purposes specified in this subpart.

§ 500.21 Fee schedule for tram.

The USNA provides tours of the USNA grounds in a 48-passenger tram (accommodating 2 wheelchairs) for a fee as follows: $3.00 per adult; $2.00 per senior citizen or Friend of the National Arboretum; $1.00 per child ages 4 through 16. Children under 4 sharing a seat with an adult will not be charged.

§ 500.22 Fee schedule for use of facilities and grounds.

The USNA will charge a fee for temporary use by individuals or groups of USNA facilities and grounds. Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups whose purpose is consistent with the mission of the USNA. Agency initiatives may be granted first priority. Non profit organizations that substantially support the mission and purpose of the USNA may be exempted from the requirements of this part by the Director. Reservation requests should be made as far in advance of the need as possible to ensure consideration. The fees for use of USNA buildings listed in the following fee schedule are for times when the building is open. ''Half Day'' usage is defined as 4 hours or less; ''Whole Day'' is defined as more than 4 hours in a day. For after hours usage of such buildings, an additional $25/hour will be added for supervision/security.

Area	Includes	Per day charge	
		Half day	Whole day
Auditorium	Basic audience-style set-up for 125 people or classroom set-up for 40–50 people. Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and (2) trash cans. Also includes the use of the Kitchen space, Upstairs Conference Room, and Coat Room.	N/A	$250
	Extra tables are $10 each		
Upstairs Conference Room.	(Only if Auditorium is not in use)	$50	100
	Includes use of telephone for local calls. Also includes the use of the Kitchen space and Coat Room.		
Lobby	As is (with furniture in place)	N/A	100
	Furniture removed		150
Classroom	Standard set-up with 40 chairs. Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and trash can.	50	125
Classroom-Multiple	3 hour limit; 5 sessions		225
	3 hour limit; 10 sessions		450
Yoshimura Center	For use from 10:00 a.m. to 3:30 p.m. weekends only	50	125
Grounds—1–301 people.	No Public Invited—Patio, Meadow, Triangle, NY Avenue, etc. Cost includes scheduling time, extra mowing, and site preparation..	N/A	500
	Guest organization responsible for everything related to their event, including portable toilets.		
300–600 people	Same as above	N/A	750
Grounds	Public Invited (i.e., show or sale)—Cost includes scheduling time, extra mowing, and site preparation. Guest organization responsible for everything related to their event, including portable toilets..	N/A	750

Area	Includes	Per day charge	
		Half day	Whole day
Damages	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (including labor) plus 10% (administrative fee).		

§ 500.23 Fee schedule for photography and cinematography on grounds.

The USNA will charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. Facilities and grounds are available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of the required date. In addition to the fees listed below, supervision costs of $25.00 per hour will be charged. The USNA Director may waive fees for photography or cinematography conducted for the purpose of disseminating information to the public regarding the USNA and its mission or for the purpose of other noncommercial, First Amendment activity.

Category	Type	Notes	Per day charge	
			Half day	Whole day
Still Photography	Individual	For personal use only. Includes hand-held cameras, recorders, small non-commercial tripods.	No Charge	No Charge
	Commercial	Includes all photography which uses professional photographer and/or involves receiving a fee for the use or production of the photography. Note: This includes 5 people or less with carry on (video) equipment.	$250 plus Supervisor.	$500 plus Supervisor
Cinematography	Set Preparation	Set up sets; no filming performed	N/A	$250 plus Supervision
	Filming	Sliding scale based on number of people in cast and crew and number of pieces of equipment. 45 people and 6 pieces of equipment=$1,500. 200 people=$3,900. Note: 5 people with carry on equipment=same as still photography.	.....	$1,200 to $3,900
	Strike Set	Take down sets, remove equipment; no filming.	N/A	$250 plus Supervision
	Music Videos	No sound involved; smaller operation	N/A	$1,000 plus Supervision
Slide Production	.....	Providing USNA photos/slides for use in promotions/advertisements. Fee is for one-time rights.	.....	$100 per image to reproduce
Damages	All	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (Including labor) plus 10% (administrative fee). Half Day=4 hours or less. Full Day=more than 4 hours.	.....	

§ 500.24 Payment of fees.

Payment for use of tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to the made in the form of a check or money order. Checks and money orders are to be made payable, in U.S. funds, to the ''U.S. National Arboretum.'' The National Arboretum will provide receipts to requestors for their records or billing purposes.

Done at Washington, DC, this 26th day of August, 1997.

Edward B. Knipling,

Acting Administrator, Agricultural Research Service.

[FR Doc. 97–23217 Filed 9–2–97; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 7, 10, 148 and 178

[T.D. 97–75]

RIN 1515–AB14

Duty-Free Treatment of Articles Imported From U.S. Insular Possessions

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some modifications, proposed amendments to the Customs Regulations to clarify and update the legal requirements and procedures that apply for purposes of obtaining duty-free treatment on articles imported from

insular possessions of the United States other than Puerto Rico. The final regulatory amendments include certain organizational changes to improve the layout of the regulations and also clarify and update the personal exemption provisions applicable to returning residents.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Monika Rice, Office of Regulations and Rulings (202–482–7049).

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1993, Customs published in the **Federal Register** (58 FR 40095) a notice of proposed rulemaking to amend parts 7, 10 and 148 of the Customs Regulations (19 CFR parts 7, 10 and 148) as regards duty-free treatment of articles imported from insular possessions of the United States other than Puerto Rico. The proposed amendments to part 7 included replacement of present § 7.8 by two new §§ 7.2 and 7.3, the latter section representing an update and elaboration of the substantive requirements and procedures for obtaining duty-free treatment on products of U.S. insular possessions under General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States (HTSUS). The proposed Part 10 amendments involved primarily the transfer to part 7 of a section of the regulations dealing with watches and watch movements from U.S. insular possessions. The proposed Part 148 amendments involved an updating of the regulations that implement the personal duty exemption or reduction provisions applicable to returning residents and other persons arriving from certain U.S. insular possessions or from Caribbean Basin Initiative (CBI) beneficiary countries as provided for in Subchapters IV and XVI of Chapter 98, HTSUS.

With particular regard to the requirements and procedures for obtaining duty-free treatment under General Note 3(a)(iv), HTSUS, the July 27, 1993, notice pointed out that, as compared to the regulations implementing the Generalized System of Preferences (GSP), set forth as §§ 10.171–10.178, Customs Regulations (19 CFR 10.171–10.178), and the regulations implementing the CBI, set forth as §§ 10.191–10.198, Customs Regulations (19 CFR 10.191–10.198), § 7.8 did not reflect all of the provisions of General Note 3(a)(iv), HTSUS, and did not provide adequate guidance concerning the legal effect of those provisions, particularly as to the determination of the origin of goods imported from insular possessions, the meaning of direct shipment to or from an insular possession, and the application of the maximum foreign materials content limitation. Thus, subject to variances to reflect a General Note 3(a)(iv) insular possession context, the proposed § 7.3 text adopted the more detailed approach used in the GSP and CBI regulations in setting forth, among other things, specific origin determination language (for example, ''growth or product'', ''substantially transformed'', ''new and different article of commerce'') applicable to goods from insular possessions and materials incorporated in such goods (paragraphs (b) and (c)) as well as a specific rule regarding direct shipment to or from an insular possession (paragraph (e)).

Discussion of Comments

A total of seven comments were submitted in response to the notice. All of the commenters generally favored the proposed regulatory changes, particularly with regard to the reduced documentary burden and the inclusion of the Commonwealth of the Northern Mariana Islands. However, some commenters suggested certain changes to the proposed § 7.3 texts which are discussed in detail below.

Comment: Several commenters indicated that the words ''may be eligible'' in proposed § 7.3(a) should be replaced with the words ''shall be eligible.'' Otherwise, despite compliance with the provisions of General Note 3(a)(iv), HTSUS, Customs would have impermissible discretion in allowing duty-free treatment.

Customs response: Customs disagrees. While goods imported from U.S. insular possessions which satisfy the requirements and conditions set forth in General Note 3(a)(iv), HTSUS, ''are exempt from duty'', and even though proposed §§ 7.3(a) (1) and (2) state which goods are eligible for duty-free treatment, documentary requirements were included in proposed § 7.3(f) for the specific purpose of demonstrating that the imported goods meet the statutory requirements for duty-free entry. *See Maple Leaf Petroleum, Ltd.* v. *United States,* 25 C.C.P.A. 5, 8, 9, T.D. 48976 (1937), for the proposition that it has long been the sound policy of our Government that when such grants and privileges as those involved here were allowed in customs matters, they were granted only upon the condition that there should be a compliance with regulations to be prescribed by the Secretary of the Treasury. *See also McDonnell Douglas Corp.* v. *United States,* 75 Cust. Ct. 6 (1975), C.D. 4604, and General Note 20, HTSUS. Accordingly, § 7.3(a) should not be revised by substituting the word ''may'' with ''shall.''

Comment: Proposed § 7.3(b)(2) provides that goods shall be considered the product of an insular possession if they ''became a new and different article of commerce as a result of processing performed in the insular possession.'' Two comments suggested including ''a change in name, character, or use, as a result of an operation including, but not limited to, assembly, manufacturing, and processing, performed in the insular possession.'' It was claimed that such a revision would clarify that a change in any one or more of the three criteria is sufficient to produce a new and different article of commerce. This revision would also clarify any ambiguity concerning the meaning of the word ''processing'', by using the word ''operation'' and providing three non-exhaustive examples (*i.e.,* assembly, manufacturing, and processing) to indicate that various methods can be used to bring about a substantial transformation.

Customs response: Proposed § 7.3(b)(2) sets forth the basic substantial transformation rule. Customs does not believe that specific exemplars are necessary to establish how a new and different article of commerce is created because there are ample court cases and Customs rulings that explain the substantial transformation rule. Therefore, it is the opinion of Customs that specific exemplars are not appropriate for § 7.3(b)(2). However, for the sake of clarity, Customs believes that the word ''processing'' in § 7.3(b)(2) should be replaced with the words ''production or manufacture'' which more closely reflect the terminology used in General Note 3(a)(iv), HTSUS, and in proposed § 7.3(c)(2). Section 7.3(b)(2) as set forth below has been modified accordingly.

Comment: Proposed § 7.3(b) should be revised to recognize that duty-free treatment under General Note 3(a)(iv) is to be afforded to products deemed to be products of an insular possession pursuant to U.S. Note 2, Subchapter II, Chapter 98, HTSUS (under which products of the United States returned to the United States after having been advanced in value or improved in condition abroad by any process of manufacture or other means, and imported articles assembled abroad in whole or in part from U.S. products, are to be treated as foreign articles), and which otherwise meet the requirements of General Note 3(a)(iv) (but are not necessarily substantially transformed in the insular possession). Specifically, this commenter recommended inclusion

of the following as a third origin standard:

(3) The goods were a product of the United States which were returned to the United States after having been advanced in value or improved in condition in an insular possession, or assembled in an insular possession, pursuant to U.S. Note 2, Subchapter II, Chapter 98, HTSUS.

The commenter argued that this revision would clarify that goods which are not ''wholly obtained or produced'' or ''substantially transformed'' may still become a product of an insular possession and be eligible for duty-free treatment under General Note 3(a)(iv), as determined in Headquarters Ruling Letter (HRL) 557481 dated September 24, 1993, which reconsidered HRL 556381 dated March 2, 1991. In HRL 556381, Customs ruled that certain garments, produced on the U.S. mainland and screen printed or embroidered in the Virgin Islands using printing or embroidery materials produced on the U.S. mainland or Puerto Rico, were not eligible for duty-free treatment under General Note 3(a)(iv). Although no foreign-origin materials were employed in these operations, Customs held that the printed or embroidered garments were not eligible for duty-free treatment under General Note 3(a)(iv) because they were not ''products of'' the Virgin Islands and had not undergone a substantial transformation.

In HRL 557481, Customs reconsidered HRL 556381 and determined that, under the facts, the garments in question were products of the Virgin Islands and thus eligible for duty-free treatment under General Note 3(a)(iv). Specifically, Customs ruled that under 19 CFR 12.130(c) and U.S. Note 2, Subchapter II, Chapter 98, HTSUS, the U.S. good returned must be deemed a product of the non-U.S. jurisdiction in which they were advanced in value (*i.e.*, the U.S. Virgin Islands). Because the goods were a product of the Virgin Islands and otherwise met the requirements of General Note 3(a)(iv), they were entitled to duty-free treatment under that provision.

Customs response: Customs cannot agree to the regulatory text change suggested by this commenter. Pursuant to T.D. 90–17, paragraph (c) of § 12.130, Customs Regulations (19 CFR 12.130), supersedes all other provisions of § 12.130 with regard to determining the origin of textile goods. This position, however, has not been extended to other goods on a general basis. *See* the May 5, 1995, notice of proposed rulemaking (discussed below in this document under the Other Changes to the Regulatory Texts section) in which Customs noted that it has reconsidered its previously stated position that U.S. Note 2(a), Subchapter II, Chapter 98, HTSUS, has application for general country of origin purposes. Therefore, the regulatory text change suggested by this commenter would have an impermissibly broad effect since it would apply to all goods rather than only to textile goods.

Comment: It was suggested that § 7.3(c)(2), which twice uses the phrase ''new and different article of commerce'' to establish the principle of double substantial transformation, should be followed by the phrase ''that is, one which underwent a change in name, character, or use.'' This would ensure a consistent meaning of the term ''new and different article of commerce'' throughout § 7.3.

Customs response: Customs disagrees, for the same reasons stated above in response to the comment regarding the use of exemplars to explain the creation of a new and different article. Customs also notes that the use of the words ''new and different article of commerce'' in § 7.3(c)(2), without further explanation, is consistent with the approach used in the GSP and CBI regulations (*see* 19 CFR 10.177(a)(2) and 19 CFR 10.195(a), respectively) which have not given rise to interpretive problems in this regard.

Comment: General Note 3(a)(iv)(A) provides for the duty-free entry of goods from an insular possession containing foreign material up to 70 percent of their value, unless they are among the products not eligible for duty-free entry under the CBI, in which case duty-free entry is only allowed if the foreign materials do not exceed 50 percent of the value of the goods. General Note 3(a)(iv)(B) sets forth rules for identifying materials not to be considered as foreign (specifically, certain duty-free materials) for purposes of determining whether goods produced or manufactured in any such insular possession contain ''foreign materials to the value of more than 70 percent''.

One commenter suggested that § 7.3(c)(3), which defines certain materials which are not considered as ''foreign materials'' in determining the 70 percent foreign content limitation, is contrary to the legislative history of General Note 3(a)(iv) and its predecessor provisions and is contrary to longstanding practice, since it is not equally applicable to the 50 percent limitation. This commenter acknowledged that § 7.3(c)(3) is limited because General Note 3(a)(iv)(B) only refers to the ''70 percent'' value mentioned in paragraph (A); however, notwithstanding the strict language of paragraph (B), the commenter suggested that Congress intended that the rule regarding the use of duty-free foreign materials be equally applicable to products to which the 50 percent limitation applies. The commenter set forth the following analysis in support of this position:

Section 3 of the Act of March 3, 1917, Pub. L. 64–389, 39 Stat. 1133 (1917) (''the 1917 Act''), accorded duty-free treatment to products from the U.S. Virgin Islands as long as the value of the foreign materials did not exceed 20 percent. In 1950, the 1917 Act was amended to exclude from ''foreign material'' any material which could be entered into the United States free of duty. Pub. L. 81–766, 64 Stat. 784 (1950). The purpose of the legislation was to encourage the establishment of new industries in the U.S. Virgin Islands, thereby providing increased employment and revenues. S. Rep. No. 2368, 81st Cong., 2d Sess. 2 (1950). In 1954, the Customs Simplification Act, Pub. L. 83–768, title IV, section 401, 68 Stat. 1139 (1954), increased the foreign content limitation to 50 percent and continued the treatment of materials as not ''foreign'' if they could be entered into the United States free of duty.

General Headnote 3(a), Tariff Schedules of the United States (TSUS), effective August 31, 1963, continued the 50 percent foreign material limitation and the treatment of a material as not foreign if the material could be entered into the United States free of duty. Section 214 of the Caribbean Basin Economic Recovery Act (the CBI statute), Pub. L. 98–67 (1983), amended General Headnote 3(a), TSUS, by increasing the foreign materials value allowable in insular possession goods from 50 percent to 70 percent. However, for those goods that were not entitled to CBI preferential duty treatment, General Headnote 3(a), TSUS, was further amended to specify a 50 percent foreign materials value limitation for such products. In amending General Headnote 3(a), TSUS, to include the 70 percent foreign materials value limitation, Congress stated that it intended to ''maintain the competitive position of Puerto Rico and the U.S. insular possessions which might otherwise be adversely affected by the Caribbean Basin Initiative.'' However, since CBI-exempt products ''are excluded from duty-free treatment . . ., it is not necessary to increase the foreign content potential under general headnote 3(a) as an equalizing measure for the insular possessions. . . .'' H.R. Rep. No. 266, 98th Cong., 1st Sess. 22 (1983), *reprinted in* 1983 U.S. Code Cong. & Admin. News 645, 663.

Based on the above, this commenter suggested that under proposed § 7.3(c)(3), materials should also not be considered foreign materials for purposes of calculating the 50 percent foreign materials value limitation (in addition to the 70 percent value provision) if the materials may be entered into the U.S. free of duty. Therefore, despite the lack of any reference to the 50 percent value limitation in paragraph (B) of the present statutory provision, the only logical reading of paragraph (B), consistent with the congressional intent and longstanding practice, is to include in § 7.3(c)(3) the 50 percent foreign materials value reference contained in paragraph (A) of the statute.

This commenter further suggested that liberally construing this remedial statute will carry out the congressional intent. *See Atchison, Topeka and Santa Fe Railroad Co.* v. *Buell,* 480 U.S. 557, 561 (1987) (with a remedial statute, Congress adopts a ''standard of liberal construction in order to accomplish [Congress'] objects.''); *see also United States* v. *Carolina Transformer Co.,* 978 F.2d 832, 838 (4th Cir. 1992) (the provision of a remedial statute ''should be construed broadly to avoid frustrating the legislative purpose.''). Furthermore, where the literal interpretation of a statute is inconsistent with the legislative intent, the words of the statute should give way to the legislative intent. *Florida Department of Banking* v. *Board of Governors,* 760 F.2d 1135, 1139 (11th Cir. 1985).

Therefore, this commenter suggested that § 7.3(c)(3) be revised to read as follows:

(3) In the case of imported goods to which the 70 percent or 50 percent foreign materials value limitation applies as set forth in paragraph (a)(1)(i) of this section, a material which may be imported into the customs territory of the United States from a foreign country and entered free of duty either:

Customs response: Customs agrees with the commenter's suggestion to fill a gap in General Note 3(a)(iv)(B) by these regulations. Although paragraph (B) of General Note 3(a)(iv), HTSUS, clearly states that in regard to the 70 percent value, a material shall not be considered a ''foreign material'' if it may be imported into the United States and entered free of duty, that statutory provision does not address whether the same ''foreign material'' definition is applicable in the case of the 50 percent value limitation that applies to CBI-excluded goods under paragraph (A). However, based on a reading of General Note 3(a)(iv), HTSUS, and its predecessor provisions and the legislative history relating thereto, it appears that a material which could be entered into the United States free of duty has never been intended to be considered ''foreign material'' since the 1950 amendment of the 1917 Act.

As pointed out by the commenter and for the reasons stated in the comment, section 214(a) of the CBI statute amended General Headnote 3(a)(i), TSUS, by increasing the foreign materials value limitation from 50 percent to 70 percent for most goods and by retaining the 50 percent foreign materials value limitation for articles not eligible for CBI preferential treatment. However, while section 214(a) of the CBI statute also amended General Headnote 3(a)(ii), TSUS, (which referred to materials not considered foreign if they could be entered into the United States free of duty) by replacing the 50 percent value reference with a reference to 70 percent value, a reference to 50 percent value (to cover CBI-excluded goods) was not retained in this context for reasons that are not apparent from a reading of the applicable legislative history.

The above-mentioned Congressional intention of maintaining the competitive viability of the insular possessions is also consistent with the intent behind paragraphs (C), (D), and (E) of General Note 3(a)(iv), HTSUS, which were added when the GSP and CBI statutes and the Andean Trade Preference Act (ATPA) were enacted. The legislative history of what is now General Note 3(a)(iv)(C), HTSUS, indicates that the designation of beneficiary developing countries under section 502 of the GSP statute (19 U.S.C. 2462) was not intended to impair any benefits that insular possessions receive by reason of (former) General Headnote 3(a), TSUS. S. Rep. 93–1298, *reprinted in* 1974 U.S. Code Cong. Admin. New. 7186, 7352. ''The Committee strongly believes that the products of U.S. insular possessions should under no circumstances be treated less advantageously than those of foreign countries. To the extent that such products would be entitled to better treatment under headnote 3(a), than under this title, they should receive treatment under 3(a).'' *Id.*

If the ''foreign material'' definition in General Note 3(a)(iv)(B), HTSUS, is not applied to the 50 percent value limitation, the insular possessions will receive ''no less favorable'' treatment than CBI countries since the CBI-excluded goods are dutiable. However, before the enactment of the CBI, most goods from the insular possessions, including the ''CBI-excluded'' goods, received duty-free treatment if the 50 percent value was satisfied, to which the ''foreign material'' definition applied at that time. Therefore, it would seem that if Congress had intended to remove a benefit existing prior to the CBI, it would have indicated such intent.

Prior to the amendment of General Headnote 3(a), TSUS, by section 214 of the CBI statute, another noteworthy amendment to this provision was added by Pub. L. 94–88, title I, section 1, 2, 89 Stat. 433 (1975), which increased the 50 percent foreign materials value limitation to 70 percent with respect to watches and watch movements because of a setback in both production and employment in the insular possessions. When this 70 percent value for watches was inserted into subparagraph (i) of General Headnote 3(a), subparagraph (ii) thereof remained the same. Therefore, for purposes of applying the 50 percent value then in effect, materials were not considered foreign if they could be entered into the United States free of duty, but no reference was made to the increased 70 percent value limitation for watches. However, § 7.8(d) of the Customs Regulations (19 CFR 7.8(d)) was amended to refer both to the 50 percent value and to the 70 percent value for watches in the context of determining whether a material was a foreign material.

Therefore, it is the opinion of Customs that since the legislative history of General Note 3(a)(iv), HTSUS, does not discuss the omission of a reference to the 50 percent foreign materials value limitation for CBI-excluded products from paragraph (B), and because it is apparent that since 1950 materials were not considered ''foreign materials'' in all respects if they could be entered into the United States free of duty, the 50 percent foreign materials value limitation should be referred to in § 7.3(c)(3). Thus, Customs has determined it appropriate to amend the regulations not because General Note 3 is ''remedial'' legislation which must be liberally construed, as the commenter suggested, but rather because a strict construction of this special exemption leads Customs to conclude there is an inadvertent ''gap'' in that note which Congress did not clearly intend to result in a preclusion of favorable treatment. *See, e.g., United States* v. *Allen,* 163 U.S. 499, 503 (1896) (duty exemptions must be strictly construed as a general principle). The omission of the 50 percent value reference appears to have been an oversight stemming from the addition of the 70 percent value reference for watches rather than from a clear intention to remove a benefit in existence since 1950. There is also nothing in the legislative history

relating to these amendments which specifically precludes more favorable treatment for an insular possession good under General Note 3(a)(iv), HTSUS, as compared to the GSP, CBI, or ATPA. In order to reflect this position and also simplify the text, § 7.3(c)(3) as set forth below has been modified by removing the ''[I]n the case of * * *'' clause which is no longer necessary in this regulatory context.

Comment: The ''direct shipment'' standard on goods from U.S. insular possessions in proposed § 7.3(e) should be the same as in the case of the CBI, GSP, or ATPA, which allow goods to be transshipped through third countries under certain conditions. Otherwise, § 7.3(e) is contrary to the statutory mandate of General Note 3(a)(iv) (C), (D) and (E), HTSUS, that goods from insular possessions receive no less favorable duty treatment than GSP-, CBI-, or ATPA-eligible articles. The Customs rationale not to allow exceptions to direct movement to or from an insular possession through a foreign territory or country is not compelling since goods from all CBI countries may be shipped to the United States either by water or air without passing through intervening countries.

Customs response: Customs agrees with the commenter on both points. First, none of the CBI countries are land-locked and thus shipment to the United States would not necessarily require transshipment through a foreign territory or country. Second, although General Note 3(a)(iv), HTSUS, is a more liberal provision than the GSP or CBI statutes or the ATPA, as already noted in this comment discussion, General Note 3(a)(iv) (C), (D) and (E) provide that, subject to the provisions of sections 503(b) and 504(c) of the GSP statute, section 213 of the CBI statute, and section 204 of the ATPA, goods imported from an insular possession of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under the GSP, CBI or ATPA. The GSP and CBI statutes and the ATPA require that the goods, in order to receive preferential duty treatment, meet certain qualifications including direct shipment from the beneficiary country into the United States. Sections 10.175 and 10.193 of the Customs Regulations (19 CFR 10.175 and 10.193) allow certain exceptions to the direct movement standard. Therefore, it appears that not allowing any exceptions to the strict direct shipment standard in the case of goods from insular possessions would be contrary to General Note 3(a)(iv) (C), (D), and (E), HTSUS.

Accordingly, § 7.3(e) as set forth below has been modified to include exceptions to the strict direct shipment standard and to provide for evidence of direct shipment. The modified text is based on the corresponding CBI regulatory provisions which appear to be more appropriate in an insular possession context than are the corresponding GSP regulations, but no reference is made to a waiver of evidence of direct shipment since simply having provision for not requiring submission of such evidence is a less burdensome approach.

Comment: One comment concerned the use of the Certificate of Origin (Customs Form 3229) in the case of goods which incorporate a material described in General Note 3(a)(iv)(B)(2), HTSUS, which requires ''adequate documentation * * * to show that the material has been incorporated into such goods during the 18-month period after the date on which such material is imported into the insular possession.'' The commenter noted that the Certificate of Origin would require modification because it does not currently establish the use of the material within the 18-month period. The commenter also suggested that the district director be given discretion to waive the Certificate of Origin or to accept other documentation including a blanket statement that applies to several entries, since General Note 3(a)(iv)(B)(2), HTSUS, does not describe ''adequate documentation'' or specifically require a Certificate of Origin with each shipment.

Customs response: Customs disagrees. While it was recognized in the notice of proposed rulemaking that the Certificate of Origin must be revised to reflect all current legal requirements under General Note 3(a)(iv), HTSUS, it is General Note 3(a)(iv)(B)(2), HTSUS, and not the Certificate of Origin that specifically establishes the requirement for submission of adequate documentation to show that the material was incorporated into the goods during the 18-month period after the date on which it was imported into the insular possession. While General Note 3(a)(iv)(B)(2), HTSUS, does not define ''adequate documentation'', it is the position of Customs that the use of the Certificate of Origin with which importers are already familiar, combined with the Customs officer's verification at the port of shipment, provide adequate assurance that the material described in General Note 3(a)(iv)(B)(2), HTSUS, was, in fact, incorporated in the goods within the specified 18-month period.

Comment: One comment concerned proposed § 7.3(g) which, in accordance with existing law, allows warehouse withdrawals of goods for shipment to any insular possession without the payment of duty, or with a refund of duty if duties have been paid, but denies drawback of duties or internal revenue taxes on goods produced in the United States and shipped to any insular possession. This commenter suggested that § 7.3(g) should include the restrictions on shipments from foreign trade zones to insular possessions as specified in HRL 223828 dated July 1, 1992. That ruling held that merchandise transferred from a foreign trade zone for shipment to an insular possession is dutiable when transferred from the zone and that shipments from such a zone to an insular possession do not meet the exportation requirement of 19 U.S.C. 81c(a).

Customs response: Customs disagrees. In *Rothschild & Co.* v. *United States*, 16 Ct. Cust. App. 422 (1929), it was held that the term ''exportation'' in section 557, Tariff Act of 1922 (the predecessor provision of section 557, Tariff Act of 1930), did not include shipments to Guam. As a result of this determination, hearings before the Ways and Means Committee of the House of Representatives in 1929 resulted in a recommendation that section 557 be amended to provide that merchandise may be withdrawn for shipment to insular possessions without the payment of duties. *See Mitsubishi International Corp.* v. *United States*, 55 Cust. Ct. 319, C.D. 2597 (1965). Accordingly, section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), which permits merchandise to be entered for warehouse and withdrawn for shipment to Guam and other named possessions without payment of duties or, if duties have been paid, with a refund thereof, was the basis for 19 CFR 7.8(f) (the provision which was the basis for proposed § 7.3(g)).

The term ''exportation'' as defined by § 101.1 of the Customs Regulations (19 CFR 101.1), and as interpreted by the courts, is linked to a foreign country rather than to the Customs territory of the United States. Thus, shipments from the United States to a U.S. insular possession are not exports. Customs is of the opinion that there is no need to repeat this position in the regulatory provision at issue with respect to shipments to a U.S. insular possession from a foreign trade zone located within the United States.

Comment: General Note 3(a)(iv), HTSUS, contains provisions (*i.e.*,

paragraphs (C), (D) and (E)), which guarantee no less favorable duty treatment for goods from the insular possessions than for goods imported from GSP, CBI or ATPA beneficiary countries. It was suggested these paragraphs should at least be replicated in the regulations.

Customs response: Customs disagrees. There is little use in simply duplicating General Notes 3(a)(iv) (C), (D), and (E), HTSUS, in the regulations where there is no need for an interpretation or other explanation of the statutory provision. It is clear that the statute, which controls, requires that goods from insular possessions be granted no less favorable duty treatment than goods imported from GSP, CBI, or ATPA beneficiary countries and the regulations set forth in this document reflect that result-oriented statutory principle.

Comment: One comment questioned the conclusion in the notice of proposed rulemaking under the heading ''Regulatory Flexibility Act'' that there is no ''major rule'' since a substantial number of small entities may have significant economic impacts as a result of these amendments.

Customs response: The regulatory amendments will not have a significant economic impact on a substantial number of small entities because these regulations primarily reflect statutory requirements and administrative practices that have been in place for many years for purposes of duty-free treatment of articles imported from insular possessions of the United States.

Other Changes to the Regulatory Texts

In addition to the changes to the proposed regulatory texts discussed above in connection with the public comments, Customs has determined that a number of other changes to the proposed texts should be reflected in this final rule document.

Two of these changes involve proposed §§ 7.3 (b)(1) and (c)(1) which referred, respectively, to goods and materials that were ''wholly obtained or produced * * * within the meaning of § 102.1(e) of this chapter''. These provisions were included in the proposed texts based on, and were identified in the document as being subject to final adoption of, an earlier proposal published in the **Federal Register** on September 25, 1991 (56 FR 48448) to set forth, in a new Part 102 of the Customs Regulations (19 CFR Part 102), uniform rules governing the determination of the country of origin of imported merchandise. Subsequently, on January 3, 1994, Customs published two documents in the **Federal Register**. The first document, published at 59 FR 110, consisted of T.D. 94–4 which amended the Customs Regulations on an interim basis to implement Annex 311 of the North American Free Trade Agreement (NAFTA); the majority of the T.D. 94–4 regulatory amendments involved the adoption of a new Part 102 of the Customs Regulations setting forth the NAFTA Marking Rules. The second document published on January 4, 1994 (at 59 FR 141) consisted of a notice of proposed rulemaking setting forth proposed amendments to the scope of interim Part 102, as well as to other provisions of the Customs Regulations, in order to establish within Part 102 uniform rules governing the determination of the country of origin of imported merchandise. The latter document replaced the September 25, 1991, uniform origin rules proposal and thus included, among other things, proposed conforming changes to the GSP and CBI regulations involving appropriate cross-references to the uniform rules that would be reflected in the amended Part 102 texts, but no proposed conforming changes to the Part 7 insular possession regulations were included since final action had not been taken on the regulatory proposals that are the subject of this document. On May 5, 1995, Customs published a document in the **Federal Register** (60 FR 22312) which set forth proposed changes to the interim regulatory amendments contained in T.D. 94–4 and which republished, with some changes, the January 4, 1994, uniform origin rule regulatory proposals, for purposes of further public comment.

On June 6, 1996, Customs published in the **Federal Register** (61 FR 28932) T.D. 96–48 which adopted as a final rule, with some modifications, the NAFTA Marking Rules and other interim regulatory amendments published as T.D. 94–4 on January 3, 1994, but which did not adopt as a final rule the May 5, 1995, proposals regarding the uniform origin rule concept (including the proposed amendments to the GSP and CBI regulations). The Background portion of T.D. 96–48 stated (at 61 FR 28933) that Customs had decided that the proposal to extend the Part 102 regulations to all trade ''should remain under consideration for implementation at a later date.'' In the light of this deferral of the decision on whether to apply a uniform method of determining origin to all trade, it would not be appropriate in this document to adopt the texts of §§ 7.3 (b)(1) and (c)(1) as proposed. Accordingly, §§ 7.3 (b)(1) and (c)(1) as set forth below have been modified to remove the references to the Part 102 regulation and, similar to the present GSP and CBI regulatory approach, to refer instead to goods and materials that are ''wholly the growth or product'' of the insular possession. If in the future a final decision is taken to adopt the proposed uniform method of determining origin for all trade, the necessary regulatory amendments will include appropriate changes to the text of § 7.3.

Finally, in order to align on technical corrections made to the Customs Regulations in T.D. 95–78 (published in the **Federal Register** on September 27, 1995, at 60 FR 50020) to reflect the new organizational structure of Customs, § 7.3 as set forth below has been modified by inserting ''port director'' in place of each reference to ''district director''.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, and after further review of this matter, Customs believes that the proposed regulatory amendments should be adopted as a final rule with certain changes thereto as discussed above and as set forth below. This document also includes an appropriate update of the list of information collection approvals contained in § 178.2 of the Customs Regulations (19 CFR 178.2).

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments primarily reflect statutory requirements and administrative practices that have been in place for many years and, thus, any economic impact arising out of these amendments would be negligible at best. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0200. An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is in § 7.3. This information is required in connection with claims for duty-free treatment under General Note 3(a)(iv), HTSUS. This information will be used by Customs to determine whether goods imported from insular possessions are entitled to duty-free entry under that General Note. The collection of information is required to obtain a benefit. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average burden associated with the collection of information in this final rule is 11.3 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 7

Customs duties and inspection, Imports, Insular possessions.

19 CFR Part 10

Customs duties and inspection, Imports.

19 CFR Part 148

Customs duties and inspection, Imports, Personal exemptions.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, parts 7, 10, 148 and 178, Customs Regulations (19 CFR parts 7, 10, 148 and 178), are amended as set forth below:

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

1. The authority citation for part 7 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

2. Sections 7.2 and 7.3 are added to read as follows:

§ 7.2 Insular possessions of the United States other than Puerto Rico.

(a) Insular possessions of the United States other than Puerto Rico are also American territory but, because those insular possessions are outside the customs territory of the United States, goods imported therefrom are subject to the rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States (HTSUS) except as otherwise provided in § 7.3 or in part 148 of this chapter. The principal such insular possessions are the U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll. Pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, Public Law 94–241, 90 Stat. 263, 270, goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment as imports from Guam and thus are also subject to the provisions of § 7.3 and of part 148 of this chapter.

(b) Importations into Guam, American Samoa, Wake Island, Midway Islands, Johnston Atoll, and the Commonwealth of the Northern Mariana Islands are not governed by the Tariff Act of 1930, as amended, or the regulations contained in this chapter. The customs administration of Guam is under the Government of Guam. The customs administration of American Samoa is under the Government of American Samoa. The customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. There is no customs authority on Johnston Atoll, which is under the operational control of the Defense Nuclear Agency. The customs administration of the Commonwealth of the Northern Mariana Islands is under the Government of the Commonwealth.

(c) The Secretary of the Treasury administers the customs laws of the U.S. Virgin Islands through the United States Customs Service. The importation of goods into the U.S. Virgin Islands is governed by Virgin Islands law; however, in situations where there is no applicable Virgin Islands law or no U.S. law specifically made applicable to the Virgin Islands, U.S. laws and regulations shall be used as a guide and be complied with as nearly as possible. Tariff classification of, and rates of duty applicable to, goods imported into the U.S. Virgin Islands are established by the Virgin Islands legislature.

§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.

(a) *General.* Under the provisions of General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS), the following goods may be eligible for duty-free treatment when imported into the customs territory of the United States from an insular possession of the United States:

(1) Except as provided in Additional U.S. Note 5 to Chapter 91, HTSUS, and except as provided in Additional U.S. Note 2 to Chapter 96, HTSUS, and except as provided in section 423 of the Tax Reform Act of 1986, as amended (19 U.S.C. 2703 note), goods which are the growth or product of any such insular possession, and goods which were manufactured or produced in any such insular possession from materials that were the growth, product or manufacture of any such insular possession or of the customs territory of the United States, or of both, provided that such goods:

(i) Do not contain foreign materials valued at either more than 70 percent of the total value of the goods or, in the case of goods described in section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)), more than 50 percent of the total value of the goods; and

(ii) Come to the customs territory of the United States directly from any such insular possession; and

(2) Goods previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation, provided that:

(i) The goods were shipped from the United States directly to the insular possession and are returned from the insular possession to the United States by direct shipment; and

(ii) There was no remission, refund or drawback of such duties or taxes in connection with the shipment of the goods from the United States to the insular possession.

(b) *Origin of goods.* For purposes of this section, goods shall be considered to be the growth or product of, or manufactured or produced in, an insular possession if:

(1) The goods are wholly the growth or product of the insular possession; or

(2) The goods became a new and different article of commerce as a result of production or manufacture performed in the insular possession.

(c) *Foreign materials.* For purposes of this section, the term ''foreign materials'' covers any material incorporated in goods described in paragraph (b)(2) of this section other than:

(1) A material which was wholly the growth or product of an insular possession or of the customs territory of the United States;

(2) A material which was substantially transformed in an insular possession or in the customs territory of the United States into a new and different article of commerce which was then used in an insular possession in the production or manufacture of a new and different article which is shipped directly to the United States; or

(3) A material which may be imported into the customs territory of the United States from a foreign country and entered free of duty either:

(i) At the time the goods which incorporate the material are entered; or

(ii) At the time the material is imported into the insular possession, provided that the material was incorporated into the goods during the 18-month period after the date on which the material was imported into the insular possession.

(d) *Foreign materials value limitation.* For purposes of this section, the determination of whether goods contain foreign materials valued at more than 70 or 50 percent of the total value of the goods shall be made based on a comparison between:

(1) The landed cost of the foreign materials, consisting of:

(i) The manufacturer's actual cost for the materials or, where a material is provided to the manufacturer without charge or at less than fair market value, the sum of all expenses incurred in the growth, production, or manufacture of the material, including general expenses, plus an amount for profit; and

(ii) The cost of transporting those materials to the insular possession, but excluding any duties or taxes assessed on the materials by the insular possession and any charges which may accrue after landing; and

(2) The final appraised value of the goods imported into the customs territory of the United States, as determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a).

(e) *Direct shipment*—(1) *General.* For purposes of this section, goods shall be considered to come to the United States directly from an insular possession, or to be shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment, only if:

(i) The goods proceed directly to or from the insular possession without passing through any foreign territory or country;

(ii) The goods proceed to or from the insular possession through a foreign territory or country, the goods do not enter into the commerce of the foreign territory or country while en route to the insular possession or the United States, and the invoices, bills of lading, and other shipping documents show the insular possession or the United States as the final destination; or

(iii) The goods proceed to or from the insular possession through a foreign territory or country, the invoices and other shipping documents do not show the insular possession or the United States as the final destination, and the goods:

(A) Remained under the control of the customs authority of the foreign territory or country;

(B) Did not enter into the commerce of the foreign territory or country except for the purpose of sale other than at retail, and the port director is satisfied that the importation into the insular possession or the United States results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

(C) Were not subjected to operations in the foreign territory or country other than loading and unloading and other activities necessary to preserve the goods in good condition.

(2) *Evidence of direct shipment.* The port director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the goods were shipped to the United States directly from an insular possession or shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment within the meaning of paragraph (e)(1) of this section, and such evidence of direct shipment shall be subject to such verification as deemed necessary by the port director. Evidence of direct shipment shall not be required when the port director is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the goods qualify for duty-free treatment under General Note 3(a)(iv), HTSUS, and paragraph (a) of this section.

(f) *Documentation.* (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, there shall be filed with the entry/entry summary a properly completed certificate of origin on Customs Form 3229, signed by the chief or assistant chief customs officer or other official responsible for customs administration at the port of shipment, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin shall not be required for any shipment eligible for informal entry under § 143.21 of this chapter or in any case where the port director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

(2) When goods in a shipment not eligible for informal entry under § 143.21 of this chapter are sought to be admitted free of duty as provided in paragraph (a)(2) of this section, the following declarations shall be filed with the entry/entry summary unless the port director is satisfied by reason of the nature of the goods or otherwise that the goods qualify for such duty-free entry:

(i) A declaration by the shipper in the insular possession in substantially the following form:

I, _____ (name) of _____ (organization) do hereby declare that to the best of my knowledge and belief the goods identified below were sent directly from the United States on _____, 19____, to _____ (name) of _____ (organization) on _____ (insular possession) via the _____ (name of carrier) and that the goods remained in said insular possession until shipped by me directly to the United States via the _____ (name of carrier) on _____, 19____.

Marks	Numbers	Quantity	Description	Value

Dated at _____, this _____ day of _____, 19____.

Signature: _____

(ii) A declaration by the importer in the United States in substantially the following form:

I, _____ (name), of _____ (organization) declare that the (above) (attached) declaration by the shipper in the insular possession is true and correct to the best of my knowledge and belief, that the goods in question were previously imported into the customs territory of the United States and were shipped to the insular possession from the United States without remission, refund or drawback of any duties or taxes paid in connection with that prior importation, and that the goods arrived in the United States directly from the insular possession via the _____ (name of carrier) on _____, 19____.

_____
(Date)

_____
(Signature)

(g) *Warehouse withdrawals; drawback.* Merchandise may be withdrawn from a bonded warehouse under section 557 of the Tariff Act of 1930, as amended (19 U.S.C. 1557), for shipment to any insular possession of the United States other than Puerto Rico without payment of duty, or with a refund of duty if the duties have been paid, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), on goods manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under 19 U.S.C. 1313 on goods manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands or Johnston Atoll.

3. Section 7.8 and footnote 5 thereto are removed.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

2. Section 10.181 is redesignated as § 7.4, and newly redesignated § 7.4 is amended as follows:

a. Paragraph (b) is amended by adding the word ''the'' before the words ''Department of Commerce''.

b. Paragraph (g), second sentence, is amended by removing the words ''Form ITA–360'' and adding, in their place, the words ''Form ITA–361''.

c. Paragraph (h) is amended by removing the word ''Department'' and adding, in its place, the word ''Departments''.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for part 148 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States);

* * * * *

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

* * * * *

§ 148.2 [Amended]

2. Section 148.2(b), first sentence, is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

3. Section 148.12(b)(1)(i) is revised to read as follows:

§ 148.12 Oral declarations.

* * * * *

(b) * * *

(1) * * *

(i) The aggregate fair retail value in the country of acquisition of all accompanying articles acquired abroad by him and of alterations and dutiable repairs made abroad to personal and household effects taken out and brought back by him does not exceed:

(A) $400; or

(B) $600 in the case of a direct arrival from a beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries; or

(C) $1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than $400 of which shall have been acquired elsewhere than in such locations except that up to $600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter;

* * * * *

§ 148.17 [Amended]

4. Sections 148.17(b) and (c) are amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.31 [Amended]

5. Section 148.31(a), first sentence, is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

6. Section 148.31(b) is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.32 [Amended]

7. Section 148.32(d)(2) is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

8. Section 148.33 is amended by revising paragraphs (a), (b), (d) and (f) to read as follows:

§ 148.33 Articles acquired abroad.

(a) *Exemption.* Each returning resident is entitled to bring in free of duty and internal revenue tax under subheadings 9804.00.65, 9804.00.70 and 9804.00.72, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), articles for his personal or household use which were purchased or otherwise acquired abroad merely as an incident of the foreign journey from which he is returning, subject to the limitations and conditions set forth in this section and §§ 148.34–148.38. The aggregate fair retail value in the country of acquisition of such articles for personal and household use shall not exceed:

(1) $400, and provided that the articles accompany the returning resident;

(2) Whether or not the articles accompany the returning resident, $600 in the case of a direct arrival from a

beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries; or

(3) Whether or not the articles accompany the returning resident, $1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than $400 of which shall have been acquired elsewhere than in such locations except that up to $600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter.

(b) *Application to articles of highest rate of duty.* The $400, $600 or $1,200 exemption shall be applied to the aggregate fair retail value in the country of acquisition of the articles acquired abroad which are subject to the highest rates of duty. If an internal revenue tax is applicable, it shall be combined with the duty in determining which rates are highest.

* * * * *

(d) *Tobacco products and alcoholic beverages.* Cigars, cigarettes, manufactured tobacco, and alcoholic beverages may be included in the exemption to which a returning resident is entitled, with the following limits:

(1) No more than 200 cigarettes and 100 cigars may be included, except that in the case of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Virgin Islands of the United States the cigarette limit is 1,000, not more than 200 of which shall have been acquired elsewhere than in such locations;

(2) No alcoholic beverages shall be included in the case of an individual who has not attained the age of 21; and

(3) No more than 1 liter of alcoholic beverages may be included, except that:

(i) An individual returning directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States may include in the exemption not more than 5 liters of alcoholic beverages, not more than 1 liter of which shall have been acquired elsewhere than in such locations and not more than 4 liters of which shall have been produced elsewhere than in such locations; and

(ii) An individual returning directly from a beneficiary country as defined in § 10.191(b)(1) of this chapter may include in the exemption not more than 2 liters of alcoholic beverages if at least 1 liter is the product of one or more beneficiary countries.

* * * * *

(f) *Remainder not applicable to subsequent journey.* A returning resident who has received a total exemption of less than the $400, $600 or $1,200 maximum in connection with his return from one journey is not entitled to apply the unused portion of that maximum amount to articles acquired abroad on a subsequent journey.

§ 148.34 [Amended]

9. Section 148.34(a) is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

10. Section 148.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 148.35 Length of stay for exemption of articles acquired abroad.

(a) *Required for allowance of $400, $600 or $1,200 exemption.* Except as otherwise provided in this paragraph or in paragraph (b) of this section, the $400, $600 or $1,200 exemption for articles acquired abroad shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. The $400 exemption may be allowed on articles acquired abroad by a returning resident arriving directly from Mexico without regard to the length of time the person has remained outside the territorial limits of the United States.

(b) *Not required for allowance of $1,200 exemption on return from Virgin Islands.* The $1,200 exemption applicable in the case of the arrival of a returning resident directly or indirectly from the Virgin Islands of the United States may be allowed without regard to the length of time such person has remained outside the territorial limits of the United States.

* * * * *

§ 148.36 [Amended]

11. Section 148.36 is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.37 [Amended]

12. Section 148.37 is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.38 [Amended]

13. Section 148.38 is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

14. Section 148.51 is amended by revising paragraph (a)(2) to read as follows:

§ 148.51 Special exemption for personal or household articles.

(a) * * *

(2) A returning resident who is not entitled to the $400, $600 or $1,200 exemption for articles acquired abroad under subheading 9804.00.65, 9804.00.70 or 9804.00.72, HTSUS (see Subpart D of this part).

* * * * *

§ 148.64 [Amended]

15. Section 148.64(a), first sentence, is amended by removing the words ''subheadings 9804.00.30 or 9804.00.70,'' and adding, in their place, the words ''subheading 9804.00.30, 9804.00.65, 9804.00.70 or 9804.00.72,''.

§ 148.74 [Amended]

16. Section 148.74(c)(3) is amended by removing the words ''subheading 9804.00.65 and 9804.00.70,'' and adding, in their place, the words ''subheading 9804.00.65, 9804.00.70 or 9804.00.72,''.

§ 148.101 [Amended]

17. In § 148.101, the sixth sentence is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and example 2 is amended by removing the figure ''$2,900'' in the example text and adding, in its place, the figure ''$4,900'', by removing the figure ''$800'' wherever it appears in the example text and table and adding, in its place, the figure ''$1,200'', by removing the figure ''$1,600'' in the table column headed ''Fair retail value'' and adding, in its place, the figure ''$2,400'', by removing the figure ''$4,100'' in the table column headed ''Fair retail value'' and adding, in its place, the figure ''$4,900'', and by removing the figure ''$1,00'' in the table column headed ''Duty'' and adding, in its place, the figure ''$100''.

18. Section 148.102 is amended by revising paragraphs (a) and (b) to read as follows:

§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in Canada, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 10 percent of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the*

Virgin Islands. The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 5 percent of the fair retail value in the location in which acquired.

* * * * *

§ 148.104 [Amended]

19. Section 148.104(c) is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,000''.

Subpart K [Amended]

20. The heading to Subpart K is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

§ 148.110 [Amended]

21. In § 148.110, the first paragraph is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and the second paragraph is amended by adding after ''Guam'' the words '', the Commonwealth of the Northern Mariana Islands,''.

§ 148.111 [Amended]

22. In § 148.111, the introductory text is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and paragraph (a) is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,200''.

§ 148.113 [Amended]

23. Section 148.113(a), first sentence, is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,200''.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

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

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
* * * * * * *		
§ 7.3	Claim for duty-free entry of goods imported from U.S. insular possessions.	1515–0055
* * * * * * *		

Approved: May 27, 1997.

George J. Weise,

Commissioner of Customs.

[FR Doc. 97–23308 Filed 9–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug applications (ANADA) filed by Equi Aid Products, Inc. The ANADA provides for using pyrantel tartrate Type A medicated articles to make Type B medicated feeds used as equine anthelmintics.

EFFECTIVE DATE: September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Equi Aid Products, Inc., 1517 West Knudsen Dr., Phoenix, AZ 85027, filed ANADA 200–168, which provides for using pyrantel tartrate Type A medicated articles to make Type B medicated feeds for horses for prevention of *Strongylus vulgaris* larval infections and control of the following parasites in horses: (1) Large strongyles (adults) *S. vulgaris, S. edentatus, Triodontophorus* spp.; (2) small strongyles (adults and fourth-stage larvae) *Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Cylicodontophorus* spp., *Poteriostomum* spp.; (3) pinworm (adults and fourth-stage larvae) *Oxyuris equi*; and (4) ascarids (adults and fourth-stage larvae) *Parascaris equorum*.

Equi Aid's ANADA 200–168 is approved as a generic copy of Pfizer's NADA 140–819. The ANADA is approved as of September 3, 1997 and 21 CFR 558.485(a) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.485 is amended by adding new paragraph (a)(28) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(28) To 062240: 48 grams per pound, paragraph (e)(2) of this section.

* * * * *

Dated: August 22, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–23245 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 344

[Department of the Treasury Circular, Public Debt Series No. 3–72]

Regulations Governing United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury Bonds—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Department or Treasury) is issuing in final form an amendment to its regulations governing State and Local Government Series (SLGS) securities. It has been brought to the attention of the Department that the SLGS securities program can be misused when subscriptions for SLGS securities are used as a cost-free interest rate hedge or option (option) for speculation in open market securities. This final rule clarifies that the use of SLGS securities for option purposes is prohibited. The purpose of the SLGS securities program is to assist state and local government issuers of tax-exempt bonds in meeting certain Federal tax restrictions, not to provide a cost-free option.

Treasury is considering first, whether it would be consistent with the purposes of the SLGS securities program to allow SLGS securities to serve as options if Treasury were appropriately compensated and second, if the answer to the first question is affirmative, whether there is a practical way for the Department to charge for the use of SLGS securities as options. Neither question, however, has yet been answered. Unless Treasury does determine that it would be both advisable and practical to allow SLGS securities to serve as options if Treasury is appropriately compensated, the use of SLGS securities for such purpose will continue to be an inappropriate use of SLGS securities.

EFFECTIVE DATE: September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Howard Stevens, Director, Division of Special Investments at 304–480–7752, Jim Kramer-Wilt, Attorney/Adviser, Office of the Chief Counsel, at 304–480–5190 or Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, at 304–480–5192.

SUPPLEMENTARY INFORMATION:

1. Background

The SLGS securities program was established and is maintained to assist state and local government issuers in meeting yield restriction and rebate requirements applicable to tax-exempt bonds under the Internal Revenue Code. On October 28, 1996, the Department published revised regulations to make the SLGS securities program a more flexible and competitive investment vehicle for issuers. In response to requests by state and local government issuers to shorten the minimum time for subscribing for SLGS securities, the Treasury revised the regulations to permit an issuer to subscribe for SLGS securities up to 60 days prior to their scheduled issue date and then to cancel that subscription within five days of that issue date for subscriptions of $10 million or less and within seven days for subscriptions of more than $10 million, without penalty. The regulations also provide that an issuer canceling a SLGS securities subscription after that five/seven-day period is not subject to a monetary penalty, but is prohibited from subscribing for SLGS securities for a six month period.

The Department understands that the ability to cancel a SLGS securities subscription without a monetary penalty has led some market participants to conclude that they can both subscribe for SLGS securities and enter into a contract for the purchase of securities on the open market for the same defeasance transaction or fund deposit in order to create a cost-free option in connection with a defeasance escrow or fund.

The prices established by the Treasury for the SLGS securities do not include the cost of an option. The Treasury believes it is inappropriate for government bodies to use the SLGS securities program to create an option. Treasury is considering first, whether it would be consistent with the purposes of the SLGS securities program to allow SLGS securities to serve as options if Treasury were appropriately compensated and second, if the answer to the first question is affirmative, whether there is a practical way for the Department to charge for the use of SLGS securities as options. Neither question, however, has yet been answered. Unless Treasury does determine that it would be both advisable and practical to allow SLGS securities to serve as options if Treasury is appropriately compensated, the use of SLGS securities for options will continue to be an inappropriate use of SLGS securities. The Department has therefore decided to amend the SLGS securities regulations to clarify that transactions in which issuers use SLGS securities to provide a cost-free interest rate hedge or option are prohibited.

The following examples are illustrative of certain acceptable and unacceptable practices:

(1) In order to fund an escrow for an advance refunding, an issuer simultaneously enters into a purchase contract for open market securities and subscribes for SLGS securities, such that either purchase is sufficient to pay the cash flows on the outstanding bonds to be refunded but together, the purchases are greatly in excess of the amount necessary to pay the cash flows. The issuer plans that, if interest rates decline during the period between the date of subscribing for the SLGS securities and the requested date of issuance of the SLGS securities, the issuer will enter into an offsetting agreement to sell the open market securities and use the bond proceeds to purchase the SLGS securities to fund the escrow. If, however, interest rates do not decline in that period, the issuer plans to use the bond proceeds to purchase the open market securities to fund the escrow and cancel the SLGS securities subscription. This arrangement in effect allows the SLGS securities program to provide a cost-free option to the issuer, and this amendment to the regulation clarifies that such transactions are prohibited.

(2) The existing escrow for an advance refunding contains open market securities which produces a negative arbitrage. In order to reduce or eliminate this negative arbitrage, the issuer subscribes for SLGS securities at a yield higher than the yield on the existing escrow, but less than the permitted yield. At the same time, the issuer agrees to sell the open market securities in the existing escrow to a third party and use the proceeds to purchase the SLGS securities if interest rates decline between the date of subscribing for the SLGS securities and the requested date of issuance of the SLGS securities. The issuer and the third party further agree that if interest rates increase during this period, the issuer will cancel the SLGS securities subscription. This arrangement in effect allows the SLGS securities program to provide a cost-free

option to the issuer, and this amendment to the regulation clarifies that such a transaction is prohibited.

(3) Under the same facts as in Example 2, except that in this case, the agreement entered into by the issuer with a third party to sell the open market securities in order to obtain funds to purchase the SLGS securities is not conditioned upon changes in interest rates on Treasury securities. No option is created, and the issuer would not be prohibited from subscribing for SLGS securities.

(4) The issuer subscribes for SLGS securities fifteen days before the settlement date of its bonds at the maximum rates on such day, but the resulting yield in the escrow is less than the permitted yield. The rates on the SLGS securities rise over the next few days, and, within the time periods permitted for cancellation by these regulations, the issuer cancels the earlier subscription and resubscribes at the higher rates. This transaction is permissible.

(5) An issuer holds a portfolio of open market securities in an account that produces negative arbitrage. In order to reduce or eliminate this negative arbitrage, the issuer subscribes for SLGS securities for purchase in sixty days. At the same time, the issuer sells an option to purchase the portfolio of open market securities. If interest rates increase, the holder of the option will not exercise its option and the issuer will cancel the SLGS securities subscription. On the other hand, if interest rates decline, the option holder will exercise the option and the issuer will use the proceeds to purchase the SLGS securities. This arrangement uses the SLGS securities program to provide the issuer with a cost-free option and this amendment to the regulation clarifies that such transactions are prohibited.

2. Section by Section Summary

Subpart A—General Information

(1) 344.1(f)—This is a new paragraph titled Impermissible transactions which applies to all escrows and funds subject to yield or rebate restrictions. It is impermissible to subscribe for SLGS securities for deposit in an escrow or fund (such as a reserve or construction fund) if, at any time between the close of business on the date of subscription and the close of business on the date of issue, the amount of SLGS securities subscribed for, plus the amount of other securities, if any, already in such escrow or fund, plus the amount of other securities the government body has acquired, or has the right to acquire for deposit in such escrow or fund, exceeds the total amount of securities needed for such escrow or fund. Securities held in the escrow or fund that are not subject to an agreement conditioned on changes in the interest rate on open market Treasury securities on or prior to the date of issue of the SLGS securities shall not be included in such computation. An adjustment in the initial subscription amount in accordance with 31 CFR § 344.3(b)(3)(ii) will not in and of itself make the transaction impermissible.

(2) 344.1(g)—This is the paragraph formerly numbered 344.1(f) and is amended to state that the Secretary may revoke the issuance of any security and may declare the subscriber ineligible thereafter to subscribe for SLGS securities if the subscriber uses SLGS securities in an impermissible manner as described in section 344.1(f), if the Secretary deems such action in the public interest.

(3) 344.1 (h), (i) & (j)—These paragraphs are renumbered 344.1 (i), (j) and (k) respectively.

(4) 344.3(b)(3)(iii)—This paragraph is amended to read that an interest rate cannot e changed to a rate that exceeds the maximum interest rate in the table that was in effect for a security of comparable maturity on the date the initial subscription was submitted, unless the issuer obtains a higher rate by canceling and resubscribing in compliance with the provisions of 344.3(b)(1).

Procedural Requirements

This final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, an assessment of anticipated benefits, costs and regulatory alternatives is not required.

This final rule relates to matters of public contract. The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). Since no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) do not apply.

There are no collections of information required by this final rule, and, therefore, no approval pursuant to the Paperwork Reduction Act is required.

List of Subjects in 31 CFR part 344

Bonds, Government securities, Securities.

Dated: August 27, 1997.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set forth in the preamble, part 344 of Title 31 of the Code of Federal Regulations is revised to read as follows:

PART 344—REGULATIONS GOVERNING UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS, TREASURY NOTES, AND TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

1. The authority citation for part 344 continues to read:

Authority: 26 U.S.C. 141 note; 31 U.S.C. 3102.

2. Section 344.1 is amended by redesignating paragraphs (f) through (j) as (g) through (k), adding a new paragraph (f) and amending paragraph (g)(3) as follows:

§ 344.1 General provisions.

* * * * *

(f) *Impermissible Transactions.* It is impermissible to subscribe for SLGS securities for deposit in a defeasance escrow or fund if, at any time between the close of business on the date of subscription and the close of business on the date of issue, the amount of SLGS securities subscribed for, plus the amount of other securities, if any, already in such escrow or fund, plus the amount of other securities the government body has acquired, or has the right to acquire for deposit in an escrow or fund, exceeds the total amount of securities needed to fund such escrow or fund. Securities held in the escrow or fund that are not subject to an agreement conditioned on changes in the interest rate on open market Treasury securities on or prior to the date of issue of the SLGS securities shall not be included in such computation. An adjustment in the subscription amount in accordance with 31 CFR 344.3(b)(3)(ii) will not in and of itself make the transaction impermissible.

(g) *Reservations.*

* * * * *

(3) To revoke the issuance of any security, and to declare the subscriber ineligible thereafter to subscribe for securities under this offering if the Secretary deems such action in the public interest and if any security is issued on the basis of an improper certification, other misrepresentations (other than as the result of an inadvertent error) or in an impermissible transaction as set forth in § 344.1(f).

* * * * *

3. Section 344.3 is amended by revising paragraph (b)(3)(iii) to read as follows:

§ 344.3 Subscription for purchase.

* * * * *

(b) * * *

(3) * * *

(iii) An interest rate cannot be changed to a rate that exceeds the maximum interest rate in the table that was in effect for a security of comparable maturity on the date the initial subscription was submitted, unless the issuer obtains a higher rate by canceling and resubscribing in compliance with the provisions of § 344.3(b)(1).

* * * * *

[FR Doc. 97–23422 Filed 8–29–97; 12:14 pm]

BILLING CODE 4810–39–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

OSD Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of the Secretary of Defense (OSD) exempts a system of records, DFM&P 26, entitled Vietnamese Commandos Compensation Files, from certain provisions of 5 U.S.C. 552a. Exemption is needed to comply with the prohibition against disclosure of properly classified portions of this record system.

DATES: *Effective:* August 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970.

SUPPLEMENTARY INFORMATION:

The proposed rule was published on June 25, 1997, at 62 FR 34187. No comments were received, therefore, the rule is being adopted as published.

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

The proposed rule was published on June 25, 1997, at 62 FR 34187. No comments were received, therefore, the rule is being adopted as published.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub.L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 311.7 is amended by adding paragraphs (c)(10)(i) through (c)(10)(iii) to read as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) *Specific exemptions.* * * *

(10) *System identifier and name*: DFMP 26, Vietnamese Commando Compensation Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1-R, may cause damage to the national security.

Dated: August 28, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 97–23295 Filed 9–2–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 97–015]

RIN 2115–AF43

Antarctic Treaty Environmental Protection Protocol

AGENCY: Coast Guard.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On April 14, 1997, the Coast Guard published a direct final rule (62 FR 18043; CGD 97–015). This direct final rule notified the public of the Coast Guard's intent to establish regulations to implement the Antarctic Science, Tourism, and Conservation Act of 1996. These regulations should guide U.S. owned and/or operated vessels to properly prepare for voyages in the Antarctic. They also harmonize U.S. regulations with international standards, and improve preparedness to respond to a spill. The Coast Guard has not received an adverse comment, or notice of intent to submit an adverse comment, objecting to this rule as written. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as September 30, 1997.

FOR FURTHER INFORMATION CONTACT: LCDR Ray Perry, Project Manager, Office of Environmental Standards (G–MSO), telephone (202) 267–2714.

Dated: August 22, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–23348 Filed 8–28–97; 3:15 pm]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL117–2; FRL 5886–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal.

SUMMARY: On July 14, 1997 (62 FR 37494), the EPA approved Illinois' July 14, 1997, submittal of Rate-of-Progress plans to reduce Volatile Organic Compounds emissions in the Chicago

and Metro-East St. Louis areas by 15 percent (%) by November 15, 1996, contingency plans to reduce VOC emissions by an additional 3% beyond the ROP plans, and transportation control measures for the Metro-East St. Louis area as revisions to the Illinois State Implementation Plan (SIP). The EPA is withdrawing this final rule due to receipt of adverse comments. In a subsequent final rule EPA will summarize and respond to the comments received and announce final rulemaking action on these requested Illinois SIP revisions.

EFFECTIVE DATE: September 3, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6082.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Incorporation by reference, Ozone.

Dated: August 19, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

PART 52—[AMENDED]

Therefore the amendments to 40 CFR part 52 which added § 52.726(p), § 52.726(q), and § 52.726(r) are withdrawn.

[FR Doc. 97–23355 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–61, FCC 97–269]

Denial of Petitions for Reconsideration of Order Regarding Rate Integration

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Memorandum Opinion and Order on Reconsideration, the Federal Communications Commission (the ''Commission'') denies certain petitions for reconsideration because the Commission determines that there is no basis for granting the petitions, and dismisses a motion for partial stay or request for extension because the motion is moot. The intended effect of this action is the denial of petitions for reconsideration, and dismissal of a motion for partial stay or request for extension.

EFFECTIVE DATE: July 30, 1997.

FOR FURTHER INFORMATION CONTACT: William Bailey, Competitive Pricing Division, at (202) 418–1520.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (the ''Commission'') denies petitions for reconsideration of its order entitled, Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, Report and Order, 61 FR 42558 (1996), 11 FCC Rcd 9564 (1996), filed by GTE Service Corporation, U.S. West, Inc., American Mobile Satellite Carriers Subsidiary Corp. (AMSC), and IT&E Overseas, Inc. insofar as the petitions raise issues concerning implementation of the rate integration requirements of section 254(g) of the Communications Act of 1934, as amended. The Commission defers to a later decision issues raised in other petitions for reconsideration of the order concerning implementation of the geographic rate averaging requirements of section 254(g) of the Act. The Commission's order denies petitions for reconsideration filed by GTE Service Corporation and US West, Inc. because it determines that Congress intended the Commission to require rate integration across affiliates. The Commission's order denies the petition for reconsideration filed by AMSC because it determines that the service provided by AMSC is covered by section 254(g) of the Act. Finally, the Commission denies the petition for partial reconsideration filed by IT&E Overseas, Inc. because it determines that IT&E Overseas, Inc. has failed to demonstrate that forbearance is justified so that it can charge higher rates to subscribers in the Commonwealth of the Northern Mariana Islands than in Guam. The Commission also dismisses as moot the Motion for Partial Stay or Request for Extension filed by GTE Service Corporation (GTE).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–23188 Filed 9–2–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 94–30, Notice]

RIN 2127–AF17

Consumer Information Regulations, Uniform Tire Quality Grading Standards

ACTION: Final rule: response to petition for reconsideration.

SUMMARY: This document responds to a petition for reconsideration of a final rule of this agency that amended the Uniform Tire Quality Grading Standards to establish a new traction grade of ''AA'' and to freeze the base course wear rate of course monitoring tires used in treadwear testing at its current value. The petition asked the agency to exclude the petitioner from the applicability of the amended base course wear rate value until the mandatory compliance date of the amendments in the final rule. If that request is not granted, the petitioner requested a lead time of 2 years following publication of the final rule.

This document denies the petition, and reaffirms NHTSA's decision both to maintain the base course wear rate at its current value and the mandatory compliance date specified in the final rule. Further, in response to a number of inquiries, this document makes it clear that manufacturers have the option of early compliance with the amendments in the final rule.

DATES: The amendments promulgated in the final rule of September 9, 1996 (61 FR 47437) become effective March 9, 1998. Optional early compliance with those amendments was permitted beginning October 9, 1996.

Any petition for reconsideration of this rule must be received by NHTSA not later than October 20, 1997.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers noted above for this rule and be submitted to the Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 5109, Washington, DC 20590; telephone (202) 366–4949. Docket room hours are from 9:30 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Orron Kee, Chief, Consumer Program Division, Office of Planning and Consumer Programs, National Highway Traffic

Safety Administration, 400 Seventh Street S.W., Room 5307, Washington, DC 20590; telephone (202) 366–0846; Fax (202) 493–2739.

For legal issues: Mr. Walter Myers, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Room 5219, Washington, DC 20590; telephone (202) 366–2992; Fax (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Background

Section 30123(e) of Title 49, United States Code requires the establishment of a uniform system for grading motor vehicle tires to assist consumers in making informed choices when purchasing tires. Pursuant to that congressional mandate, NHTSA established the Uniform Tire Quality Grading Standards (UTQGS) at 49 CFR § 575.104. The UTQGS are applicable to new pneumatic passenger car tires, except deep tread, winter-type snow tires, space saver or temporary-use spare tires, tires with nominal rim diameters of 10 to 12 inches, and limited production tires as defined in § 575.104(c)(2).

The UTQGS require tire manufacturers and brand name owners to grade and mark their tires with respect to the tires' relative performance in the areas of treadwear, traction, and temperature resistance. Treadwear grades are shown by numbers, such as 100, 160, and 200, while traction and temperature resistance grades are indicated by the letters A, B, and C, with A representing the highest performance rating and C indicating the lowest.

NHTSA published a final rule on September 9, 1996 (61 FR 47437) which amended the UTQGS to add a top-end rating of ''AA'' to the current traction rating categories and to freeze the base course wear rate (BCWR) for course monitoring tires (CMTs) used in treadwear testing at its current value of 1.34 mils per thousand miles (MPTM). The final rule specified an effective date of March 9, 1998.

The Petition

On October 17, 1996 the Japan Automobile Tire Manufacturers Association, Inc. (JATMA) submitted a petition for reconsideration of the final rule asking that NHTSA exclude tires introduced into the United States prior to March 9, 1998 from the freezing of the BCWR at 1.34, and suggesting that the new rule be applicable to new tire lines introduced after the effective date of March 9, 1998 specified in the final rule. JATMA argued that revision of the treadwear grade based on a fixed BCWR value of 1.34 MPTM for tires manufactured before March 9, 1998 will result in 2 different traction grades for the same type of tire being available on the market at the same time, which could be confusing and misleading to consumers. If NHTSA does not grant that request, JATMA asked that a lead time of at least 2 years be provided in the final rule to give them time for ''explanation to the customers and re-tooling all the production tire molds.''

Agency Decision

The BCWR, its purpose and how it is calculated, was discussed at length in both the Notice of Proposed Rulemaking (NPRM) of May 24, 1995 (60 FR 27472) and the final rule of September 9, 1996. To reiterate briefly, CMTs are specially designed and built to American Society for Testing and Materials (ASTM) standard E1136 to be used as the control in the treadwear testing of candidate tires. The BCWR is intended to provide a common baseline for grading candidate tires by relating all new CMTs to the original lot of CMTs. In the past, each new lot of CMTs was tested against the previous lot and a new BCWR calculated for the new lot. NHTSA has noted, however, that over the years the BCWRs of successive new lots have steadily declined which, in turn, has resulted in significant increases in treadwear grades. Treadwear grades have increased to the extent that the agency believes that they have become misleading indicators of actual tread life when compared to tires tested earlier with higher BCWRs. Based on the belief that the BCWR calculation is flawed, NHTSA decided to freeze the BCWR at its latest value, 1.34 MPTM, to arrest the inflation in treadwear grades. Other benefits include elimination of the expense of testing and calibrating each new lot of CMTs, reduction in the procurement and storage of CMTs for resale, and the environmental benefits of eliminating at least one test convoy per year.

The BCWR value has not been specified in the UTQGS in the past because, as explained above, the BCWR has been recalculated for each new lot. The agency has historically sold CMTs to tire manufacturers and test laboratories for their own testing purposes, each time advising those purchasers of the BCWR for that lot. The periodic changing of the BCWR has not in the past obligated tire manufacturers to change the treadwear grade of an existing tire line that was tested at an earlier time, regardless of the BCWR value in effect at the time, so long as the tire design and compounding of that line remains unchanged. The freezing of the BCWR does not alter the obligations of the tire manufacturers. Thus, tires of the same line but with different treadwear grades should not appear simultaneously on store shelves. If that situation does occur, however, it should present neither a new nor significant problem for tire manufacturers and retailers.

With respect to JATMA's suggestion that the freezing of the BCWR be applicable to new tire lines marketed after the mandatory compliance date of March 9, 1998, NHTSA points out that, as explained above, the BCWRs of each new lot of CMTs in the past has been recalculated and those BCWRs have been utilized in the testing of both CMTs and candidate tires. The current BCWR value of 1.34 MPTM was calculated for the latest lot of CMTs procured and tested in 1995. Thus, that value would have been assigned to those CMTs and used by NHTSA, manufacturers, and test facilities in any case. The agency's action in freezing the BCWR at that value only made that figure permanent instead of temporary.

In view of the above discussion, the agency denies JATMA's request to delay the effective date for the freezing of the BCWR.

With respect to the JATMA's alternative request to provide a lead time of 2 years after publication of the final rule, the agency also addressed this issue in the final rule, explaining that a lead time of 18 months

> [S]hould permit new labels and brochures to be prepared and printed *in accordance with the normal business cycle*, without undue scrappage of obsolete material. With respect to changing tire molds, the agency notes that since an AA rating is optional, tire manufacturers *have an unlimited time in which to change molds* on qualifying tire lines, if they decide to rate their tires with a traction grade of AA at all.

(61 FR at 47441) (emphasis added). The agency continues to believe that a lead time of 18 months is ample time in which to phase in new tire molds for those manufacturers that want to develop and market tires with an AA traction grade and to phase in new tread labels and point-of-sale brochures explaining the new AA traction grade.

The agency notes that no one else has objected to or opposed the 18-month lead time specified in the final rule as being inadequate. On the contrary, a number of tire manufacturers have expressed an intent to market new tire lines with AA traction grades before the March 9, 1998 effective date, and want to start testing and preparing molds, tread labels, and advertising campaigns now. Several, however, expressed

confusion as to whether the final rule permitted early compliance.

In reviewing the final rule, NHTSA recognizes that an ambiguity could reasonably exist as to the permissibility of early compliance. In drafting the final rule, NHTSA was aware of a number of comments on the NPRM addressing various difficulties in complying with the traction proposals and the added costs involved. To minimize costs and any compliance difficulties, the agency specified an effective date of 18 months so that manufacturers could phase in compliance in the normal course of changing tire molds and updating tread labels, sales brochures, and advertising materials (see above quote from the final rule at 61 FR 47441). In addition, in discussing the cost/benefits of the AA rating, the agency stated at 61 FR 47442:

> The addition of an AA traction grade will not require any additional testing by manufacturers. Further, as previously noted, the assessing of an AA traction grade is optional for manufacturers. Accordingly, *any costs associated with changing tire molds to show an AA grade can be phased in at the manufacturers' convenience and during the regular course of reworking the molds for their tire lines* (emphasis added).

In summary, the agency's action in freezing the BCWR at 1.34 MPTM was primarily intended to arrest the treadwear grade creep that has been occurring over the past several years. Since the BCWR for the latest lot of CMTs, calculated at 1.34 MPTM in 1995, would have been assigned to that lot and used by NHTSA, manufacturers, and test facilities in any case, and because no retesting or regrading is required as a result of that action, the agency sees no need to delay the freezing of the BCWR. Accordingly, NHTSA denies JATMA's request.

With respect to the effective date, the amendments promulgated by the final rule permitted but did not require tire manufacturers to assign an AA traction grade to their tire lines that demonstrate traction characteristics higher than 0.54μ on wet asphalt and higher than 0.38μ on wet concrete. The only mandatory requirement imposed by the final rule was an explanation of the AA grade to be added to the tread label required by § 575.104(d)(1)(i)(*B*)(*2*), along with the required explanation of the other grading categories. In drafting the final rule, the agency considered the preamble language quoted and emphasized above sufficiently clear to express the agency's intent that manufacturers could phase in, at their convenience and in the normal course of business, compliance with the new labeling requirement and the preparation of the molds for the tires they wanted to grade AA for traction. In view of the uncertainty as to the permissibility of early compliance expressed by some manufacturers, however, NHTSA declares that early compliance with the provisions of the final rule is permitted at any time after 30 days following publication of the final rule in the **Federal Register**, namely October 9, 1996 (see **DATES** above).

Authority: 49 U.S.C. §§ 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on August 26, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–23315 Filed 9–2–97; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 62, No. 170

Wednesday, September 3, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 319

[Docket No. 96–006P]

RIN 0583–AC 09

Beef or Pork With Barbecue Sauce; Revision of Standard

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In response to a petition, the Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations by removing meat yield requirements for the standardized products ''Beef With Barbecue Sauce'' and ''Pork With Barbecue Sauce.'' The petitioner states that the current product standard, promulgated in 1952, places producers of these products at a competitive disadvantage because producers of other meat and sauce products do not have a cooked meat yield requirement or a raw meat yield requirement. This action would provide consistent requirements for most meat and sauce producers.

DATES: Comments must be received on or before November 3, 1997.

ADDRESSES: Send an original and two copies of written comments to: FSIS Docket Clerk, Docket No. 96–006P, Room 102, Cotton Annex, 300 12th St., SW, Washington, DC 20250. All comments submitted in response to this proposal will be available for public inspection in the FSIS Docket Room, Room 102, Cotton Annex from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Post, Acting Director, Facilities, Equipment, Labeling, and Compound Review Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 418–8900.

SUPPLEMENTARY INFORMATION:

Background

Section 319.312 of the Federal meat inspection regulations requires that the products labeled as ''Beef With Barbecue Sauce'' and ''Pork With Barbecue Sauce'' must contain a minimum of 50 percent cooked meat of the species identified on the label, that the cooked meat must be reduced by cooking to no more than 70 percent of the weight of the uncooked meat, and if uncooked meat is used to produce the product, the product must contain at least 72 percent meat computed on the weight of the uncooked meat.

Meat yield requirements were originally promulgated for certain standardized products, e.g., :''Hash'' (§ 319.302), ''Corned Beef Hash'' (§ 319.303) and ''Beef or Pork with Barbecue Sauce'' (§ 319.312). Other similar standardized meat and sauce products, such as ''Meat Stews (§ 319.304), ''Beans with Frankfurters in Sauce, Sauerkraut with Wieners and Juice, and similar products'' (§ 319.309), and ''Beef with Gravy and Gravy with Beef'' (§ 319.313), do have minimum meat content requirements, but do not require specific cooked or uncooked meat yields.

FSIS has been petitioned by the American Meat Institute to amend the Federal meat inspection regulations by removing a cooked meat yield requirement and a raw meat yield requirement for the standardized products ''Beef With Barbecue Sauce'' and ''Pork With Barbecue Sauce.'' The petitioner asserts that the product standard, promulgated in 1952, does not reflect the conditions of commercial marketability of beef or pork with barbecue sauce in that consumers readily accept such a sauce with a minimum meat content without regard to the amount of liquid in the product. Further, these obsolete requirements place producers of these products at a competitive disadvantage with respect to manufacturers of similar products, such as ''Beef with Gravy'' who do not have such requirements. FSIS agrees with the petitioner in both of these assertions. FSIS further believes that clarification of this standard will benefit the public by providing a clearer standard of identity and that the public will better understand the standard.

Executive Order 12866

This proposal is considered not significant and, therefore, has not been reviewed by the Office of Management and Budget.

Effect on Small Entities

The Administrator, FSIS, has determined that this proposal will not have a significant impact on a substantial number of small entities. The proposal would remove obsolete meat yield requirements and provide consistent requirements for producers of most meat and sauce products.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform.

This rule (1) preempts all State and local laws and regulations that are inconsistent with this rule; (2) has not retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

List of Subjects in 9 CFR Part 319

Meat inspection, Standards of identity or composition.

For the reasons discussed in the preamble, FSIS is proposing to amend Part 319 of the Federal meat inspection regulations (9 CFR Part 319) as follows:

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

1. The authority citation for part 319 would be revised as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 319. 312 would be amended to revise the first sentence to read as follows:

§ 319.312 Pork with barbecue sauce and beef with barbecue sauce.

''Pork with Barbecue Sauce'' and ''Beef with Barbecue Sauce'' shall consist of not less than 50 percent cooked meat of the species specified on the label. * * *

Done at Washington, DC, on August 26, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–23248 Filed 9–2–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Countervailing Duties

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of public hearing on proposed countervailing duty regulations and of opportunity to file post-hearing comments.

SUMMARY: The Department of Commerce (''the Department'') is postponing the public hearing on the proposed countervailing duty regulations previously scheduled for September 9, 1997. The hearing will now be held on October 17, 1997. The deadline for filing post-hearing comments is now October 27, 1997.

DATES: A public hearing will be held at 10:00 on October 17, 1997. The deadline for filing post-hearing comments is October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Yeske at (202) 482–0189.

SUPPLEMENTARY INFORMATION: On February 26, 1997, the Department published proposed countervailing duty regulations containing changes resulting from the Uruguay Round Agreements Act (62 FR 8818). We requested and received written comments from the public. On July 21, 1997, we announced that a public hearing would be held on September 9, 1997 and that the deadline for submitting post-hearing comments was September 19, 1997 (62 FR 38948). We are now postponing the public hearing and the comment period.

Hearing

The public hearing on the proposed countervailing duty regulations will now be held at 10:00 on October 17, 1997, in room 4830 of the Herbert C. Hoover Building at Pennsylvania Avenue and 14th Street, N.W., Washington, D.C.

Comments (Format and Number of Copies)

The Department will accept post-hearing comments regarding any issues raised at the hearing or in any written comments previously submitted to the Department. The deadline for the submission of post-hearing comments is now October 27, 1997. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation. To facilitate their consideration by the Department, comments regarding the proposed regulations should be submitted in the following format: (1) identify each comment by reference to the section and/or paragraph of these proposed regulations to which the comment pertains; [1] (2) begin each comment on a separate page; (3) concisely state the issue identified and discussed in the comment; and (4) provide a brief summary of the comment (a maximum of 3 sentences) and label the section ''summary of the comment.''

To simplify the processing and distribution of the public comments pertaining to the Department's proposed regulations, parties are encouraged to submit documents in electronic form accompanied by an original and three paper copies. All documents filed in electronic form must be on DOS formatted 3.5″ diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. If possible, the Department would appreciate the documents being filed in either ASCII format or WordPerfect, and containing generic codes. The Department would also appreciate the use of descriptive filenames.

Dated: August 27, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23370 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–DS–P

[1] If a comment does not pertain to a particular proposed regulation, please clearly identify the comment as ''Other,'' followed by a brief description of the issue to which the comment pertains; *e.g.*, ''Other—Infrastructure.''

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[CA–001–PP; FRL–5885–7]

Clean Air Act Proposed Approval of Title V Operating Permits Program Revisions; Santa Barbara County Air Pollution Control District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to Rule 1301 of Regulation XIII, both as a revision to the federally-approved State Implementation Plan (SIP) and as a revision to the title V operating permit program to be adopted by the Santa Barbara County Air Pollution Control District (Santa Barbara, SBCAPCD, or District). The District submitted this rule to EPA on August 11, 1997, and is scheduled to adopt this rule on September 18, 1997, for the purpose of allowing Department of Defense facilities to become exempt from title V of the Clean Air Act permit requirements, if the source implements an emission reduction plan that achieves a minimum reduction of 10 tons per year of ozone precursors. Amended Rule 1301 also identifies 9 stationary source designations for title V purposes that will apply to a DoD facility that implements an approved emission reduction plan. It also allows the exclusion of emissions from tactical support equipment and infrastructure building maintenance equipment from the emissions used to determine if an operating permit is required under District Regulation XIII and title V of the Clean Air Act.

This proposed rule will create federally-enforceable requirements for the emission reduction plan with specific project milestones for DoD facilities to meet. The actual emission reduction plan will also be submitted for incorporation into the SIP in a future rulemaking.

DATES: Comments on this proposed action must be received in writing by October 3, 1997.

ADDRESSES: Comments must be submitted to John Walser at EPA, AIR–3, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the rules and EPA's Technical Support Document for the amended title V program and prohibitory rule are available for public inspection during normal business hours at the following locations:

Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117

California Air Resources Board, 2020 L Street, Sacramento, CA 95814

FOR FURTHER INFORMATION CONTACT: John Walser (telephone 415/744–1257), Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 1995, EPA published in the **Federal Register** a final action of interim approval for Santa Barbara's title V operating permits program (60 FR 55460) in accordance with title V of the Act (as amended in 1990) and 40 CFR

part 70 (the title V implementing regulations). The District rules for title V are contained in Regulation XIII of the District Rules and Regulations. On August 15, 1996, Santa Barbara adopted revisions to Rule 1301, ''Part 70 Operating Permits—General Information'' portion of Regulation XIII. Rule 1301 is part of Regulation XIII. These revisions apply to any source that qualifies as a Part 70 source and meets the requirements for exclusion of military tactical support and/or infrastructure building maintenance equipment at a Department of Defense facility. In Santa Barbara County, only Vandenberg Air Force Base (VAFB) meets these requirements. The revision enables VAFB to comply with Rule 370, the District's prohibitory rule, which limits the Base's potential to emit to below the title V applicability thresholds and requires VAFB to reduce its annual emissions rate of ozone precursors by at least 10 tons through the ENVVEST initiative. The rule revision also includes emission reduction plan requirements and milestones to be approved by the District and made federally-enforceable by the EPA by incorporating the rule revisions into the SIP for California, if EPA finds that the planned emission reductions are real, quantifiable, surplus and enforceable.

ENVVEST is a pilot project pursuant to the 1995 Memorandum of Agreement between the DoD and EPA on Regulatory Reinvention Projects testing innovative approaches to environmental protection. ENVVEST allows EPA and the DoD to develop new ways to achieve better overall environmental performance at lower costs than expected under existing regulatory approaches.

The emission reductions will be achieved through retrofits of equipment (mostly boilers rated between 2 and 5 MMBtu/hr) currently exempt from the permitting process. In lieu of obtaining a Part 70 permit, VAFB will commit to use its title V permitting funds to implement an emission reduction plan to reduce ozone precursors at the base by at least 10 tons per year by November 15, 2002.

The District is enabling VAFB to reprogram funds currently targeted toward title V compliance to this pollution prevention project by modifying the definition of stationary source to enable Department of Defense (DoD) facilities (i.e., VAFB) to comply with Rule 370. This proposed rule change also includes the project milestones as outlined in the Vandenberg ENVVEST Final Project Agreement (FPA). The proposed changes are consistent with EPA's August 2, 1996 Guidance Memorandum entitled ''Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act (Act)'', signed by John S. Seitz, Director, Office of Air Quality Planning and Standards (''Military Guidance'').

The proposed changes also enable the source to exclude emissions from equipment meeting the EPA definition of nonroad engines (see 59 FR 31310 dated June 17, 1994) for Department of Defense (DoD) facilities that are participating in the EPA/DoD Environmental Investment (ENVVEST) pilot project.

Also, the District, the California Air Resources Board (CARB) and EPA are working together to ''parallel process'' this rule revision consistent with the procedures outlined in 46 FR 44477 on September 4, 1981. EPA Region IX will work closely with CARB and the District as they develop this regulation and proceed through the rulemaking process. CARB, the District, and EPA will process this rule revision at the same time and jointly review the comments. EPA will commence its official 30-day public review of the proposed SIP approval of Rule 1301 through this document, which is nearly concurrent with the District's 30-day public notice for adoption of the rule. This parallel processing approach will involve much earlier involvement of the EPA in the SIP revision process and thereby reduce the amount of time for processing significantly.

II. Proposed Action

The EPA is proposing to approve the submitted revisions to the District's operating permits program and incorporate the submitted revisions into the SIP for California. The District amended the August 15, 1996 adopted version of Rule 1301 and resubmitted it on August 11, 1997. The most recent revisions, scheduled for adoption on September 18, 1997 by Santa Barbara, are being made in order to allow VAFB participation in the EPA/DoD proposed ENVVEST pilot project and are not adopted in response to the program deficiencies identified by EPA in the final interim approval action (60 FR 55460).

A. Analysis of Submission

The EPA has evaluated the submitted rule revision and has determined that it is consistent with 40 CFR part 70, and the August 2, 1996 Military Guidance Memorandum. The following is a brief analysis of the key regulatory revisions being acted on in today's proposed action. (Please refer to the Technical Support Document for a more detailed and complete analysis of the submission.)

1. Definition of Major Stationary Source

As defined in 40 CFR part 70.2, major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

VAFB is the only DoD facility in Santa Barbara County that is subject to the revisions of the stationary source definition in District Rule 1301. At present the installation is defined as one major stationary source. In accordance with EPA's Military Guidance Memorandum and as part of the ENVVEST pilot project, the proposed changes allow VAFB to be considered nine stationary sources and to demonstrate that actual emissions for each source (each under separate common control, not determined to be support facilities and have different two-digit SIC codes) are less than 50 percent of the existing major source threshold. For the purposes of the ENVVEST pilot project, EPA has assumed worst case analysis for threshold levels and that Santa Barbara County would be bumped-up from moderate to serious ozone nonattainment status, and therefore the major source threshold level would drop from 100 tons/year (moderate) to 50 tons/year (serious).

EPA is proposing approval of the title V operating permit program revisions submitted to EPA on August 11, 1997, both as part of the District's title V program and into the SIP. These revisions do not correct the deficiencies identified in the November 1, 1995 final interim approval, and hence, do not impact Santa Barbara's interim approval status.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Docket

Copies of Santa Barbara's submittal and other information relied upon for the direct final actions are contained in docket number CA–001–PP OPS maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this direct final rulemaking. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address revisions to Santa Barbara's existing operating permits program that was submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on 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 the 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 today 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. Executive Order 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects

40 CFR Part 52

Environmental protection, air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: August 22, 1997.

John Wise,

Regional Administrator.

[FR Doc. 97–23362 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–5887–4]

RIN 2060–AE56

Proposed Revision of Standards of Performance for Nitrogen Oxide Emissions From New Fossil-Fuel Fired Steam Generating Units; Proposed Revisions to Reporting Requirements for Standards of Performance for New Fossil-Fuel Fired Steam Generating Units; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revision; extension of public comment period.

SUMMARY: The EPA is announcing the extension of the public comment period on the Proposed Revision of Standards of Performance for Nitrogen Oxide Emissions From New Fossil-Fuel Fired Steam Generating Units and the Proposed Revisions to Reporting Requirements for Standards of Performance for New Fossil-Fuel Fired Steam Generating Units which were published on July 9, 1997 (62 FR 36947).

DATES: Comments must be received on or before October 8, 1997.

ADDRESSES: Comments should be submitted in duplicate to: U.S. Environmental Protection Agency, The Air and Radiation Docket and Information Center (6102), 401 M Street, SW, Room 1500, Washington, DC 20460. Attention Docket Number A–92–71. The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m., Eastern time, on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Eddinger [(919) 541–5426], Combustion Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: In response to a request from several companies and trade groups, the EPA is extending the public comment period from September 8, 1997, to October 8, 1997, on the Proposed Revision of Standards of Performance for Nitrogen Oxide Emissions From New Fossil-Fuel Fired Steam Generating Units and the Proposed Revisions to Reporting Requirements for Standards of Performance for New Fossil-Fuel Fired Steam Generating Units. The EPA agrees that an extension of the comment period will provide for more meaningful, constructive comments on the proposed revisions to the standards of performance.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 27, 1997.

Richard Wilson,

Acting Assistant Administrator for Office of Air and Radiation.

[FR Doc. 97–23360 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95–184; MM Docket No. 92–260; FCC 97–304]

Telecommunications Services Inside Wiring; Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on proposed procedures for the disposition of cable inside wiring (including both the cable home wiring within the premises of the individual subscriber and the home run wiring dedicated to an individual subscriber's

unit) upon termination of service in multiple dwelling unit (''MDU'') buildings. This Further Notice of Proposed Rulemaking (''Further NPRM'') contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13. It has been submitted to the Office of Management and Budget (''OMB'') for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Comments must be submitted on or before September 25, 1997 and reply comments must be submitted on or before October 2, 1997. Written comments by the public on the proposed and/or modified information collections are due September 25, 1997. Written comments must be submitted by OMB on the proposed and/or modified information collections on or before November 3, 1997.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Rick Chessen, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained in this Further NPRM, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

Paperwork Reduction Act: This Further NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (''OMB'') to comment on the information collections contained in this Further NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due at the same time as other comments on this Further NPRM; OMB comments are due November 3, 1997. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0692.

Title: Home Wiring Provisions.

Type of Review: Revision of an existing collection.

Respondents: Individuals; Business and other for-profit entities.

Number of Respondents: 30,000 (20,000 MVPDs and 10,000 MDU owners).

Estimated Time Per Response: 5 minutes to 30 minutes.

Total Annual Burden to Respondents: 33,928 hours, calculated as follows: This collection (3060–0692) previously only contained information collection requirements concerning the disposition of cable home wiring. In addition to those requirements, it now addresses proposed notification and election requirements between MDU owners and all multichannel video programming distributors (''MVPDs''). Pursuant to the Paperwork Reduction Act, when modifying or proposing additional information collection requirements in an existing collection, agencies are obligated to put forth the entire collection for public comment. 47 CFR § 76.802 Disposition of Cable Home Wiring. In calculating hour burdens for the disposition of home wiring, we make the following estimates: There are approximately 20,000 MVPDs serving approximately 72 million subscribers in the United States. The average rate of churn (subscriber termination) for all MVPDs is estimated to be 1% per month, or 12% per year. MVPDs own the home wiring in 50% of the occurrences of voluntary subscriber termination and subscribers already own the wiring in the other 50% of occurrences (e.g., where the MVPD has charged the subscriber for the wiring upon installation, has treated the wiring as belonging to the subscriber for tax purposes, or where state and/or local law treats cable home wiring as a fixture). Where MVPDs own the wiring, we estimate that they intend to actually remove the wiring 5% of the time, thus initiating the disclosure requirement. We believe in most cases that MVPDs will choose to abandon the home wiring because the cost and effort required to remove the wiring generally outweigh its value. The burden to disclose the information at the time of termination will vary depending on the manner of disclosure, i.e., by telephone, customer visit or registered mail. Virtually all voluntary service terminations are done by telephone. The estimated average time consumed in the process of the MVPD's disclosure and subscriber's election is 5 minutes (.083 hours). Estimated annual number of occurrences is 72,000,000 × 12%×50%×5%=216,000. Estimated annual burden for MVPDs is 216,000×.083 hours=17,928 hours. 47 CFR § 76.802 also states that to inform subscribers of per-foot replacement costs, MVPDs may develop schedules based on readily available information; if the MVPD chooses to develop such schedules, it must place them in a public file and make them available for public inspection during regular business hours. We estimate that 50% of MVPDs will develop cost schedules to place in their public files. Virtually all subscribers terminate service via telephone, with few subscribers anticipated to review cost schedules on public file. The annual recordkeeping burden for cost schedules is estimated to be 0.5 hours per MVPD. Estimated annual recordkeeping burden is 20,000×50%×0.5 hours=5,000 hours. 47 CFR § 76.804 Disposition of Home Run Wiring. We estimate the burden for notification and election requirements for building-by-building and unit-by-unit disposition of home run wiring as described below. Note that these requirements apply only when an MVPD owns the home run wiring in a MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the entity that owns the common areas of the MDU or have a legally enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes. For building-by-building disposition of home run wiring, the MDU owner gives the MVPD a minimum of 90 days' notice that its access to the entire building will be terminated. The MVPD then has 30 days to elect what it will do with the home run wiring. Where parties negotiate a price for the wiring and are unable to agree on a price, the incumbent MVPD must make another election between abandonment or removal of the wiring.

For unit-by-unit disposition of home run wiring, an MDU owner must notify the incumbent MVPD of its decision to permit multiple MVPDs to compete for the right to use the individual home run wires dedicated to each unit. The incumbent MVPD then has 30 days to elect what it will do with all of its home run wires dedicated to a subscriber who chooses an alternative provider's service. According to the Statistical Abstracts of the United States, 1995 at 733 Table No. 1224, over 28 million people resided in MDUs with three or more units in 1993. We therefore estimate there are currently 30 million MDU residents and that MDUs house an average of 50 residents, and so we estimate that there are approximately 600,000 MDUs in the United States. In many instances, MVPDs may no longer own the home run wiring or may continue to have a legally enforceable right to remain on the premises. Also, MDU owners may choose not to undergo the notice and election process. The Commission therefore estimates that there will be 10,000 notices and 12,000 elections made on an annual basis. The larger amount of elections accounts for instances when parties are unable to agree on a price for the sale of home run wiring, therefore necessitating an additional election. We assume all notifications and elections will be in writing and take an average burden of 30 minutes (0.5 hours) to prepare. 22,000 notifications and elections×0.5 hours=11,000 hours.

Total Annual Cost to Respondents: $32,000 estimated as follows: For operation and maintenance costs, we estimate that 50% of the 20,000 MVPDSs will annually develop cost schedules. Recordkeeping expenses for these schedules is estimated to be $1 per MVPD. 20,000×50%×$1=$10,000. Also, annual stationery and postage costs for home run wiring disposition notifications and elections are estimated to be $1 per occurrence. 22,000 notifications and elections×$1=$22,000. There are no estimated capital and start-up costs.

Needs and Uses: The various notification and election requirements in this collection (3060–0692) are set forth in order to promote competition and consumer choice by minimizing any potential disruption in service to a subscriber switching video providers.

SUPPLEMENTARY INFORMATION: The following is a synopsis of the Commission's Further NPRM in CS Docket No 95–184 and MM Docket No. 92–260, adopted August 27, 1997 and released August 28, 1997. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Washington, DC 20037.

Synopsis

A. Introduction

1. This Further Notice of Proposed Rulemaking (''Further NPRM'') sets forth specific proposals for addressing certain issues raised in the Notice of Proposed Rulemaking in CS Docket No. 95–184 (''Inside Wiring NPRM'') and the First Order on Reconsideration and Further Notice of Proposed Rulemaking in MM Docket 92–260 (''Cable Home Wiring Further NPRM'') regarding potential changes in our telephone and cable inside wiring rules. The issues raised in this Further NPRM are intended to supplement the issues already discussed in the Inside Wiring NPRM and the Cable Home Wiring Further NPRM.

2. We believe that our inside wiring rules could more effectively promote competition and consumer choice, but we believe that the record would benefit from additional comment on our specific proposals. We stress that the Commission intends to act quickly on these proposals. The proposals herein are set forth in great detail and generally are limited to a single issue: the disposition of cable inside wiring in multiple dwelling unit buildings (''MDUs'') upon termination of service. In addition, our proposals herein are similar to a proposal first made by the Independent Cable & Telecommunications Association (''ICTA'') in its initial comments in this proceeding, described more fully by ICTA in an ex parte letter to the Commission, and discussed by interested parties in ex parte letters. Accordingly, and in light of the extensive comments and ex parte meetings and comments received in response to the Inside Wiring NPRM and the Cable Home Wiring Further NPRM, we have set shorter deadlines than usual for interested parties to file comments and reply comments. We ask parties to refrain from filing comments that are repetitive of their comments filed in response to the Inside Wiring NPRM and the Cable Home Wiring Further NPRM. All such comments will be considered as part of the record filed in response to this Further NPRM to the extent they remain relevant.

3. Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 (the ''1992 Cable Act''), codified at section 624(i) of the Communications Act, requires the Commission to ''prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.'' In February 1993, the Commission issued a Report and Order implementing section 624(i) (the ''Cable Wiring Order''). The Cable Wiring Order provided that when a subscriber voluntarily terminates cable service, the operator is required, if it proposes to remove the wiring, to inform the subscriber: (1) That he or she may purchase the wire; and (2) what the per-foot charge is. If the subscriber declined to purchase the home wiring, the operator was required to remove it within 30 days or make no subsequent attempt to remove it or to restrict its use.

4. We further provided that the subscriber may purchase the cable home wiring inside his or her premises up to the demarcation point. As in the telephone context, a demarcation point generally is the point at which a service provider's system wiring ends and the customer-controlled wiring begins. From the customer's point of view, this point is significant because it defines the wiring that he or she may own or control. For purposes of competition, the demarcation point is significant because it defines the point where an alternative service provider may attach its wiring to the customer's wiring in order to provide service.

5. For MDUs with non-''loop-through'' wiring, the cable demarcation point was set at (or about) 12 inches outside of where the cable wire enters the subscriber's individual dwelling unit. Generally, in a non-loop-through configuration, each subscriber in an MDU has a dedicated line (often called a ''home run'') running to his or her premises from a common ''feeder line'' or ''riser cable'' that serves as the source of video programming signals for the entire MDU. The riser cable typically runs vertically in a multi-story building (e.g., up a stairwell) and connects to the dedicated home run wiring at a ''tap'' or ''multi-tap,'' which extracts portions of the signal strength from the riser and distributes individual signals to subscribers. Depending on the size of the building, the taps are usually located in a security box (often called a ''lockbox'') or utility closet located on each floor, or at a single point in the basement. Each time the riser cable encounters a tap, its signal strength decreases. In addition, the strength of a signal diminishes as the signal passes through the coaxial cable. As a result,

cable wiring often requires periodic amplification within an MDU to maintain picture quality. Amplifiers are installed at periodic intervals along the riser based upon the number of taps and the length of coaxial cable within the MDU. Non-cable video service providers typically employ a similar inside wiring scheme, except that many of them (e.g., multichannel multipoint distribution services (''MMDS''), satellite master antenna services (''SMATV'') and direct broadcast satellite (''DBS'') providers) use wireless technologies to deliver their signal to an antenna on the roof of an MDU, and then run their riser cable down from the roof to the taps and dedicated home run wires.

6. In January 1996, the Commission issued the Cable Home Wiring Further NPRM and the Inside Wiring NPRM. In the Cable Home Wiring Further NPRM, among other things, the Commission clarified that, during the initial telephone call in which a subscriber voluntarily terminates cable service, if the operator owns and intends to remove the home wiring, it must inform the subscriber: (1) That the cable operator owns the home wiring; (2) that it intends to remove the home wiring; (3) that the subscriber has a right to purchase the home wiring; and (4) what the per-foot replacement cost and total charge for the wiring would be, including the replacement cost for any passive splitters attached to the wiring on the subscriber's side of the demarcation point. Where an operator fails to adhere to these procedures, it is deemed to have relinquished immediately any and all ownership interests in the home wiring, and thus, is not entitled to compensation for the wiring and may make no subsequent attempt to remove it or restrict its use. If the cable operator informs the subscriber of his or her rights and the subscriber agrees to purchase the wiring, constructive ownership over the home wiring will transfer immediately to the subscriber, who may authorize a competing service provider to connect with and use the home wiring. If, on the other hand, the subscriber declines to purchase the home wiring, the operator has seven business days to remove the wiring or make no subsequent attempt to remove it or restrict its use.

7. In the Inside Wiring NPRM, we sought comment on ''whether and how our wiring rules can be structured to promote competition both in the markets for multichannel video programming delivery and in the market for telephony and advanced telecommunications services.'' In particular, we requested comment on whether and where the Commission should establish a common demarcation point for wireline communications networks, whether we should continue to establish demarcation points based on the services provided over facilities, or whether we should create demarcation points based upon the nature of the facilities ultimately used to deliver the service (i.e., narrowband termination facilities or broadband termination facilities). We noted that we ''recognize that numerous other factors may affect the proper location of the cable network's demarcation point, as well as one's control over cable inside wiring and cable service generally.'' We also sought comment on the ''legal and practical impediments faced by telecommunications service providers in gaining access to subscribers.''

B. The Competitive Landscape

8. The evidence in this proceeding leads us to conclude that more is needed to foster the ability of subscribers who live in MDUs to choose among competing service providers. Based on the record evidence, we believe that one of the primary competitive problems in MDUs is the difficulty for some service providers to obtain access to the property for the purpose of running additional home run wires to subscribers' units. The record indicates that MDU property owners often object to the installation of multiple home run wires in the hallways of their properties, for reasons including aesthetics, space limitations, the avoidance of disruption and inconvenience, and the potential for property damage.

9. We believe that property owners' resistance to the installation of multiple sets of home run wiring in their buildings may deny MDU residents the ability to choose among competing service providers, thereby contravening the purposes of the Communications Act, and particularly section 624(i), which was intended to promote consumer choice and competition by permitting subscribers to avoid the disruption of having their home wiring removed upon voluntary termination and to subsequently utilize that wiring for an alternative service. We believe that the impact is substantial. As of 1990, there were almost 31.5 million MDUs in the United States, comprising approximately 28% of the nationwide housing market. Moreover, the trend between 1980 and 1990 indicates that the number of MDUs is growing at a much faster rate than the number of single family dwellings. Data also shows that MDUs make up between 32% and 84% of the housing market in cities with the greatest numbers of households receiving cable service.

10. The record does not demonstrate that the current cable home wiring rules, having been in place for four years, provide adequate incentives for MDU property owners to permit the installation of multiple home run wires. We believe that disagreement over ownership and control of the home run wire substantially tempers competition. The record indicates that, where the property owner or subscriber seeks another video service provider, instead of responding to competition through varied and improved service offerings, the incumbent provider often invokes its alleged ownership interest in the home run wiring. Incumbents invoke written agreements providing for continued service, perpetual contracts entered into by the incumbent and previous owner, easements emanating from the incumbent's installation of the wiring, assertions that the wiring has not become a fixture and remains the personal property of the incumbent, or that the incumbent's investment in the wiring has not been recouped, and oral understandings regarding the ownership and continued provision of services. Written agreements are frequently unclear, often having been consummated in an era of an accepted monopoly, and state and local law as to their meaning is vague. Invoking any of these reasons, incumbents often refuse to sell the home run wiring to the new provider or to cooperate in any transition. The property owner or subscriber is frequently left with an unclear understanding of why another provider cannot commence service. The litigation alternative, an option rarely conducive to generating competition, while typically not pursued by the property owner or subscriber, can be employed aggressively by the incumbent. The result is to chill the competitive environment.

C. Disposition of Home Run Wiring

11. We propose to establish procedures for building-by-building disposition of the home run wiring (where the MDU owner decides to convert the entire building to a new video service provider) and for unit-by-unit disposition of the home run wiring (where an MDU owner is willing to permit two or more video service providers to compete for subscribers on a unit-by-unit basis) where the MDU owner wants the alternative provider to be able to use the existing home run wiring. We believe that these procedural mechanisms will not create or destroy any property rights, but will promote competition and consumer choice by

bringing order and certainty to the disposition of the MDU home run wiring upon termination of service.

12. In today's marketplace, alternative video service providers have no timely and reliable way of ascertaining whether they will be able to use the existing home run wiring upon a change in service. MDU owners are similarly unsure of their legal rights. Because of this uncertainty, an MDU owner seeking to change providers may be confronted with choosing among: (1) Allowing the alternative provider to install duplicative home run wiring before it knows whether the incumbent will abandon the existing home run wiring when it leaves; (2) waiting to see what the incumbent does with the home run wiring when it leaves the building, risking a potential disruption in service to its residents; (3) staying with the incumbent provider; or (4) allowing the alternative provider to use the home run wiring and risking litigation. The proposed procedures are intended to provide all parties sufficient notice and certainty of whether and how the existing home run wiring will be made available to the alternative video service provider so that a change in service can occur efficiently. We tentatively conclude that establishing rules governing the disposition of the MDU home run wiring will represent a substantial step toward increased competition in the MDU video programming service marketplace.

13. We propose that the procedural mechanisms described below would apply only where the incumbent provider no longer has an enforceable legal right to remain on the premises against the will of the MDU owner. In other words, these procedures would not apply where the incumbent provider has a contractual, statutory or common law right to maintain its home run wiring on the property. In the building-by-building context, the procedures below would not apply where the incumbent provider has a legally enforceable right to maintain its home run wiring on the premises against the MDU owner's wishes and prevent any third party from using the wiring; in the unit-by-unit context, the procedures below would not apply where the incumbent provider has a legally enforceable right to keep a particular home run wire dedicated to a particular unit (not including the wiring on the subscriber's side of the demarcation point) on the premises against the property owner's wishes. We are not proposing to preempt an incumbent's ability to rely upon any rights it may have under state law. We seek comment on the impact of this condition on the efficacy of our proposal, and how any adverse effects should be addressed. In particular, we seek comment on whether the Commission can and should create any presumptions or other mechanisms regarding the relative rights of the parties if the incumbent's right to maintain its home run wiring on the premises is disputed. For example, we seek comment on a presumption that the incumbent does not possess an enforceable legal right to maintain its home wiring on the premises (and therefore that our proposed procedures would apply), unless the incumbent can adduce a clear contractual or statutory right to remain.

i. Building-by-Building Disposition of Home Run Wiring

14. We seek comment on the following proposal: where the incumbent service provider owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises, and the MDU owner wants to be able to use the existing home run wiring for service from another provider, the MDU owner may give the incumbent service provider a minimum of 90 days' notice that the provider's access to the entire building will be terminated. The incumbent provider would then have 30 days to notify the MDU owner in writing of its election to do one of the following for all the home run wiring inside the MDU: (1) To remove the wiring and restore the MDU to its prior condition by the end of the 90-day notice period; (2) to abandon and not disable the wiring at the end of the 90-day notice period; or (3) to sell the wiring to the MDU owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90-day notice period, the incumbent provider would be required to notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the MDU owner refuses to purchase the home run wiring, the alternative video service provider may purchase it.

15. We are concerned that an incumbent provider may initially elect to remove its home run wiring and then decide to abandon it. Such conduct could put the alternative service provider to the unnecessary burden and expense of installing a second set of home run wires when the incumbent has no intention of removing the existing wiring. We seek comment on whether to adopt penalties for incumbent providers that elect to remove their home run wiring and then fail to do so.

16. Where the incumbent provider elects to sell the home run wiring, our preference is to let the parties negotiate the price of the wiring. We seek comment on whether market forces would provide adequate incentives for the parties to reach a reasonable price. If market forces are insufficient, we seek comment on how a reasonable price should be established. For instance, we seek comment on whether: (1) The Commission should establish broad guidelines within which negotiations would occur (e.g., a reasonable price should be more than a nominal amount but should not include the incumbent provider's lost opportunity costs); (2) the price should be left to negotiations between the parties but the Commission should establish a default price if the parties cannot reach an agreement; or (3) the Commission should establish a general rule or formula for determining a reasonable price. If parties believe that the Commission should establish guidelines, a default price, a general rule or formula, we seek comment on the type of guidelines, default price, general rule or formula that should be established.

17. We propose that, if the parties negotiate a price, they would have 30 days from the date of election to negotiate a price for the home run wiring. The parties could also negotiate to purchase additional wiring (e.g., riser cables) at their option. If the parties are unable to agree on a price, the incumbent would be required to elect to either abandon or remove the wiring and notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90-day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment would become effective at the end of the 90-day notice period or upon service termination, whichever occurs first. Similarly, if the incumbent elects to remove its wiring and restore the building to its prior condition, it would have to do so by the end of the 90-day notice period. If the incumbent failed to comply with any of the deadlines established herein, it would be deemed to have elected to abandon its home run wiring at the end of the 90-day notice period.

ii. Unit-by-Unit Disposition of Home Run Wiring

18. We also seek comment on the following proposal for unit-by-unit disposition of home run wiring. Where the incumbent video service provider owns the home run wiring in an MDU

and does not (or will not at the conclusion of the notice period) have a legally enforceable right to maintain its home run wiring on the premises, the MDU owner may permit multiple service providers to compete head-to-head in the building for the right to use the individual home run wires dedicated to each unit. We propose that, where an MDU owner wishes to permit such head-to-head competition, the MDU owner must provide at least 60 days' notice to the incumbent provider of the owner's intention to invoke the following procedure. The incumbent service provider would then have 30 days to provide the MDU owner with a written election as to whether, for all of the incumbent's home run wires dedicated to individual subscribers who may later choose the alternative provider's service, it will: (1) remove the wiring and restore the MDU to its prior condition; (2) abandon the wiring without disabling it; or (3) sell the wiring to the MDU owner. In other words, the incumbent service provider would be required to make a single election for how it will handle the disposition of individual home run wires whenever a subscriber wishes to switch video service providers; that election would then be implemented each time an individual subscriber switches service providers. The alternative service provider would be required to make a similar election within this same 30-day period for any home run wiring that the alternative provider subsequently owns (i.e., after the alternative provider has purchased the wiring from the current incumbent provider) and that is solely dedicated to a subscriber who switches back from the alternative provider to the incumbent. We also tentatively conclude that it would streamline and expedite the process to permit the alternative service provider or the MDU owner to act as the subscriber's agent in providing notice of a subscriber's desire to change services. We tentatively conclude that unauthorized changes in service (i.e., ''slamming'') are unlikely to occur in this context; if slamming does occur, however, we would propose to take additional steps to protect consumers, such as requiring proof of agency.

19. As with the proposed building-by-building procedures, we would prefer to let the parties negotiate for the sale of the home run wiring and seek comment on whether market forces will produce a reasonable price. If market forces are not adequate, we seek comment on the appropriate mechanism for establishing a reasonable price for the home run wiring. We propose that, if one or both of the video service providers elects to negotiate for the sale of the home run wiring, the parties have 30 days from the date of such election to reach an agreement. During this 30-day negotiation period, the incumbent, the MDU owner and/or the new provider could also work out arrangements for an up-front lump sum payment in lieu of a unit-by-unit payment. An up-front lump sum payment would permit either service provider to use the home run wiring to provide service to a subscriber without the administrative burden of paying separately for each home run wire every time a subscriber changes providers. We also propose that, if the parties cannot agree on a price, the incumbent provider would be required to elect one of the other two options (i.e., abandonment or removal). If the incumbent fails to comply with any of the deadlines established herein, we propose to treat the home run wiring as abandoned and permit the alternative provider to use the home run wiring immediately to provide service.

20. We propose that, after completion of this initial process, a provider's election would be carried out if and when the provider is notified either orally or in writing that a subscriber wishes to terminate service and that an alternative service provider intends to use the existing home run wire to provide service to that particular subscriber. At that point, a provider that has elected to remove its home run wiring would have seven days to do so and to restore the building to its prior condition. We tentatively conclude that seven days is adequate for removal because we believe that, unlike in the building-by-building context, the provider would only be required to remove a single home run wire. If the current service provider has elected to abandon or sell the wiring, the abandonment or sale would become effective seven days from the date it receives a request for service termination or upon actual service termination, whichever occurs first. We would propose that, if the incumbent provider intends to terminate service prior to the end of the seven-day period, the incumbent would be required to inform the subscriber or the subscriber's agent (whichever is notifying the incumbent that the subscriber wishes to terminate service) at the time of the request for service termination of the date on which service will be terminated. In addition, we would propose to require the incumbent provider to disconnect the home run wiring from its lockbox and to leave it accessible for the new provider by the end of the seven-day period or within 24 hours of actual service termination, whichever occurs first.

21. We base the above procedures on the assumption that the alternative service provider will have an incentive to ensure that the incumbent is notified that the alternative service provider intends to use the existing home run wire to provide service. To the extent this assumption is inaccurate, we seek comment on how the incumbent's election regarding the home run wiring in the unit-by-unit context should be triggered efficiently and so as to minimize disruption of service. If the subscriber's service is simply terminated without any indication that a competing service provider wishes to use the home run wiring, the incumbent service provider would not be required to carry out its election to sell, remove or abandon the home run wiring. This might occur, for instance, where an MDU tenant is moving out of the building. In such cases, we do not believe that it would be appropriate to require the incumbent to sell, remove or abandon the home run wiring when it might have every reasonable expectation that the next tenant will request its service. We would propose, however, that the incumbent provider would be required to carry out its election with regard to the home run wiring if and when it receives notice from a subsequent tenant (either directly or through an alternative provider) that the tenant wishes to use the home run wiring to receive a competing service.

22. Moreover, we propose that, even where the incumbent receives a request for service termination but does not receive notice that an alternative provider wishes to use the home run wiring, the incumbent must follow the procedures set forth in our cable home wiring rules—e.g., to offer to sell to the subscriber any cable home wiring that the incumbent provider otherwise intends to remove. First, the required notice in the unit-by-unit context may be effected in two stages (i.e., the subscriber may call to terminate service and the alternative provider may separately notify the incumbent that it wishes to use the home run wiring). We believe that, in order for the home run wiring and the home wiring to be disposed of in a coordinated manner, our cable home wiring rules must apply upon any termination of service. In addition, we believe that subscribers should have the right to purchase their home wiring to protect themselves from unnecessary disruption associated with removal of home wiring, regardless of whether they intend to subscribe to an alternative service.

iii. Ownership of Home Run Wiring

23. In both the building-by-building and unit-by-unit approaches, we propose to give the MDU owner the initial option to negotiate for ownership and control of the home run wiring because the property owner is responsible for the common areas of a building, including safety and security concerns, compliance with building and electrical codes, maintaining the aesthetics of the building and balancing the concerns of all of the residents. Moreover, vesting ownership of the home run wiring in the MDU owner, as opposed to the alternative service provider, will reduce future transaction costs since the procedures proposed herein would not need to be repeated if service is subsequently switched again. Nevertheless, we recognize that some MDU owners may not want to own the home run wiring in their buildings; we propose that in such cases the alternative service provider should be permitted to purchase the wiring.

24. We do not believe that individual subscribers would be disadvantaged by having the MDU owner own the home run wiring. If a subscriber has the ability to choose between multiple service providers in the unit-by-unit context, the MDU owner has already concluded that it is willing to permit multiple service providers on the premises in order to compete for subscribers. Given that the MDU owner would have voluntarily opened its building to multiple competitors, we do not believe that the MDU owner would deny a resident the ability to use the home run wiring for the resident's provider of choice. Furthermore, we believe that, if the alternative service provider purchases the home run wiring, that provider would not be able to act as a bottleneck and the individual subscriber would continue to be protected because, as described herein, the alternative service provider would also be subject to these same procedures if and when the alternative provider's service is terminated.

iv. Impact on Incumbent Video Service Providers

25. We tentatively conclude that cable operators' argument that the loss of their home run wiring eliminates their ability to provide other telecommunications services is misplaced. Cable operators' ability to compete in the telephony market should be largely unaffected. The procedures proposed herein apply where the incumbent has no legally enforceable right to remain on the premises and the MDU owner and/or the individual subscriber has selected another provider's package—notwithstanding the incumbent's other telecommunications services. Given MDU owners' resistance to the installation of multiple home run wires, we tentatively conclude that affording consumers a choice among various packages offered by multiple service providers is better than the current situation, in which MDU residents often have no choice at all. Under our proposal, MDU owners would remain free to implement the type of multiple-wire model advocated by the cable industry by requiring all service providers to install their own home run wires.

26. Cable operators also complain that property owners often act as ''gatekeepers'' in selecting a service provider and pursue their own interests rather than the interests of their residents. While we acknowledge how these circumstances can exist, we tentatively conclude that where the real estate market is competitive, it will discourage MDU owners from ignoring their residents' interests. In addition, the rules we propose do not grant MDU owners any additional rights, but simply establish a procedural mechanism for MDU owners to enforce rights they already have. Moreover, in the unit-by-unit context, the MDU owner would be expanding its residents' choices, not restricting them.

v. Application of Procedural Framework

27. In both the building-by-building and unit-by-unit contexts, one of our goals is to promote competition and consumer choice by minimizing any potential disruption in service to a subscriber switching video service providers. To that end, we have proposed certain rules herein designed to give the subscriber reasonable notice if and when his or her service will be terminated prior to the end of the applicable notice period. In addition, we would propose to adopt a general rule requiring the parties to cooperate to ensure as seamless a transition as possible. We seek comment on whether it is necessary to promulgate such a rule, or whether a provider's desire to win the subscriber back will compel the provider to cooperate during the transition period.

28. We also propose that the above procedural mechanisms would apply regardless of the identity of the incumbent video service provider involved. While initially this incumbent would commonly be a cable operator, it could also be a SMATV provider, an MMDS provider, a DBS provider or others.

vi. Statutory Authority

29. We believe that the Commission has authority under sections 4(i) and 303(r) of the Communications Act to establish procedures for the disposition of MDU home run wiring upon termination of service. Section 4(i) permits the Commission to ''perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.'' The Commission may properly take action under section 4(i) even if such action is not expressly authorized by the Communications Act, as long as the action is not expressly prohibited by the Act and is necessary to the effective performance of the Commission's functions. We propose to invoke section 4(i) here because the law does not expressly prohibit the Commission from adopting procedures regarding the disposition of home run wiring and because affording the widest range of competitive opportunities is necessary to effectuate the purposes of the Communications Act.

30. Section 4(i) has been held to justify various Commission regulations that were not within explicit grants of authority. In these cases, the courts found that the Commission's regulations were not inconsistent with the Communications Act because they did not contravene an express prohibition or requirement of the Act, and were reasonably ''necessary and proper'' for the execution of the agency's enumerated powers. Most recently, in *Mobile Communications Corp.* v. *FCC*, the United States Court of Appeals for the District of Columbia Circuit acknowledged the Commission's authority under section 4(i) to regulate even where the Communications Act does not explicitly authorize such action. In that case, the D.C. Circuit held that the Commission had authority under 4(i) to require Mtel, which held a pioneer's preference, to pay for a narrowband personal communications service (''PCS'') license, despite the fact that the Act did not specifically authorize the Commission to charge a price for a license granted to a pioneer's preference holder. The court denied Mtel's argument that the Commission's action was inconsistent with the Communications Act and therefore not within the Commission's section 4(i) power. Mtel argued that Congress' explicit grant of authority to the Commission to collect certain fees and to conduct auctions for specified types of licenses denied the Commission authority to impose other fees. The court found Mtel's reliance on the

expressio unius maxim—that the expression of one is the exclusion of other—misplaced. According to the court, ''[t]he maxim 'has little force in the administrative setting,' where we defer to an agency's interpretation of a statute unless Congress has 'directly spoken to the precise question at issue.' '' The court also denied Mtel's argument that, in the absence of an affirmative statutory mandate to support the payment requirement, the Commission's action was not ''necessary in the execution of [the Commission's] functions,'' as required by section 4(i).

31. Applying these principles here, we conclude that the Commission is authorized under section 4(i) to establish procedures regarding the disposition of MDU home run wiring upon termination of service. First, establishing rules regarding the disposition of the home run wiring upon termination is necessary to the execution of the Commission's functions. As noted above, section 624(i) directs the Commission to prescribe rules regarding the disposition of wiring within a subscriber's premises in order to promote consumer choice and competition by permitting subscribers to avoid the disruption of having their home wiring removed upon voluntary termination and to subsequently utilize that wiring for an alternative service. We believe that, under our current rules, we cannot fully meet those objectives in the MDU context because, as described above, MDU owners often will not permit multiple home run wires to be installed in their buildings. In order to promote consumer choice and competition, we therefore propose to prescribe additional rules regarding the disposition of the existing home run wiring upon termination of service.

32. Further, we propose to premise our decision to establish procedures regarding the disposition of home run wiring in MDUs on the Communications Act's fundamental purpose of ''regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States * * * a rapid, efficient, Nation-wide, and world-wide wire and radio communications service * * *.'' Moreover, we propose to premise our decision on the pervasive regulatory structure Congress established regarding cable communications, the goal of which is to replicate or encourage competitive conditions. Section 601 of the Communications Act states that one of the purposes of Title VI is to promote competition in cable communications. Due to the lack of competitive alternatives in multichannel video programming services, Congress has authorized the Commission to ensure that basic cable services, including equipment, are available at reasonable rates, to ensure that cable programming service rates are not unreasonable, and to establish standards whereby cable operators fulfill customer service requirements.

33. We believe that establishing procedures regarding the disposition of MDU home run wiring will assist the Commission in discharging its statutory obligations under section 623(b) and its overall responsibility to pursue Congress' preference for competition stated in the 1992 Cable Act. Section 623(b) of the Communications Act requires the Commission to prescribe rules to ensure that rates for basic cable service are ''reasonable'' and that such regulations ''shall include standards to establish, on the basis of actual cost, the price or rate for * * * installation and lease of equipment used by subscribers * * *.'' The regulations authorized by section 623(b) cover ''equipment used by subscribers to receive the basic cable service tier, including * * * equipment as is required to access programming * * *.'' The term ''equipment'' under section 623(b) includes cable inside wiring. This extensive authority seeks to foster enhanced services to the subscriber at reasonable prices.

34. We believe that establishing the above procedures regarding the disposition of MDU home run wiring is necessary to fulfill section 623(b)'s mandate of reasonable basic cable rates. We believe that these procedures will provide advance certainty for property owners, alternative video service providers and subscribers regarding the disposition of the home run wiring when the existing service is terminated, thereby alleviating current circumstances that deter the property owner from considering alternative service providers and fostering competition among service providers. We believe that such competitive choice will exert a restraining influence on rates as service providers compete for the opportunity to serve the entire building or individual subscribers.

35. Moreover, in the 1992 Cable Act, Congress specifically embraced a ''[p]reference for competition'' over regulation in setting rates for cable services. Fostering competition among service providers through the adoption of rules regarding the disposition of MDU home run wiring is a fundamental means to ensure that cable service rates remain ''reasonable.'' The legislative history of section 623(b) states that Congress agreed that ''[r]ather than requiring the Commission to adopt a formula to establish the price for equipment, the Commission is given the authority to choose the best method of accomplishing the goals of this legislation.'' We therefore find that it is within our scope of authority under the 1992 Cable Act to establish procedural mechanisms that encourage reasonable rates through a competitive environment rather than a regulatory one.

36. Finally, we believe that our proposed approach would help to fulfill Congress' mandate in the 1996 Act to ''provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans.'' We believe that adoption of the above procedural mechanisms would enhance competition, fostering the deployment of innovative technologies and expanded services.

37. We believe that the above provisions authorize the Commission not only to establish regulations duplicating the behavior of a competitive market, but to take actions that prompt the evolution of a true competitive environment. Based on the record before us, we find that failing to establish such procedures would continue existing barriers to competitive choice for individuals residing in MDUs. Individuals residing in MDUs often are currently limited to receiving service from only one provider. Although we recognize that subscriber choice would be enhanced by the use of multiple wires, we do not believe that requiring MDU owners to permit multiple wires is a viable option at this point in time. We believe that the inability of the MDU owner to use the existing home run wiring deters consideration of alternative providers, and that providing certainty with regard to the disposition of the MDU home run wiring provides a reasonable means of increasing choice and promoting competition.

38. We also conclude that, in accordance with the second part of section 4(i), the procedural mechanisms we are proposing are not inconsistent with any provision of the law. Nothing in the language of section 624(i) prohibits the Commission from adopting rules concerning wiring outside the subscriber's premises. This is not a circumstance where the general canon of statutory construction, the ''specific governs the general,'' applies. The courts have found this canon applicable only where there ''is an 'inescapable conflict' between the specific provision

and the general provision.'' Section 624(i) does not expressly prohibit the Commission from adopting rules affecting home run wiring. Thus, we tentatively conclude that there is no ''inescapable conflict'' between section 624(i) and the procedures discussed below. To the contrary, as described above, we believe that the rules we are proposing will further promote section 624(i)'s underlying purpose of promoting consumer choice and competition by permitting subscribers to use their existing home wiring to receive an alternative video programming service. Finally, as the *Mtel* court found, the *expressio unius maxim*—that the expression of one is the exclusion of other—'' 'has little force in the administrative setting,' where we defer to an agency's interpretation of a statute unless Congress has 'directly spoken to the precise question at issue.' '' Indeed, the *Mtel* court stated: ''[W]e think the nature of Congress's auction authorization more supports than undermines the Commission's decision here.''

39. While the legislative history of section 624(i) indicates that Congress was concerned about the potential for theft of service and signal leakage, we believe that the rules we are proposing would not have an adverse impact on those concerns. First, we do not believe that the procedural mechanisms we are proposing will increase the frequency of service theft; a provider's control over its network security is unaffected by our rules. Our proposed rules do not give the MDU owner, the alternative service provider or the subscriber access to the incumbent's riser cable or lockbox. Second, our proposed rules would not affect the service provider's signal leakage responsibilities. It would remain the duty of the provider to protect against signal leakage while it is providing service, regardless of who owns the home run wiring in the building.

40. We also think that cable operator reliance on the ''Joint Use'' provision of the 1996 Act (codified at section 652(d)(2) of the Communications Act) as evidence of Congress' intent that cable operators retain ownership and control of the home run wiring is misplaced. Section 652(d)(2) provides generally that a LEC may obtain permission from the cable operator to use that part of the transmission facilities extending from the last multi-user terminal to the premises of the end user, and that such use must be reasonably limited in scope and duration. Cable operators assert that this provision invests them with ownership and control of all cable wiring outside the subscriber demarcation point, including the home run wiring, even after a subscriber terminates service, as Congress otherwise would not have established rules allowing cable operators to set the terms and conditions for a LEC's use of the facilities.

41. We disagree. Notably, section 652(d)(2) is entitled ''Joint Use,'' indicating Congress'' intent for the provision to govern only the joint use of the facilities by a cable operator and a local exchange carrier. It is an exception to the general prohibition in section 652(c) on joint ventures or partnerships between cable operators and LECs that serve the same market area. We believe that section 652(d)(2) does not constrain our authority to establish procedures governing the disposition of the home run wiring because the provision only addresses use of the wiring while the cable operator continues to own or use the facilities. Here, the procedural mechanisms would not apply until the cable operator has no legally enforceable right to remain on the premises and the MDU owner and/or subscriber terminates the operator's service.

42. Additionally, we believe that had Congress intended the ''Joint Use'' provision to govern cable wiring, it would have placed the provision in section 624, which sets forth the existing wiring provisions, rather than in section 652, which concerns telephone company-cable television cross-ownership restrictions. We also agree with alternative video service providers that Congress would have enumerated additional types of potential users of cable operators' wiring, other than telephone companies, if it had intended this provision to cover uses of the wiring other than the limited situation of wiring being shared between a LEC and a cable operator.

43. We believe that we have authority to apply all our cable inside wiring rules to all MVPDs, and not just to cable operators. Section 303(r) of the Communications Act authorizes the Commission, as required by public convenience, interest, or necessity, to promulgate rules and restrictions, not inconsistent with law, as may be necessary to carry out the provisions of the Act. We believe that applying these rules to over-the-air video service providers would be in the public interest. The same competitive concerns described above exist regardless of whether a cable operator or some other video service provider initially installed a subscriber's or an MDU's inside wiring. In addition, we believe that applying our cable home wiring rules to MVPDs that are radio licensees would not be inconsistent with section 624(i) and would further its purposes, since subscribers could use their existing inside wiring to receive an alternative service. Further, for similar reasons to those discussed above in proposing procedures for disposition of the home run wiring in MDUs for cable operators, such procedures would not be inconsistent with section 624(i) if applied to MVPDs that are radio licensees.

44. In addition, we tentatively conclude that we have the authority under sections 201 to 205 of the Communications Act to extend our cable inside wiring rules to common carriers engaged in the transmission of video programming. We tentatively conclude that section 4(i) also invests the Commission with authority to expand our rules in this manner with regard to MVPDs that are neither radio licensees nor common carriers. Again, we tentatively conclude that the same competitive concerns are present regardless of the type of service provider that initially installs the broadband inside wiring. In addition, we tentatively conclude that such an extension of our rules is necessary in the execution of our functions and is not inconsistent with the Communications Act, as described above. To promote parity among broadband competitors and to fulfill the directives of the 1992 Cable Act and the 1996 Act, we propose to apply our cable inside wiring rules to all MVPDs.

vii. Constitutional Arguments

45. We tentatively conclude that the procedural mechanisms we have proposed do not constitute an impermissible ''taking'' under the Fifth Amendment. First, there is no forced taking of the incumbent's physical property, since the incumbent has a reasonable opportunity to remove, abandon, or sell the wiring. If the incumbent fails to act within the reasonable periods set forth and its wiring is deemed abandoned, it is the operator's failure to act, not the Commission's rule, that would extinguish the cable operator's rights. The Fifth Amendment cannot be construed to allow a service provider with no contractual or other legal right to remain on a person's property to leave its wiring on the property indefinitely and prohibit the property owner from using it. In addition, there can be no taking of the incumbent's access rights because the procedures expressly apply only where the incumbent does not have a contractual, statutory or other legal right to maintain its wiring on the premises. We seek

comment on these tentative conclusions.

D. Disposition of Cable Home Wiring

46. We believe that fostering competitive choice in MDUs requires the coordinated disposition of two segments of cable wiring: (1) The home run wiring from the point where the wiring becomes devoted to an individual unit to the cable demarcation point; and (2) the cable home wiring from the demarcation point to the subscriber's television set or other customer premises equipment. Without clear and predictable rules for the disposition of each of these segments, an alternative provider's ability to convince an MDU owner or individual subscriber to switch services could be significantly compromised. The procedural framework proposed above addressed the disposition of MDU home run wiring. Here, we set forth a specific proposal on how to address certain issues regarding the disposition of MDU cable home wiring. We believe that these rules will promote competition and consumer choice by providing a comprehensive and workable framework for the disposition of MDU cable wiring.

47. As in the context of home run wiring, we propose that these home wiring procedural mechanisms apply regardless of the identity of the incumbent video service provider involved. While initially this incumbent would commonly be a cable operator, it could also be a SMATV provider, an MMDS provider, a DBS provider or others. We tentatively conclude that we have the authority to apply these home wiring rules to other video service providers. We request comment on this proposal.

i. Building-by-Building Disposition of Home Wiring

48. In the Cable Home Wiring Further NPRM, we requested comment on, among other issues, whether, in order to promote the goals of section 624(i) and our rules thereunder, the subscriber (on a non-loop-through wiring configuration) or the building owner (with a loop-through wiring configuration) should be given the opportunity to purchase the cable home wiring when the MDU owner terminates cable service for the entire building.

49. We tentatively conclude that, if the MDU owner has the legal right, either by law or by contract, to terminate the subscriber's cable service, the owner terminating service for the entire building is effectively voluntarily terminating service on the subscribers' behalf. We therefore tentatively conclude that our home wiring rules would be triggered when an MDU owner terminates service for the entire building. We tentatively conclude that providing the cable operator a single point of contact (i.e., the MDU owner) would further the statutory purposes of minimizing disruption and facilitating the transfer of service to a competing video service provider. Because we believe that it would be impractical and inefficient for the incumbent provider to deal with each individual subscriber regarding the disposition of his or her cable home wiring when the entire MDU is switching providers, we propose to deem the MDU owner to be acting as the terminating ''subscriber'' for purposes of the disposition of the cable home wiring within the individual dwelling unit where the cable home wiring is not already owned by a resident. We request comment on this proposal. Similarly, with regard to bulk service contracts, we tentatively conclude that it is logical for the landlord to be deemed the subscriber, and thus for the landlord to have the right to purchase the wiring as provided in our general rules. We tentatively conclude, however, that this rule should not override a bulk service contract that specifically provides for the disposition of the wiring upon termination of the contract.

50. We propose that, when an MDU owner provides an incumbent provider with its minimum of 90 days notice that the incumbent provider's access to the entire building will be terminated and that the MDU owner seeks to use the home run wiring for another service, the incumbent provider must, in accordance with our current home wiring rules, (1) offer to sell to the MDU owner any home wiring within the individual dwelling units which the incumbent provider owns and intends to remove, and (2) provide the MDU owner with the total per-foot replacement cost of such home wiring. As with the home run wiring, if the MDU owner declines to purchase the cable home wiring not already owned by a resident, the alternative service provider could elect to purchase it upon service termination under our rules.

51. We propose to require that the MDU owner decide whether it or the alternative provider will purchase the cable home wiring and so notify the incumbent provider no later than 30 days before the termination of access to the building will become effective. We propose to modify our current home wiring rules to allow the incumbent provider 30 days, rather than the current seven, to remove all of the cable home wiring for the entire building. We believe this is appropriate given the amount of home wiring that may need to be removed from an entire building. We propose that, if the MDU owner and the alternative service provider decline to purchase the home wiring, the incumbent provider would not be permitted to remove the home wiring until the date of actual service termination, i.e., likely 90 days after the building owner notified the incumbent that its access to the entire building will be terminated. Under these circumstances, we would propose that if the incumbent provider fails to remove the home wiring within 30 days of actual service termination, it could make no subsequent attempt to remove the wiring or restrict its use. We request comment on this proposal.

ii. Unit-by-Unit Disposition of Home Wiring

52. In the unit-by-unit context, we propose to continue to apply our rules permitting terminating subscribers (or their agents) to purchase the cable home wiring up to a point approximately 12 inches outside their individual units. We continue to believe that this is consistent with the purposes of section 624(i) to promote consumer choice and competition by permitting subscribers to avoid the disruption of having their home wiring removed upon voluntary termination and to subsequently utilize that wiring for an alternative service. We do, however, propose to modify our rules in two ways. First, as discussed below, we propose to permit the MDU owner or the alternative service provider to purchase the cable home wiring within each unit if the subscriber declines, provided that the building owner timely notifies the incumbent provider that it or the alternative provider wants to purchase the home wiring whenever a subscriber declines. Second, we propose to change the time in which an incumbent provider must remove the home wiring or make no further effort to use it or restrict its use from seven business days to seven calendar days after the individual subscriber terminates service. We believe that this minor change is sufficient time for removal of a single unit's cable home wiring, and will avoid customer confusion by having the time permitted for the provider to remove the home wiring within the individual unit run concurrently with the time permitted for the provider to remove, sell or abandon the home run wiring outside the unit.

53. In the Cable Home Wiring Further NPRM, we requested comment on whether the premises owner should have the right to purchase the cable

home wiring when a subscriber who voluntarily terminates cable service does not own the premises and elects not to purchase the wiring. We tentatively conclude that an MDU owner should be permitted to purchase the wiring within an individual dwelling unit based on the per-foot replacement cost if the individual subscriber declines to do so. This approach would preserve the current subscriber's rights, and still allow the building owner to act on behalf of future tenants, thus promoting competition and consumer choice. As with the home run wiring, if the MDU owner declines to purchase the cable home wiring, the alternative service provider would be permitted to purchase it. Except with respect to the building-by-building procedure described above, we would not require that the building owner or the alternative provider have the opportunity to purchase the wiring before the subscriber has the opportunity to do so because we believe that Congress intended for section 624(i) to promote individual subscriber choice whenever possible. Our preference is therefore for the subscriber to control its own home wiring, and only when that is not reasonable or efficient, for the building owner or alternative provider to control it.

54. We propose that the MDU owner should notify the incumbent provider of its election to purchase or to allow the alternative provider to purchase the home wiring at the same time as the MDU owner provides the incumbent provider with 60 days notice that it intends to allow head-to-head competition within its building. Thus, the MDU owner would be required to inform the incumbent provider one time for the entire building. If the MDU owner fails to provide the incumbent with such notice, the incumbent would be under no obligation to sell the home wiring to the MDU owner or the alternative provider when an individual subscriber terminates and declines to purchase the wiring. We request comment on this proposal.

E. Alternatives to Procedural Framework

55. In some cases, there may be room in the molding or conduit for an alternative service provider to install its home run wiring without interfering with the incumbent's wiring. We propose to permit the alternative service provider to install its wiring within the existing molding or conduit, even over the incumbent provider's objection, where there is room in the molding or conduit and the MDU owner does not object. We seek comment on whether and how to allow compensation for the alternative service provider's use of the molding or conduit. We tentatively conclude that such a rule would promote competition and consumer choice and would not constitute a taking of the incumbent provider's private property without just compensation under the Fifth Amendment. We seek comment on these tentative conclusions. We also seek comment on whether and how this rule would apply in the situation where an incumbent provider has an exclusive contractual right to occupy the molding or conduit.

56. Several commenters also point out that the current cable demarcation point can be physically inaccessible. We tentatively conclude that where the cable demarcation point is truly physically inaccessible to an alternative service provider (e.g., embedded in brick, metal conduit or cinder blocks, not simply within hallway molding), the demarcation point should be moved back to the point at which it first becomes physically accessible. We seek comment on this tentative conclusion and on how to define ''physically inaccessible.'' We also seek comment on the percentage of installations in which the demarcation point would be deemed physically inaccessible. Finally, we seek comment on our authority to adopt, and any other legal implications of, this proposed modification.

57. We also seek comment on whether we should adopt a rule requiring video service providers to transfer to the MDU owner upon installation ownership of the home wiring and home run wiring installed in MDUs under contracts entered into on or after the effective date of any rules we may adopt. Such a rule might increase competition and consumer choice in future installations by permitting MDU owners to control access to the home run wiring from the start. We seek comment on the appropriate mechanism for effecting such a transfer, whether the price for the wiring should be regulated or left to private negotiations, and whether and how our rules should address the issue of an MDU owner that does not want to own the home run wiring in its building. In addition, we seek comment on our authority to adopt, and any other legal implications of, such a rule.

58. Finally, we seek comment on any other proposals to promote MVPD competition and consumer choice in MDUs that have not already been previously raised and commented on in the Inside Wiring NPRM and the Cable Home Wiring Further NPRM. In particular, we ask commenters to address the legal, policy and practical implications of any such proposals.

Initial Regulatory Flexibility Act Analysis

59. As required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603, (''RFA''), the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') of the expected significant impact on small entities by the policies and rules proposed in this Further NPRM. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing procedures as other comments in this proceeding, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of the Further NPRM, including the IRFA to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the RFA.

Need for Action and Objectives of the Proposed Rules

60. This Further NPRM proposes to supplement the cable home wiring rules with new procedural mechanisms to provide certainty regarding the use of MDU home run wiring upon termination of existing service. In addition, we propose to expand our cable inside wiring rules to apply to all MVPDs in order to promote parity among competitors.

Legal Basis

61. This Further NPRM is adopted pursuant to sections 1, 4(i), 201–205, 303, 623, 624, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 303, 543, 544 and 552.

Description and Estimate of the Number of Small Entities Impacted

62. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction,'' and the same meaning as the term ''small business concern'' under section 3 of the Small Business Act. Under the Small Business Act, a ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). The rules we

propose in this Further NPRM will affect MVPDs and MDU owners.

63. Small MVPDs: SBA has developed a definition of a small entity for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there were 1423 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992. We will address each service individually to provide a more succinct estimate of small entities.

64. Cable Systems: The Commission has developed its own definition of a small cable company for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules proposed in this Further NPRM.

65. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

66. MMDS: The Commission refined the definition of ''small entity'' for the auction of MMDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of the Commission's Report and Order concerning MMDS auctions has been approved by the SBA.

67. The Commission completed its MMDS auction in March 1996 for authorizations in 493 basic trading areas (''BTAs''). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MMDS is an especially competitive service, with approximately 1573 previously authorized and proposed MMDS facilities. Information available to us indicates that no MMDS facility generates revenue in excess of $11 million annually. We tentatively conclude that there are approximately 1634 small MMDS providers as defined by the SBA and the Commission's auction rules.

68. ITFS: There are presently 1,989 licensed educational ITFS stations and 97 licensed commercial ITFS stations. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees and are unable to ascertain how many of the 97 commercial stations would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,989 ITFS licensees are small businesses.

69. DBS: There are presently nine DBS licensees, some of which are not currently in operation. The Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, we acknowledge that there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

70. HSD: The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other multichannel video service providers. HSD owners have access to more than 265 channels of programming placed on C-band satellites by programmers for receipt and distribution by video service providers, of which 115 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming packager. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other video service providers; (2) viewers who receive only non-subscription programming; and (3) viewers who receive satellite programming services illegally without subscribing. Because scrambled packages of programming are most specifically intended for retail consumers, these are the services most relevant to this discussion.

71. According to the most recently available information, there are approximately 30 program packagers nationwide offering packages of scrambled programming to retail consumers. These program packagers provide subscriptions to approximately 2,314,900 subscribers nationwide. This is an average of about 77,163 subscribers per program packager. This is substantially smaller than the 400,000 subscribers used in the Commission's definition of a small MSO. Furthermore, because this an average, it is likely that some program packagers may be substantially smaller.

72. OVS: The Commission has certified nine open video system (''OVS'') operators. Because these services were introduced so recently and only one operator is currently offering programming to our knowledge, little financial information is available. Bell Atlantic (certified for operation in Dover) and Metropolitan Fiber Systems (''MFS,'' certified for operation in Boston and New York) have sufficient revenues to assure us that they do not qualify as small business entities. Two other operators, Residential Communications Network (''RCN,'' certified for operation in New York) and RCN/BETG (certified for operation in Boston), are MFS affiliates and thus also fail to qualify as small business concerns. However, Digital Broadcasting Open Video Systems (a general partnership certified for operation in southern California), Urban Communications Transport Corp. (a corporation certified for operation in New York and Westchester), and Microwave Satellite Technologies, Inc.

(a corporation owned solely by Frank T. Matarazzo and certified for operation in New York) are either just beginning or have not yet started operations. Accordingly, we tentatively conclude that three OVS licensees may qualify as small business concerns.

73. SMATVs: Industry sources estimate that approximately 5200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.05 million residential subscribers as of September 1996. The ten largest SMATV operators together pass 815,740 units. If we assume that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, we tentatively conclude that a substantial number of SMATV operators qualify as small entities.

74. LMDS: Unlike the above pay television services, LMDS technology and spectrum allocation will allow licensees to provide wireless telephony, data, and/or video services. An LMDS provider is not limited in the number of potential applications that will be available for this service. Therefore, the definition of a small LMDS entity may be applicable to both cable and other pay television (SIC 4841) and/or radiotelephone communications companies (SIC 4812). The SBA definition for cable and other pay services is defined above. A small radiotelephone entity is one with 1500 employees or less. For the purposes of this proceeding, we include only an estimate of LMDS video service providers. The vast majority of LMDS entities providing video distribution could be small businesses under the SBA's definition of cable and pay television (SIC 4841). However, in the LMDS Second Report and Order, we defined a small LMDS provider as an entity that, together with affiliates and attributable investors, has average gross revenues for the three preceding calendar years of less than $40 million. We have not yet received approval by the SBA for this definition.

75. There is only one company, CellularVision, that is currently providing LMDS video services. Although the Commission does not collect data on annual receipts, we assume that CellularVision is a small business under both the SBA definition and our proposed auction rules. We tentatively conclude that a majority of the potential LMDS licensees will be small entities, as that term is defined by the SBA.

76. MDU Operators: The SBA has developed definitions of small entities for operators of nonresidential buildings, apartment buildings and dwellings other than apartment buildings, which include all such companies generating $5 million or less in revenue annually. According to the Census Bureau, there were 26,960 operators of nonresidential buildings generating less than $5 million in revenue that were in operation for at least one year at the end of 1992. Also according to the Census Bureau, there were 39,903 operators of apartment dwellings generating less than $5 million in revenue that were in operation for at least one year at the end of 1992. The Census Bureau provides no separate data regarding operators of dwellings other than apartment buildings, and we are unable at this time to estimate the number of such operators that would qualify as small entities.

Reporting, Recordkeeping, and Other Compliance Requirements

77. The Further NPRM proposes rules to require that, upon termination of existing service, the MDU operator must provide the incumbent service provider with notice of termination of the incumbent's access to the building or of the owner's wish to permit head-to-head competition for individual home run wires. The MDU operator would have the option of either purchasing the wiring or allowing the alternative provider to purchase it. The incumbent service provider would be required to elect to sell, remove or abandon its home run wiring and would have to complete its sales negotiations or remove its wiring within the time schedule provided herein or be deemed to have abandoned its wiring. The Commission's inside wiring rules would also be expanded to apply to all MVPDs.

78. The Further NPRM requests comment on the adoption of penalties for incumbent MVPDs that elect to remove their MDU home run wiring upon termination of service and then fail to do so. Incumbent providers may choose to maintain records to prove their compliance with the rules regarding disposition of home run wiring, but we do not believe that they will need additional professional skills to maintain such records and we propose no requirement for such recordkeeping.

79. The Further NPRM proposes a rule requiring video service providers to transfer ownership of MDU home run wiring to the MDU owner upon installation. Video service providers may choose to maintain records of the home run wiring subject to such a rule, but we do not believe that they will need additional professional skills to maintain such records and we propose no requirement for such recordkeeping.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered: None. However, any significant alternatives presented in the comments will be considered.

Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules: None.

Paperwork Reduction Act of 1995 Analysis

80. The requirements proposed in this Further NPRM have been analyzed with respect to the Paperwork Reduction Act of 1995 (the ''1995 Act'') and would impose new and modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the proposed information collection requirements contained in this Further NPRM, as required by the 1995 Act. Public comments are due September 25, 1997. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

81. Written comments by the public on the proposed new and modified information collection requirements are due September 25, 1997. Comments should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov. For additional information on the proposed information collection requirements, contact Judy Boley at 202–418–0214 or via the Internet at the above address.

Procedural Provisions

82. Ex parte Rules—''Permit-but-Disclose'' Proceeding. This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under section 1.1206(b) of the rules. 47 CFR 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

83. Filing of Comments and Reply Comments. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before September 25, 1997 and reply comments on or before October 2, 1997. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

84. Written comments by the public on the proposed and/or modified information collections are due September 25, 1997. Written comments must be submitted by the Office of Management and Budget (''OMB'') on the proposed and/or modified information collections on or before November 3, 1997. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

Ordering Clauses

85. *It is ordered* that, pursuant to sections 1, 4(i), 201–205, 303, 623, 624 and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 303, 543, 544 and 552, *notice is hereby given* of proposed amendments to Part 76, in accordance with the proposals, discussions and statements of issues in this Further Notice of Proposed Rulemaking, and that *comment is sought* regarding such proposals, discussions and statements of issues.

86. *It is further ordered* that the Commission *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission

William F. Caton,

Acting Secretary.

Proposed Rule Changes

Part 76 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 would continue to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.5 is proposed to be amended by revising paragraph (mm)(2) to read as follows:

§ 76.5 Definitions.

* * * * *

(mm) * * *

(2) For new and existing multiple dwelling unit installations with non-loop-through wiring configurations, the demarcation point shall be a point at or about twelve inches outside of where the cable wire enters the subscriber's dwelling unit, or, where the wire is physically inaccessible at such point, as close as practicable thereto so as to permit access to the cable home wiring.

* * * * *

3. Section 76.802 is proposed to be amended by revising paragraph (a) and paragraph (g) by removing the word ''business'', and by adding new paragraphs (l), (m) and (n) to read as follows:

§ 76.802 Disposition of cable home wiring.

(a) (1) Upon voluntary termination of cable service by a subscriber in a single unit dwelling, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, and the subscriber declines. If the subscriber declines to purchase the cable home wiring, the cable system operator must then remove the cable home wiring within seven days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(2) Upon voluntary termination of cable service by an individual subscriber in a multiple dwelling unit building, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, the subscriber declines, and the owner of the multiple dwelling unit building's common areas (referred to herein as the ''MDU owner'') has not previously elected to purchase or have the alternative MVPD purchase the cable home wiring when a subscriber declines, as provided in paragraph (l) hereof. If the subscriber declines to purchase the cable home wiring, and, the MDU owner has not elected to purchase or have the alternative MVPD purchase the cable home wiring, the cable system operator must then remove the cable home wiring within seven days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(3) Upon voluntary termination of cable service for an entire multiple dwelling unit building by the MDU owner, a cable operator shall not remove the cable home wiring unless it gives the MDU owner the opportunity to purchase the wiring at the replacement cost, and the MDU owner declines either to purchase the wiring or to allow the alternative MVPD to purchase the wiring. If the MDU owner declines to purchase or have the alternative MVPD purchase the cable home wiring, the cable system operator must then remove the cable home wiring no later than 30 days, under normal operating conditions, after it is notified of the MDU owner's decision, or make no subsequent attempt to remove it or to restrict its use.

(4) The cost of the cable home wiring is to be based on the replacement cost

per foot of the wiring on the subscriber's side of the demarcation point multiplied by the length in feet of such wiring, and the replacement cost of any passive splitters located on the subscriber's side of the demarcation point.

* * * * *

(l) If a subscriber who is not the owner of the premises terminates service and declines to purchase the cable home wiring under this section, the owner of the multiple dwelling unit building's common areas (referred to herein as the ''MDU owner'') may purchase it under the same terms and conditions provided in subsection (a) hereof, provided that the MDU owner notified the cable system operator of its desire to purchase the cable home wiring in the event the subscriber declines. Such notification must occur no later than the time at which the MDU owner provides the incumbent MVPD 60 days' notice of the MDU owner's intention to invoke the procedure set forth in Section 76.804(b).

(m) Where an entire multiple dwelling unit building is switching service providers, the MDU owner shall be permitted to exercise the rights of individual subscribers for purposes of the disposition of the cable home wiring under this section. If the MDU owner declines to purchase the cable home wiring, the MDU owner may allow the alternative provider to purchase it upon service termination under this section.

(n) This section shall apply to all multichannel video programming distributors, as that term is defined in Section 602(13) of the Communications Act, 47 U.S.C. § 522(13), in the same manner as it applies to cable operators.

4. Section 76.804 is proposed to be added to read as follows:

§ 76.804 Disposition of home run wiring.

(a) *Building-by-building disposition of home run wiring:* (1) Where an MVPD owns the home run wiring in a multiple dwelling unit building (''MDU'') and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the entity that owns the common areas of the MDU (''the MDU owner''), the MDU owner may give the MVPD a minimum of 90 days' notice that its access to the entire building will be terminated. The MVPD will then have 30 days to elect, for all the home run wiring inside the MDU building: (i) To remove the wiring and restore the MDU building to its prior condition by the end of the 90-day notice period; (ii) to abandon and not disable the wiring at the end of the 90-day notice period; or (iii) to sell the wiring to the MDU building owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90-day notice period, the incumbent provider shall notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the MDU owner refuses to purchase the home run wiring, an alternative provider that has been authorized to provide service to the MDU by the MDU owner may negotiate to purchase the wiring. For purposes of this section, ''home run wiring'' shall refer to the wiring from the point at which the MVPD's wiring becomes devoted to an individual subscriber to the demarcation point.

(2) If the parties negotiate a price for the home run wiring, they shall have 30 days from the date of election to negotiate a price. If the parties are unable to agree on a price, the incumbent must elect one of the other two options (i.e., abandonment or removal) and notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90-day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment shall become effective at the end of the 90-day notice period or upon service termination, whichever occurs first. If the incumbent elects to remove its wiring and restore the building to its prior condition, it must do so by the end of the 90-day notice period. If the incumbent fails to comply with any of the deadlines established herein, it shall be deemed to have elected to abandon its home run wiring at the end of the 90-day notice period.

(b) *Unit-by-unit disposition of home run wiring:* (1) Where an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes, an MDU owner may permit multiple MVPDs to compete for the right to use the individual home run wires dedicated to each unit. The MDU owner must provide 60 days' notice to the incumbent MVPD of the MDU owner's intention to invoke this procedure. The incumbent MVPD will then have 30 days to provide a single written election to the MDU owner and the competing MVPD(s) whether, for each and every one of its home run wires dedicated to a subscriber who chooses an alternative provider's service, the incumbent MVPD will:

(i) Remove the wiring and restore the MDU building to its prior condition;

(ii) Abandon the wiring without disabling it; or

(iii) sell the wiring to the MDU owner. If the MDU owner refuses to purchase the home run wiring, the alternative provider may purchase it. The alternative provider(s) will be required to make a similar election within this 30-day period for each home run wire solely dedicated to a subscriber who switches back from the alternative provider to the incumbent MVPD.

(2) When an existing MVPD is notified either orally or in writing that a subscriber wishes to terminate service and that another service provider intends to use the existing home run wire to provide service to that particular subscriber, an existing provider that has elected to remove its home run wiring will have seven days to remove its home run wiring and restore the building to its prior condition. If the existing provider has elected to abandon or sell the wiring, the abandonment or sale will become effective seven days from the date it received the request for service termination or upon actual service termination, whichever occurs first. If the incumbent provider intends to terminate service prior to the end of the seven-day period, the incumbent shall inform the party requesting service termination, at the time of such request, of the date on which service will be terminated. The incumbent provider shall make the home run wiring accessible to the alternative provider by the end of the seven-day period or within 24 hours of actual service termination, whichever occurs first.

(3) If the incumbent provider fails to comply with any of the deadlines established herein, the home run wiring shall be considered abandoned and the alternative provider shall be permitted to use the home run wiring immediately to provide service. The alternative provider or the MDU owner may act as the subscriber's agent in providing notice of a subscriber's desire to change services. If a subscriber's service is terminated without notifying the incumbent provider that the subscriber wishes to use the home run wiring to receive an alternative service, the incumbent provider will not be required to carry out its election to sell, remove or abandon the home run wiring; the incumbent provider will be required to carry out its election, however, if and when it receives notice that a subscriber wishes to use the home run wiring to receive an alternative service. Section 76.802 of our rules regarding the disposition of cable home wiring will apply where a subscriber's service is terminated without notifying the incumbent provider that the subscriber

wishes to use the home run wiring to receive an alternative service.

(4) The parties shall cooperate to ensure as seamless a transition as possible for the subscriber.

(5) Section 76.802 of our rules regarding the disposition of cable home wiring will continue to apply to the wiring on the subscriber's side of the cable demarcation point.

5. Section 76.805 is proposed to be added to read as follows:

§ 76.805 Access to molding and conduits

An multichannel video service provider (''MVPD'') shall be permitted to install one or more home run wires in an existing molding or conduit where:

(a) Sufficient space is present to permit the installation;

(b) The installation will not interfere with the ability of an existing MVPD to provide service; and

(c) The owner of the multiple dwelling unit building does not object to such installation.

[FR Doc. 97–23303 Filed 9–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 97–153, RM–8584, RM–8623, RM–8680, RM–8734; FCC 97–239]

Amendments to Part 90 Private Land Mobile Radio Service Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has released a *Notice of Proposed Rule Making* that proposes several amendments to the part 90 Private Land Mobile Radio Services rules. This action was initiated in response to petitions for rulemaking concerning eliminating certain frequency coordination requirements in the Business Radio Service, the transmission of safety alerting signals on Radiolocation Service frequencies, and modifying construction and loading requirements for private, non-Specialized Mobile Radio systems operating in the 800 and 900 MHz bands. The proposed rules will reduce the regulatory burden on licensees, and will promote more efficient and flexible use of the private land mobile radio frequency spectrum. Additionally, comments are requested on potential interference problems resulting from shared use of the 216–217 MHz band under parts 90 and 95 of the rules.

DATES: Comments are due October 3, 1997. Reply comments are due October 17, 1997.

FOR FURTHER INFORMATION CONTACT: Gene Thomson, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunicatioons Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making (Notice),* WT Docket No. 97–153, FCC 97–239, adopted July 2, 1997, and released August 25, 1997. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room 246, 1919 M Street NW., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 1231 20th St. NW., Washington, DC. 20036, telephone (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. The Commission has released a *Notice of Proposed Rule Making* that proposes several amendments to part 90 of the rules concerning the Private Land Mobile Radio (PLMR) Services.

2. In response to a Petition for Rule Making filed by the Council of Independent Communications Suppliers, (RM–8623), the *Notice* proposes the elimination of frequency coordination requirements for five low-power frequencies in the Business Radio Service.

3. In response to a Petition for Rule Making filed by the Radio Association Defending Airwave Rights, (RM–8734), the *Notice* proposes to permit the transmission of safety alerting signals in the 24.05–24.25 GHz band in the Radiolocation Service. The *Notice* also proposes to extend use of 24.05–24.25 GHz band frequencies to permit traffic light control by emergency vehicles.

4. In response to a Petition for Rule Making filed by the Alliance of 800/900 MHz Licensees, (RM–8584), the *Notice* proposes to modify the construction requirements for private, non-Specialized Mobile Radio systems operating in the 800 and 900 MHz bands. The *Notice* declines to also change the mobile loading and reporting requirements for 800 and 900 MHz non-SMR systems.

5. As requested in a Petition for Rule Making filed jointly by the Industrial Telecommunications Association and the Council of Independent Communications Suppliers, (RM–8680), the *Notice* declines to amend the part 90 and part 13 rules to establish a PLMR Services Radio Maintainers License and to require persons installing and servicing land mobile radio equipment to have such a license.

6. Additionally, the *Notice* requests comments on potential interference problems resulting from shared use of the 216–217 MHz band under parts 90 and 95 of the rules.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 90 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, and 332, 48 Stat. 1066, 1082, as amended: 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.17 is proposed to be amended by revising paragraph (e)(4) to read as follows:

§ 90.17 Local Government Radio Service.

* * * * *

(e) * * *

(4) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203(b)(4) and (b)(5) is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted. Additionally, licensees may utilize type accepted equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis.

3. Section 90.19 is proposed to be amended by revising paragraph (g)(6) to read as follows:

§ 90.19 Police Radio Service.

* * * * *

(g) * * *

(6) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203(b)(4) and (b)(5) is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted. Additionally, licensees may utilize type accepted equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis.

4. Section 90.21 is proposed to be amended by revising paragraph (e)(4) to read as follows:

§ 90.21 Fire Radio Service.

* * * * *

(e) * * *

(4) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203 (b)(4) and (b)(5) is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted. Additionally, licensees may utilize type accepted equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis.

5. Section 90.23 is proposed to be amended by revising paragraph (e)(3) to read as follows:

§ 90.23 Highway Maintenance Radio Service.

* * * * *

(e) * * *

(3) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203 (b)(4) and (b)(5) is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted. Additionally, licensees may utilize type accepted equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis.

6. Section 90.25 is proposed to be amended by revising paragraph (e)(3) to read as follows:

§ 90.25 Forestry-Conservation Radio Service.

* * * * *

(e) * * *

(3) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203 (b)(4) and (b)(5) is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted. Additionally, licensees may utilize type accepted equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis.

7. Section 90.27 is proposed to be amended by adding paragraph (d) to read as follows:

§ 90.27 Emergency Medical Radio Service.

* * * * *

(d) *Additional frequencies available.* A licensee of a radio station in this service may operate a radio unit in an emergency vehicle without additional authorization from the Commission and on a secondary basis, that transmits on the frequency 24.10 GHz both an unmodulated continuous wave radio signal and a modulated FM digital signal for the purpose of alerting motorists to the presence of the emergency vehicle. Continuous operation of such transmitters will be permitted. Additionally, licensees may utilize equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control purposes without additional authorization and on a secondary basis. The licensee must utilize type accepted equipment or equipment authorized pursuant to §§ 90.203 (b)(4) and (b)(5), and satisfy all other rule provisions.

8. Section 90.53 is proposed to be amended by adding paragraph (c)(2) to read as follows:

§ 90.53 Frequencies available.

* * * * *

(c) * * *

(2) A licensee of a radio station in this service may operate a radio unit in an emergency vehicle without additional authorization from the Commission and on a secondary basis, that transmits on the frequency 24.10 GHz both an unmodulated continuous wave radio signal and a modulated FM digital signal for the purpose of alerting motorists to the presence of the emergency vehicle. Continuous operation of such transmitters will be permitted. Additionally, licensees may utilize equipment operating in the 24.20–24.25 GHz portion of the 24.05–24.25 GHz band for traffic light control

purposes without additional authorization and on a secondary basis. The licensee must utilize type accepted equipment or equipment authorized pursuant to §§ 90.203 (b)(4) and (b)(5), and satisfy all other rule provisions.

* * * * *

9. Section 90.103 is proposed to be amended by revising paragraph (c)(22) to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(c) * * *

(22) For frequencies 2455 MHz, 10,525 MHz, and 24,125 MHz, only unmodulated, continuous wave (NON) emission shall be employed. The frequency 24.10 GHz, and frequencies in the 24.20–24.25 GHZ band may use NON emission along with an ancillary FM digital emission. The frequency 24.10 GHz will be used for the purpose of alerting motorists of hazardous driving conditions and the presence of emergency vehicles. Frequencies in the 24.20–24.25 MHz band may be used in emergency vehicles for traffic signal control. Equipment operating on 24.10 GHz or in the 24.20–24.25 GHz band must keep the deviation of the FM digital signal within + 5 MHz. Equipment operating on these frequencies must have a frequency stability of at least 2000 ppm and are exempt from the requirements of §§ 90.403(c), 90.403(f), and 90.429.

* * * * *

10. Section 90.175 is proposed to be amended by revising paragraph (i)(5) to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(i) * * *

(5) Applications in the Industrial/Business Pool requesting a frequency designated for itinerant operations, and applications requesting operation on 154.570 MHz, 154.600 MHz, 151.820 MHz, 151.880 MHz, and 151.940 MHz.

* * * * *

11. Section 90.633 is proposed to be amended by revising paragraphs (c) and (d) to read as follows:

§ 90.633 Conventional systems sharing and construction requirements.

* * * * *

(c) Except as provided in § 90.629, licensees of conventional systems must place their authorized stations in operation not later than one year after the date of grant of the system license.

(d) If a station is not placed in operation within one year, except as provided in § 90.629, the license cancels automatically. For purposes of this section, a base station is not considered to be in operation unless at least one associated mobile station is also in operation.

* * * * *

12. Section 90.651 is proposed to be amended by revising paragraph (c) to read as follows:

§ 90.651 Supplemental reports required of licensees authorized under this subpart.

* * * * *

(c) Licensees of conventional systems must report the number of mobile units placed in operation within twelve months of the date of the grant of their license. Such reports shall be filed within 30 days from that date.

* * * * *

[FR Doc. 97–23301 Filed 9–2–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 082797A]

RIN 0648–AJ55

Fisheries of the Northeastern United States; Amendment 10 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS issues this notice to advise the public that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 10 to the Fishery Management Plan for the Summer Flounder, Scup and Black Sea Bass Fisheries (FMP) for Secretarial review and is requesting comments from the public. Amendment 10 proposes new regulations for the summer flounder fishery and would also modify a number of summer flounder regulations implemented under Amendment 2 and later amendments to the FMP. Copies of Amendment 10 may be obtained from the Council (see **ADDRESSES**).

DATES: Comments must be received on or before November 3, 1997.

ADDRESSES: Send comments to Andrew A. Rosenberg, Ph.D., Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope ''Comments on Amendment 10 to the Summer Flounder Plan.''

Copies of Amendment 10, the environmental assessment and the regulatory impact review are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508-281-9221.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) requires that each fishery management council submit any fishery management plan or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving the plan or amendment, immediately make a preliminary evaluation of the amendment and, if it is sufficient to warrant continued review, publish a notice that the plan or amendment is available for public review and comment. NMFS will consider the public comments in determining whether to approve the plan or amendment.

Amendment 10 proposes new regulations for summer flounder and would also modify a number of existing summer flounder regulations. Amendment 10, if approved, would: Modify the commercial minimum mesh regulations, continue the moratorium on entry of additional commercial vessels, modify the vessel replacement criteria, remove provisions that pertain to the expiration of the moratorium permit, establish a *de minimus* status for states, allow Federally permitted charter/party vessels issued a permit by their state to possess fillets less than the minimum size, and prohibit transfer of summer flounder at sea. Because Amendment 10 has been prepared by both the Council and the Atlantic States Marine Fisheries Commission (Commission), there is an additional management measure in the amendment that would be implemented by the Commission as part of its interstate management process. This measure would require that states document all summer flounder commercial landings in their state.

Amendment 10 reevaluated the state-by-state commercial quota allocation system implemented by Amendment 2. After receiving and considering public

comments, the Council voted to maintain the current allocation system.

The transmit date for Amendment 10 is August 27, 1997. A proposed rule that would implement the amendment may be published in the **Federal Register** within 15 days of the transmit date, following an evaluation by NMFS under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 10, which is November 3, 1997 in order to be considered in the decision concerning approval or disapproval of the amendment.

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

Dated: August 27, 1997.

Bruce Morehead,

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

[FR Doc. 97–23280 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 170
Wednesday, September 3, 1997

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

Office of the Secretary

National Commission on Small Farms; Meetings

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of public meeting. Correction; In the **Federal Register** of August 28, 1997, on page 45617 in the 3rd column, in the 11th line, ''1:00 p.m.'' is corrected to read ''9:00 a.m.''

SUMMARY: The USDA National Commission on Small Farms published a document in the **Federal Register**, FR doc. 97–22976 on page 45617. This notice serves as a correction to the meeting time:

Correction; In the **Federal Register** of August 28, 1997, on page 45617 in the 3rd column, in the 11th line, ''1:00 p.m.'' is corrected to read ''9:00 a.m.''

FOR FURTHER INFORMATION CONTACT: Jennifer Yezak Molen, Director, National Commission on Small Farms, at the address above or at (202) 690–0648 or (202) 690–0673. The fax number is (202) 720–0596.

PLACE, DATE AND TIME OF MEETING: The Commission's third public meeting is September 10 and 11 at the Jefferson Auditorium, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, D.C. The meeting is open to the public. On September 10, the Commission will meet from 9:00 p.m. to 5:00 p.m. to hear public testimony. On September 11, the Commission will meet from 8:00 a.m. to 5:00 p.m. to conduct Commission business.

Pearlie S. Reed,

Acting Assistant Secretary for Administration.

[FR Doc. 97–23458 Filed 9–2–97; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–053N]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension for and revision to a currently approved information collection package regarding ante-mortem and post-mortem inspection.

DATES: Comments on this notice must be received on or before November 3, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Contact Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street SW, Washington, DC 20250–3700, (202) 720–0346.

SUPPLEMENTARY INFORMATION:

Title: Ante-Mortem and Post-Mortem Inspection.

OMB Number: 0583–0090.

Expiration Date of Approval: November 30, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting an extension and revision to the information collection package addressing meat and poultry paperwork and recordkeeping requirements regarding ante-mortem and post-mortem inspection. Such information collections are necessary to ensure that meat and poultry products are wholesome and unadulterated.

FSIS permits poultry establishments to operate under the Streamlined Inspection System (SIS), the New Line Speed (NELS) Inspection System, or the New Turkey Inspection (NTI) System. These systems are post-mortem inspection systems that have enabled the poultry industry to increase their daily production. To operate under SIS for broilers and Cornish game hens, establishments must request and receive approval from the Agency. Establishments operating under NELS and NTI must develop and maintain a partial quality control(PQC) programs. There are information collection requirements associated with the request, approval, and daily operations of these systems. FSIS program employees review the records relating to the systems operation at least three times a week to verify regulatory compliance.

Meat and poultry establishments wishing to slaughter animals treated with experimental biological products, drugs or chemicals must provide certain information and supporting data for review by the Agency before approval may be granted. Also, persons or entities wishing to obtain specimens of diseased, condemned or inedible material must submit information to FSIS.

Because of the continued need for these information collection activities, FSIS is requesting OMB extension for and revision of the Information Collection Request covering information collection activities related to these requirements.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .0216572 hours per response.

Respondents: Meat and poultry establishments.

Estimated Number of Respondents: 1,114.

Estimated Number of Responses per Respondent: 817.20466.

Estimated Total Annual Burden on Respondents: 19,716 hours.

Copies of this information collection assessment and comments can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street SW, Room 109, Washington, DC 20250–3700, (202) 720–0346.

Comments are invited on: (a) whether the proposed collection of information

is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 26, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–23249 Filed 9–2–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Combining a Currently Approved Information Collection With New Information Collections

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to extend one information collection and combine it with two new information collections. Authorization for information collection, FS–2400–8–Forest Products Free Use Permit (OMB Number 0596–0095) expires October 31, 1997. It is this information collection under which the Forest Service intends to combine two new information collections: FS–2400–1–Forest Products Removal Permit and Cash Receipt and FS–2400–4–Forest Products Sale Permit and Cash Receipt.

The collected information is necessary to ensure that applicants meet the requirements of the forest products removal program; that permittees obtaining free use of forest products qualify for the free-use program; that applicants purchasing permits non-competitively to harvest forest products do not exceed the authorized limit in a fiscal year; and that permittees can be identified in the field by Forest Service compliance personnel.

DATES: Comments must be received in writing on or before November 3, 1997.

ADDRESSES: All comments should be addressed to: Director, Forest Management (MAIL STOP 1105), Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Jim Naylor, Forest Management Staff, at (202) 205–0858.

SUPPLEMENTARY INFORMATION:

Background

Under 16 U.S.C. 551, individuals and other Federal agencies planning to remove forest products from the National Forests must obtain a permit. To obtain a permit, applicants must meet the criteria at 36 CFR 223.1, 223.2, and 223.5 through 223.13 under which free use or sale of timber or forest products is authorized. Upon receiving a permit, the permittee must comply with the terms of the permit at 36 CFR 261.6 that designate the forest products that can be harvested and under what conditions, such as limiting harvest to a designated area or permitting harvest of only specifically designated material.

For over 20 years, Forest Service Regional offices have been issuing Forest Product Removal Permits, with each Region developing its own Forest Product Removal Permit form and policies. To ensure more consistent management of the forest products programs, the Forest Service has developed two new national permit forms to replace regional forms: FS–2400–1–Forest Products Removal Permit and Cash Receipt to sell timber products, such as fuelwood, or forest products, such as Christmas trees and pine cones, and FS–2400–4–Forest Products Sale Permit and Cash Receipt to sell timber products, such as sawtimber or fuelwood.

When applying for forest products removal permits, applicants, depending on what timber or forest products they intend to remove, must answer questions on one or more of the following forms:

Form FS–2400–1–Forest Products Removal Permit and Cash Receipt is new and will implement regulations at 36 CFR 223.1 and 223.2 governing the sale of forest products, such as Christmas trees or pinecones;

Form FS–2400–4–Forest Products Sale Permit and Cash Receipt is new and will be used to sell timber products, such as sawtimber, or forest products, such as fuelwood; and

Form FS–2400–4–Forest Products Free Use Permit is an existing form that will be extended. It is used to allow free use of timber or forest products (36 CFR 223.5 through 223.13).

Each form implements different regulations and has different provisions for compliance, but all three forms collect similar information from the applicant for related purposes. Therefore, the Forest Service intends to combine the three information collections under one authorization number, OMB No. 0596–0095, which currently covers only FS–2400–8–Forest Products Free Use Permit. OMB authorization of FS–2400–8 expires October 31, 1997. The Forest Service is requesting an extension of this information collection.

The Forest Service will use the information collected on these three forms to ensure that permittees obtaining free use of timber or forest products qualify for the free-use program and do not receive product value in excess of the $20 amount that District Rangers or $100 amount that Forest Supervisors are authorized to approved in a fiscal year (36 CFR 223.8); to ensure that applicants purchasing permits non-competitively to harvest timber or forest products do not exceed the authorized $10,000 limit in a fiscal year (16 U.S.C. 472(a)); and to ensure that permittees can be identified in the field by Forest Service compliance personnel.

An applicant is not restricted to one permit. An applicant may apply for as many product removal permits as they deem necessary to meet their needs. For example, an applicant may obtain free use of a timber product, such as firewood, using FS–2400–8–Forest Products Free Use Permit and still purchase a Christmas tree using FS–2400–1–Forest Product Removal Permit and Cash Receipt.

Data gathered in these information collections are not available from other sources.

Description of Information Collection

The following describes the information collection to be extended and combined with two new information collections: FS–2400–1–Forest Products Removal Permit and Cash Receipt and FS–2400–1–Forest Products Removal Permit and Cash Receipt and FS–2400–4–Forest Products Sale Permit and Cash Receipt. Descriptions of these information collections follow the description of FS–2400–8.

Title: FS–2400–8—Forest Products Free Use Permit.

OMB Number: 0596–0095.

Expiration Date of Approval: October 31, 1997.

Type of Request: Extend this information collection and combine with FS–2400–1 and FS–2400–4.

Abstract: The agency uses the collected data to ensure that applicants meet the criteria for free use of timber

or forest products authorized by regulations at 36 CFR 223.5 through 223.13 and that permittees comply with the regulations and terms of the permit.

Individuals usually request permits in person at the Forest Service office issuing the permit. Forest Service personnel ask applicants to respond to questions that include their name, address, and identification number. The identification number can be a tax identification number, social security number, drivers license number, or other unique number identifying the applicant. Forest Service personnel enter the information onto the computerized permit database for easy retrieval for subsequent requests for permits by the same individual. The information also is entered onto a hard copy of a permit. The applicant signs and dates the permit. Forest Service personnel issuing the permit discuss the terms and conditions of the permit with the applicant. Permittees may be required to maintain a product removal record on the permit form.

Data gathered in this information collection are not available from other sources.

Estimate of Burden: 8 minutes.

Type of Respondents: Individuals.

Estimated Number of Respondents: 24,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,195 hours.

Description of Information Collection

The following describes a new information collection that will be combined with FS–2400–8—Forest Products Free Use Permit (OMB Number 0596–0095):

Title: FS–2400–4—Forest Products Sale Permit and Cash Receipt.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection requirement and has not received approval by the Office of Management and Budget.

Abstract: The agency will use the collected data to ensure that applicants, seeking to remove timber or forest products from National Forest System lands, meet the criteria under which sale of timber or forest products is authorized by the regulations at 36 CFR 223.88 and to ensure that permittees comply with regulations and terms of the permit at 36 CFR 261.6.

Individuals and persons representing small businesses usually request permits in person in the Forest Service office issuing the permit. Forest Service personnel will ask applicants to respond to questions that include their name, address, and tax identification number. Forest Service personnel will enter the information onto the computerized permit database, where the information will be maintained for easy retrieval for subsequent requests for permits by the same individual. The information also will be entered onto a hard copy of a permit. The applicant will sign and date the permit. Forest Service personnel issuing the permit will discuss the terms and conditions of the permit with the applicant.

Data gathered in this information collection are not available from other sources.

Estimate of Burden: 8 minutes.

Type of Respondents: Individuals and small businesses.

Estimated Number of Respondents: 2500.

Estimated Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 190 hours.

Description of Information Collection

The following describes a new information collection that will be combined with FS–2400–8—Forest Products Free Use Permit (OMB Number 0596–0095):

Title: FS–2400–1—Forest Products Removal Permit and Cash Receipt.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection and has not received approval from the Office of Management and Budget.

Abstract: The agency will use the collected data to ensure that applicants meet the criteria under which the sale of timber or forest products is authorized by the regulations at 36 CFR 223.88 and to ensure that permittees comply with regulations and terms of the permit at 36 CFR 261.6.

Individuals and persons representing small businesses usually request permits in person in the Forest Service office issuing the permit. The information collected includes the applicant's name, address, and identification number. The identification number can be a tax identification number, social security number, drivers license number, or other unique number identifying the applicant. Forest Service personnel will enter the information onto the computerized permit database, where the information will be maintained for easy retrieval for subsequent permits issued to the same individual. The information also will be entered onto a hard copy of a permit. The applicant will sign and date the permit. Forest Service personnel issuing the permit will discuss the terms and conditions of the permit with the applicant. Permittees may be required to maintain a product removal record on the permit form.

Data gathered in this information collection is not available from other sources.

Estimate of Burden: 8 minutes.

Type of Respondents: Individuals.

Estimated Number of Respondents: 846,000.

Estimated Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 39,940 hours.

Comments Are Invited

The agency invites comments on the following: (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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments, including name and address when provided, will become a matter of public record.

Dated: August 15, 1997.

Ronald E. Stewart,

Acting Associate Chief.

[FR Doc. 97–23263 Filed 9–2–97; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kentucky Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 12:00 p.m. and adjourn at 5:00 p.m. on Wednesday, September 17, 1997, at the Louisville and Jefferson County Metropolitan Sewer District, 700 West Liberty Street (at 7th Street), Louisville, Kentucky

40203. The purpose of the meeting is to: (1) Hold a press conference to release the report, Bias and Bigotry in Kentucky; (2) discuss the status of the Commission and civil rights progress/problems in Kentucky and the Nation; and (3) discuss plans for adopting a new project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Emily C. Boone, 502–585–3430, or Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–23320 Filed 9–2–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 8:45 a.m. and adjourn at 8:00 p.m. on Wednesday, September 24, 1997, at the Radison Hotel, 201 North Fifth Street, Fargo, North Dakota 58102. The purpose of the meeting is to hold a factfinding meeting on civil rights enforcement in North Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Betty Mills, 701–223–4643, or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 25, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–23319 Filed 9–2–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wisconsin Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Wednesday, September 17, 1997, at the Milwaukee Hilton, 509 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Geraldine McFadden, 414–444–1952, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–23321 Filed 9–2–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–401]

Certain Apparel From Thailand: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain apparel from Thailand. We preliminarily determine the net bounty or grant to be that described in the ''Preliminary Results of Review'' section. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Kathleen Lockard, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1985, the Department published the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Apparel from Thailand* (50 FR 9819) (*Certain Apparel*). On March 13, 1992, the Department published a *Notice of Intent to Revoke Countervailing Duty Orders* (57 FR 8860). We received a timely objection to the Department's intended revocation and a request for an administrative review of the review period January 1, 1991, through December 31, 1991, from the Amalgamated Clothing and Textile Workers Union (ACTWU). The review was initiated on April 13, 1992. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews* (57 FR 12797).

Subsequently, the Royal Thai Government (RTG) filed comments on the ACTWU's objection to the revocation of the order, claiming that the ACTWU lacked standing under 19 U.S.C. § 1677(9)(D) to object to revocation on a number of the like products covered by the CVD order.[1] On July 19, 1996, the Department preliminarily determined that the ACTWU had standing for 57 of the 87

[1] On May 26, 1995, the Department published *Opportunity to Request a Section 753 Injury Investigation* (60 FR 27693). Because no domestic interested parties exercised their right under section 753(a) of the Act, as amended by the Uruguay Round Agreements Act (''URAA''), to request an injury investigation, the International Trade Commission made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *See Revocation of Countervailing Duty Orders* (60 FR 40568, August 9, 1995).

apparel like products covered by the CVD order. On January 3, 1997, the Department published a *Notice of Determination to Amend Revocation, in Part, of Countervailing Duty Order* (62 FR 392) which amended the effective date of the revocation of the CVD order on certain apparel from Thailand from January 1, 1995 to January 1, 1991, with respect to the 30 like products for which the ACTWU was found not to have standing. In that notice, we also stated that we would continue the administrative review of the remaining products for which the ACTWU was found to have standing, covering the period January 1 through December 31, 1991. This review now covers the products identified in the *Scope of Review* section below.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). 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.

Scope of the Review

Imports covered by this review are certain apparel from Thailand. Such merchandise is described in detail in the Appendix to this notice.

Best Information Available (BIA)

Section 776(c) of the Act requires the Department to use BIA ''whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation.'' 19 U.S.C. § 1677e(c)(1988); *see also* 19 CFR § 355.37(1994). In determining what rate to use as BIA, the Department follows a two-tiered methodology. The Department assigns lower BIA rates to those respondents who cooperated in an administrative review (tier two) and rates based on more adverse assumptions for respondents who did not cooperate in the review, or who significantly impeded the proceeding (tier one). *See Allied Signal Aerospace Co.* v. *United States*, 996 F 2d. 1185, 1191–92 (Fed. Cir. 1993)(*Allied-Signal*).

In this review, Mahboonkrong Trading Co., Ltd., UMC International Co., Ltd., and Agason (Thailand), Ltd. did not provide responses to the Department's questionnaire. However, in its response, the RTG certified that these companies have ceased operations, and, where available, the RTG provided information from government records on their behalf. The RTG's response indicates that these companies had gone out of business prior to the time when the Department forwarded the questionnaire for this review. Pursuant to the Department's practice, we assign second-tier BIA to companies which have gone out of business and therefore are unable to respond to the Department's questionnaires. *See, e.g., Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Administrative Review and Notice of Revocation of Order (In Part)* (56 FR 15159, 15173, March 31, 1994). Therefore, in accordance with section 776 of the Act and *Allied-Signal*, we are using a second-tier BIA rate for these companies based on the highest program rates calculated for responding companies.

In certain instances, individual companies had no longer retained detailed information on the use of programs. The RTG provided information from government records on behalf of these companies. To the extent that the government information was sufficient, we used this information in our calculations. If the government information was insufficient, in accordance with section 776 of the Act and *Allied-Signal*, we used a second-tier BIA rate for individual programs based on the highest rate found for responding companies who used that program during this review. One program, the Investment Promotion Act (IPA), provides for several different types of benefits. The responding companies all certified that they did not use any benefits under the IPA during the period of review, except for two companies which reported receiving benefits under Section 28 of the IPA. In addition, the RTG reported that one non-responding company was eligible for benefits under Section 36(4) of the IPA, but the RTG did not provide information as to whether the company received benefits under this provision. Therefore, because no IPA benefits were found to have been used in the original countervailing duty investigation and because Section 36(4) was not used by a responding company, we are basing BIA on the IPA program rate calculated for the 1994 administrative review of the countervailing duty order on certain ball bearings from Thailand, *Certain Ball Bearings from Thailand: Notice of Final Results of Administrative Review* (62 FR 728, January 6, 1997), which is the only proceeding in which benefits under which Section 36(4) of the IPA were examined.

Calculation Methodology for Assessment and Cash Deposit Purposes

In accordance with section 706 of the Act and *Ceramica Regiomontana, S.A.* v. *United States*, 853 F. Supp. 431, 439 (CIT 1994), we calculated the net bounty or grant on a country-wide basis by first calculating the rate for each company subject to the administrative review. We then weighted the rate received by each company by its share of total Thai exports to the United States of subject merchandise examined, including all companies, even those with *de minimis* rates and rates based on BIA. We then summed the individual companies' weighted rates to determine the country-wide, weighted-average rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR § 355.7, we proceeded to the next step and examined the net rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR § 355.22(d)(3). Two companies had significantly different net rates during the review period. These companies are treated separately for assessment and cash deposit purposes. All other companies are assigned the country-wide rate. *See* ''Preliminary Results of Review'' section, below.

Analysis of Programs

I. Programs Conferring Subsidies

A. Export Packing Credits

Export packing credits (EPCs) are short-term pre-shipment export loans, provided and recorded on a shipment-by-shipment basis. These loans are provided through commercial banks for up to 100 percent of the shipment value, and the Bank of Thailand (BOT) will rediscount up to 50 percent of the commercial bank loan. Under the ''Regulations of the Bank of Thailand Re: The Purchasing of Promissory Notes Arising from Exports'' (B.E. 2531), effective October 1, 1988, the commercial banks charged the borrower a maximum of 10 percent interest per annum for the export credit, and the BOT rediscounted these loans at 5 percent interest for large exporters and 4 percent interest for small exporters. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, or warehouse receipt.

The notes are available for a maximum of 180 days and interest is payable on the due date of the loan. The

due date of the promissory note does not fall beyond the expiry date of the letter of credit, ten days after the delivery date indicated on the sales contract or purchase order, or the date when the stored goods were due to be discharged from the warehouse in the case of goods backed by a warehouse receipt. The loan must be repaid within two days of shipment, whether or not this occurred before the due date of the note. In addition, within 60 days of receipt of a packing credit loan, the exporter must submit a Purchase of Goods Report to the BOT.

If the commercial bank does not meet the terms of the loan, the BOT charges the commercial bank a penalty, retroactive to the first day of the loan, at 6.5 percent. If the exporter does not meet the terms of the loan, the commercial bank passes on to the borrower the additional 6.5 percent penalty charge. If the exporter can prove that shipment of the goods took place within 60 days after the due date, the penalty is refunded to the commercial bank by the BOT and the commercial bank credits the exporter's account. The purpose of the penalty charge is to ensure that companies are using the EPCs to finance export sales.

In the original investigation, this program was determined to be countervailable because the loans were provided only to exporters and they were provided at preferential rates (*see Certain Apparel*). There has been no new information or evidence of changed circumstances placed on the record of this review to warrant reconsideration of this program's countervailability. For companies for which we have specific information on EPC usage, we compared the amount of interest paid for EPCs during the period of review with the amount of interest that would have been paid at the commercial benchmark rate. As the benchmark, we used the weighted average of the minimum loan rate (MLR) and the minimum overdraft rate (MOR) as reported in the Bank of Thailand Quarterly Bulletin. In *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Steel Wire Rope from Thailand* (56 FR 46299; September 11, 1991), the Department determined that the MLR and MOR reflected the predominant sources of short term commercial financing in Thailand. Use of the weighted-average of the MLR and MOR rates as the benchmark for EPCs was also upheld by the United States Court of International Trade (CIT). *See Royal Thai Government and TTU Industrial Corp.* v *United States*, 850 F.Supp. 44, 51 (CIT 1994).

For each of the companies for which we have specific information on EPC usage, we calculated the rate by subtracting the total interest on EPCs for shipment to the United States that the company actually paid during the review period from the total amount of interest that would have been paid at the benchmark rate, and dividing this benefit by the company's total exports to the United States. For companies for which we lack specific information on EPC usage, we are assigning as BIA the highest rate calculated for a responding company as discussed in the ''Best Information Available'' section above. On this basis, we preliminarily determine the weighted average bounty or grant under this program to be 0.55 percent *ad valorem*.

B. Tax Certificates for Exports

The RTG issues, to exporters of record, tax certificates which are transferrable and which rebate indirect taxes and import duties levied on inputs used to produce exports. This rebate program is provided for in the Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act (Tax and Duty Act).

The Tax Certificate program has two rates. The ''A'' rate rebates both import duties and indirect domestic taxes and is available to companies that have not otherwise had duties refunded. The ''B'' rate rebates only indirect domestic taxes and is claimed by exporters who have not paid import duties, or who participate in Thailand's customs duty drawback program or duty exemption program on imported raw materials, or who do not import raw materials for use in production. Companies may receive both ''A'' and ''B'' rebates depending on the merchandise exported. In the original investigation, we determined that the tax certificate for exporters program meets the standard criteria for indirect tax rebate programs. This program was determined to be countervailable because the rebates provided were excessive in that they were based, in part, on the tax incidences for non-physically incorporated items. *See Certain Apparel*.

By announcement AO 4/2533 (1990) (''AO 4/2533''), effective June 11, 1990, MOF adopted physical input coefficient (PHIC) based rebate rates for the merchandise subject to this review. The PHIC product-specific methodology was designed to calculate rebate rates which would not overrebate the import duties and business taxes levied on the inputs by eliminating rebates on non-physically incorporated inputs and adjusting the denominator to reflect f.o.b. values. In order to determine whether these PHIC-based rebate rates are excessive, we first examined whether all of the inputs included in the various PHIC product specific calculations were physically incorporated and found that all of the inputs were indeed physically incorporated inputs. We then reviewed the formulas used to calculate the tax incidences for the various inputs. We found that, for domestically-sourced inputs, certain factors in the formulas were based on ex-factory rather than f.o.b. values. The tax incidence should be based on f.o.b. value because the rebate is paid on the f.o.b. value of the exported merchandise.

The RTG provided the conversion factors needed to recalculate tax incidence on an f.o.b. basis. Using these conversion factors, we calculated the allowable amounts of tax rebate for the four types of tax certificate rebates and compared them to the rebate rates that the RTG actually paid. For product category 61 sales, we calculated overrebates of 0.04 percent for ''A'' certificates and 0.01 percent for ''B'' certificates. For product category 62 sales, we calculated overrebates of 0.48 percent for ''A'' certificates and 0.1 percent for ''B'' certificates. For companies for which we have specific information on receipt of tax certificates during the period of review, we calculated total benefit by multiplying these overrebate rates by each company's corresponding values of category 61 ''A'' and ''B'' and category 62 ''A'' and ''B'' sales and dividing the total of these benefits by the company's total exports of subject merchandise to the United States. For companies for which we do not have specific information on receipt of tax certificates during the period of review, we are assigning as BIA the category 62 ''A'' rate of 0.48 percent *ad valorem*. Based on the above, we preliminarily determine the weighted average bounty or grant under this program to be 0.31 percent *ad valorem*.

C. Electricity Discounts for Exporters

Electricity discounts for exports were terminated effective January 1, 1990. However, because government authorities could defer action on company applications for up to five years, residual benefits were possible up to five years after termination of the program. Under this program, the electricity authorities in Thailand provided discounts of 20 percent of the cost of electricity consumed to produce exports. The discount was calculated as a credit and deducted from each company's electric bill.

In the original investigation, this program was determined to be countervailable. See *Certain Apparel.* There has been no new information or evidence of changed circumstances placed on the record of this review to warrant reconsideration of this program's countervailability. For companies for which we have specific information on receipt of electricity discounts during the period of review, we calculated the benefit attributable to these residual benefits by dividing the amount of the electricity discount by the total exports. For companies for which we do not have specific information on receipt of electricity discounts during the period of review, we are assigning as BIA the highest rate calculated for a responding company as discussed in the ''Best Information Available'' section above. On this basis, we preliminarily determined the net bounty or grant from this program to be 0.20 percent *ad valorem* for all manufacturers.

D. Investment Promotion Act (IPA)—Sections 28 and 36(4)

The Investment Promotion Act of 1977 is administered by the Board of Investment (BOI) and is designed to provide incentives to invest in Thailand. During the 1985 investigation, none of the IPA programs were utilized by the companies subject to review. In order to receive IPA benefits, each company must apply to the BOI for a Certificate of Promotion (license), which specifies goods to be produced, production and export requirements, and benefits allowed. These licenses are granted at the discretion of the BOI and are periodically amended or reissued to upgrade benefits. Each IPA section for which a company is eligible must be specifically identified in the license. This program was determined to be countervailable in previous investigations involving Thailand. *See, e.g., Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof From Thailand* (54 FR 12130, May 3, 1989). There has been no new information or evidence of changed circumstances placed on the record of this review to warrant reconsideration of this program's countervailability.

As discussed above, during the period of review, several companies were eligible for various IPA benefits; however, reporting companies received benefits only under Section 28 of the IPA. Under Section 28, an exporting company is allowed to import machinery and equipment (fixed assets) free of import duties and business and local taxes. Nan Yang Knitting Factory Co., Ltd. and Far East Knitting Co., Ltd. are the only companies subject to the review who received IPA Section 28 benefits. We calculated the Section 28 benefit for each of these companies by dividing the total amount of taxes and duties exempted during the review period by the companies' total exports.

In addition, the RTG indicated that several companies were eligible for benefits under Section 36(4). Under Section 36(4), the company is allowed a tax deduction equal to 5 percent of the increase in export earnings over the previous year. No responding company received benefits under section 36(4). Thai Iryo Public Co., Ltd. was the only eligible company for which no specific information was provided regarding the receipt of benefits under this provision of the IPA. Therefore, we are assigning a BIA rate to Thai Iryo as discussed in the BIA section above. On this basis, we preliminarily determine the net bounty or grant from the IPA program to be 0.07 percent *ad valorem* for all the subject merchandise.

II. Programs Preliminarily Found Not to be Used

We examined the following programs and preliminarily find that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review.

A. Rediscount of Industrial Bills
B. Assistance for Trading Companies
C. IPA (Sections 29, 30, 31, 33, and 36 (1–3))
D. Export Processing Zones
E. Financing from the Industrial Finance Corporation of Thailand

Preliminary Results of Review

For the period January 1, 1991 through December 31, 1991, we preliminarily determine the net bounty or grant to be 1.13 percent *ad valorem* for all companies except Thai Garment Export Co., Ltd., Fairtex Garment Co., Ltd., Fang Brothers Holding (Thailand) Co., Ltd., and East Asia Textile Ind. Co., Ltd., which have *de minimis* rates.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties of 1.13 percent *ad valorem* for all shipments of the subject merchandise exported on or after January 1, 1991, and on or before December 31, 1991, for all producers and exporters except Thai Garment Export Co., Ltd., Fairtex Garment Co., Ltd., Fang Brothers Holding (Thailand) Co., Ltd., and East Asia Textile Ind. Co., Ltd.

If the final results of this review remain the same as these preliminary results, the Department also intends to instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise by Thai Garment Export Co., Ltd., Fairtex Garment Co., Ltd., Fang Brothers Holding (Thailand) Co., Ltd., and East Asia Textile Ind. Co., Ltd. exported on or after January 1, 1991 and on or before December 31, 1991. This is because the company-specific rates calculated for these companies are less than 0.5 percent *ad valorem,* which is *de minimis.*

As noted above, this countervailing duty order was subject to section 753 of the Act, as amended by the URAA. *See Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation* (60 FR 27,693, May 26, 1995). Because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation, the International Trade Commission made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *See Revocation of Countervailing Duty Orders* (60 FR 40568, August 9, 1995) and *Notice of Determination to Amend Revocation, in Part, of Countervailing Duty Order* (62 FR 392, January 3, 1997). Accordingly, the Department will not issue further instructions with respect to cash deposits of estimated countervailing duties.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR § 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under

administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR § 355.38(c), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 355.22.

Dated: August 27, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

Appendix C–549–401—Countervailing Duty Order on Certain Apparel From Thailand Harmonized Tariff Schedule Numbers

HTS Number and Annotation
6101.2000 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6101.3020
6102.1000
6103.1920 Coverage limited to garments that would be covered if separately entered.
6103.2200 Coverage limited to garments that would be covered if separately entered.
6103.2300 Coverage limited to garments that would be covered if separately entered.
6103.2910 Coverage limited to garments that would be covered if separately entered.
6103.4210 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6103.4315 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6103.4910 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6104.1320
6104.1915
6104.2100.10
6104.2100.30
6104.2100.40
6104.2100.60
6104.2100.80
6104.2200.10
6104.2200.60
6104.2200.80
6104.2200.90
6104.2300.22
6104.2910.60
6104.5100 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6104.5310 Coverage limited to wool skirts.
6104.5910 Coverage limited to wool skirts; coverage excludes girls' skirts or divided skirts not having embroidery or permanently affixed applique work on the outer surface.
6104.6920 Coverage limited to wool trousers.
6105.1000
6105.2020
6106.1000
6109.1000
6109.9010.07
6109.9010.09
6109.9010.13
6109.9010.25
6109.9010.47
6109.9010.49 Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6110.2020 Coverage excludes men's or boys' garments having embroidery or permanently affixed applique work on the outer surface.
6110.3030.05
6110.3030.10
6110.3030.15
6110.3030.20
6110.3030.25
6110.3030.40
6110.3030.50
6111.3040 Coverage limited to sweaters; coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.
6111.3050
6111.9040 Coverage limited to sweaters.
6111.9050
6112.1200.10
6112.1200.30
6112.1200.50
6112.1910.10 Coverage limited to mens' and boy's garments that would be covered if separately entered.
6112.1910.30 Coverage excludes men's or boys' garments that would be covered if separately entered.
6112.1910.50 Coverage excludes men's or boys' garments that would be covered if separately entered.
6112.2010.10 Coverage excludes men's or boys' garments that would be covered if separately entered.
6112.2010.30 Coverage limited to mens' and boy's garments that would be covered if separately entered.
6112.2010.50 Coverage excludes men's or boys' garments that would be covered if separately entered.
6112.2010.60 Coverage excludes men's or boys' garments that would be covered if separately entered.
6112.2010.80 Coverage limited to mens' and boy's garments that would be covered if separately entered.
6114.2000
6114.3010.10
6114.3030
6201.1220
6201.1340
6201.9220
6203.1910 Coverage limited to garments that would be covered if separately entered.
6203.2230 Coverage limited to garments that would be covered if separately entered.
6203.2300 Coverage limited to garments that would be covered if separately entered.
6203.2920 Coverage limited to garments that would be covered if separately entered.
6203.4240
6203.4340
6203.4920
6204.2300 Coverage limited to woolen garments that would be covered if separately entered.
6204.2920.10
6204.2920.30
6204.2920.40
6204.2920.50 Coverage limited to garments that would be covered if separately entered.
6205.2020
6208.2200
6208.9200.30
6208.9200.40
6209.2050

[FR Doc. 97–23371 Filed 9–2–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Manufacturing Extension Partnership (MEP) National Advisory Board, National Institute of Standards and Technology (NIST), will meet to hold its first meeting on Friday, September 26, 1997. The Manufacturing Extension Partnership National Advisory Board is composed of 9 members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was set up under the direction of the Director of the National Institute of Standards and Technology to fill a need for outside input and advice for MEP, a unique program consisting of centers in all 50 states and Puerto Rico which are created by a state, federal and local partnership. The Board will work closely with the Manufacturing Extension Partnership to provide input and advice on MEP's programs, plans and policies. The purpose of this initial meeting is to provide an overview of the Manufacturing Extension Partnership,

discuss the role the Board will fill and set the framework for future meetings of the Board. On September 26, 1997, the agenda for this first meeting of the Board will include an overview of MEP to include manufacturing extension centers' current activities, impacts of services provided and future goals of centers.

DATES: The meeting will convene on September 26, 1997 at 9:00 am and will adjourn at 3:00 pm.

ADDRESSES: The meeting will be held in Building 301, Room C–145 (seating capacity 45, includes 15 participants), at NIST, Gaithersburg, Maryland.

SUPPLEMENTARY INFORMATION: MEP services to smaller manufacturers address the needs of the national market as well as the unique needs of each company. Since MEP is committed to providing this type of individualized service through its centers, the program requires the perspective of locally-based experts to be incorporated into its national plans. The MEP National Advisory Board was set up at the direction of the Director of the National Institute of Standards and Technology to maintain MEP's focus on local and market based needs. The NEP National Advisory Board was approved on October 24, 1996, in accordance with the Federal Advisory Committee Act, 5 U.S.C. app.2., to provide advice on MEP programs, plans, and policies; assess soundness of MEP plans and strategies; assess current performance against MEP program plans, and function in an advisory capacity. The Board will meet three times a year and reports to the Director of NIST. This will be the first meeting of the members.

FOR FURTHER INFORMATION CONTACT:

Linda Acierto, Assistant to the Director for Policy, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975–5033.

Dated: August 21, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–23364 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082597A]

Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fisheries; Notice That Vendor Will Provide 1998 Cage Tags

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

ACTION: Notice of vendor to provide 1998 cage tags.

SUMMARY: NMFS informs surf clam and ocean quahog allocation owners that they will be required to purchase their 1998 cage tags from a vendor.

ADDRESSES: Written inquiries may be sent to Mr. Richard Pearson at: National Marine Fisheries Serivce, Northeast Regional Office, One Blackburn Drive, Gloucestr, MA 01930–3799.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 508–281–9279.

SUPPLEMENTARY INFORMATION: The Federal Atlantic Surf Clam and Ocean Quahog Fisheries regulations at 50 CFR 648.75(b) authorize the Regional Administrator of the Northeast Region to specify in the **Federal Register** a vendor from whom cage tags, required under the management plan, shall be purchased. Implementation of this program will make the surf clam/ocean quahog tag program consistent with other regional tag programs, and set the stage for future tag programs that may be considered. Notice is hereby given that National Band and Tag Company of Newport, KY, is the authorized vendor of cage tags required for the 1998 Federal surf clam and ocean quahog fisheries. Detailed instructions for purchasing these cage tags will be provided in a letter to allocation owners within the next several weeks.

Dated: August 26, 1997.

Bruce Morehead,

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

[FR Doc. 97–23253 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080897A]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for an authorization to take small numbers of Pacific harbor seals and possibly California sea lions by harassment incidental to seismic retrofit construction of the Richmond-San Rafael Bridge, San Francisco Bay, CA (the Bridge). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize CALTRANS to incidentally take, by harassment, small numbers of marine mammals in the above mentioned area for a 1-year period beginning in December 1997.

DATES: Comments and information must be received no later than October 3, 1997.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, a draft Environmental Assessment (EA) and a list of references cited in this document may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Irma Lagomarsino, Southwest Regional Office, NMFS, (310) 980–4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5) (A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings

are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined *negligible impact* in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

New section 101(a)(5)(D) of the Marine Mammal Protection Act established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA now defines harassment as:

* * * any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On July 7, 1997, NMFS received an application from CALTRANS, requesting an authorization for the possible harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly some California sea lions (*Zalophus californianus*) incidental to seismic retrofit construction of the Bridge.

The Bridge will be seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to begin in December 1997, and extend through December 2001. A detailed description of the work planned is contained in CALTRANS (1996).[1]

Among other things, seismic retrofit work will include: Excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried out. The construction duration for the seismic retrofit of foundation and towers on Piers 52 through 57 will be approximately 7 to 8 months. Because of work restrictions and mitigation measures, the seismic retrofit construction in this area will be completed within one or two seasons.

As the seismic retrofit construction between Piers 52 and 57 may potentially result in disturbance of pinnipeds at Castro Rocks, an MMPA authorization is warranted.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the San Francisco Bay ecosystem and its associated marine mammals can be found in the CALTRANS application (CALTRANS 1997) and CALTRANS (1996).

Castro Rocks are a small chain of rocky islands located next to the Bridge and approximately 1,500 ft (460 m) north of the Chevron Long Wharf. They extend in a south-westerly direction for approximately 800 ft (240 m) from Pier 55. The rocks start at about 55 ft (17 m) from Pier 55 and end at approximately 250 ft (76 m) from Pier 53. The chain of rocks is exposed during low tides and inundated during high tide.

Marine Mammals

General information on harbor seals and other marine mammal species found in Central California waters can be found in Barlow et al. (1995). The marine mammals likely to be found in the Bridge area are limited to the California sea lion and harbor seal.

The California sea lion primarily uses the Central San Francisco Bay area to feed. California sea lions are periodically observed at Castro Rocks. No pupping or regular haulouts occur in the project area.

The harbor seal is the only marine mammal species found in the Bridge area in significant numbers and, therefore, is described in detail below.

Harbor Seals

The California stock of the Pacific harbor seal had an estimated population size in 1994 of 34,554 (Barlow et al. 1995). Harbor seal counts have continued to increase by 4.1 percent annually from 1983 and 1994, except during El Nino events of 1983 and 1995 (Barlow *et al.* 1995). During the same period however, harbor seal numbers within San Francisco Bay remained stable; their 1994 estimated number being approximately 350 (CALTRANS 1997).

The harbor seal is a non-migratory pinniped found in estuaries and marine embayments and typically rests ashore (hauls out) on tidal-inundated habitats such as mudflats, marshes, and near-shore rocky outcroppings (Kopec and Harvey 1995; Zeiner *et al.* 1990). Haul-out locations are used as resting sites and are important to the health of harbor seals. Harbor seals feed opportunistically in shallow water on a variety of fish, crustaceans, and a few cephalopods (Zeiner *et al.* 1990). Harbor seals often use isolated, undisturbed, sites for pupping and molting. The numbers of harbor seals on haul-out sites fluctuates throughout the year, but peaks generally occur during pupping and molting at some sites, such as Castro Rocks. Typically, in San Francisco Bay, pupping occurs from March to May, and molting occurs in June (Kopec and Harvey 1995). Females usually give birth on land, often at low tide, and the newborn pups are able to swim immediately after birth (Zeiner *et al.* 1990).

In the San Francisco Bay area, harbor seals are known to haul out at the Corte Madera ecological reserve in Marin County; at Castro Rocks on the southeast end of the Richmond-San Rafael Bridge in the North Bay; at Yerba Buena Island in Central San Francisco Bay; at several locations along the western shoreline of the Dumbarton Bridge, on the east side of the Bay (Newark and Mowry Soughs); and at the adjacent coastal areas (such as Point Reyes, Bolinas Lagoon, and Pillar Point (Kopec and Harvey 1995). In addition, several smaller or abandoned haul-out sites occur in San Francisco Bay (Kopec and Harvey 1995).

The numbers of harbor seals at Castro Rocks varies year-round. The most current independent surveys of harbor seals at Castro Rocks were conducted from 1989 to 1992 by Kopec and Harvey (1995). Mean yearly numbers of adults per count ranged from 76 to 113 during the pupping season, and ranged from 48 to 67 during the non-pupping seasons.

[1] California Department of Transportation. 1996. Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project. CALTRANS District 4.

Maximum numbers of harbor seal pups were between 13 and 26 for that four-year period (Kopec and Harvey 1995). During biological surveys at the Richmond-San Rafael Bridge, CALTRANS personnel counted 101 harbor seals on June 16, 1994, all seals were adults. On June 25, 1996, census data was again collected identifying 86 adults and 6 pups.

Harbor seals do not haul out at Castro Rocks at the highest tides. Harbor seals first come ashore when tide levels drop below 3 ft (1 m) on the eastern half of the easternmost island, closest to Pier 55. As the tide drops further, seals haul out on every island in the chain.

Harbor seals haul out onto dry land for various biological reasons, including sleep (Krieber and Barrette 1984), predator avoidance and thermoregulation (Barnett 1992). As harbor seals spend most of the evening and nighttime hours in the ocean (Bowles and Stewart 1980), hauled-out seals spend much of their daytime hours in apparent sleep (Krieber and Barrette 1984, Terhune 1985). In addition to sleep, seals need to leave the ocean to avoid aquatic predators and excessive heat loss to the sea water (Barnett 1992).

However, the advantages of hauling out are counterbalanced by dangers of the terrestrial environment including predators. In general, because of these opposing biological forces, haulout groups are temporary, unstable aggregations (Sullivan 1982). The size of the haulout group is thought to be an anti-predator strategy (da Silva and Terhune 1988). By increasing their numbers at a haulout site, harbor seals optimize the opportunities for sleep by minimizing the requirement for individual vigilance against predators (Krieber and Barrette 1984). This relationship between seals and their predators is thought to have represented a strong selection pressure for startle behavior patterns (da Silva and Terhune 1988). As a result, harbor seals, which have been subjected to extensive predation or hunting, rush into the water at the slightest alarm.

Startle response in harbor seals can vary from a temporary state of agitation by a few individuals to the complete abandonment of the beach area by the entire colony. Normally, when harbor seals are frightened by noise, or the approach of a boat, plane, human, or other potential predator, they will move rapidly to the relative safety of the water. Depending upon the severity of the disturbance, seals may return to the original haul out site immediately, stay in the water for some length of time before hauling out, or haulout in a different area. When disturbances occur late in the day, harbor seals may not haul out again until the next day.

Disturbances have the potential to cause a more serious effect when herds are pupping or nursing, when aggregations are dense, and during the molting season. However, evidence to date has not indicated that anthropogenic disturbances have resulted in increased mortality to harbor seals. Bowles and Stewart (1980) for example, found that harbor seals tendency to flee, and the length of time before returning to the beach, decreased during the pupping season. They also found that maternal-pup separations in crowded colonies are considered frequent, natural occurrences that can result from several causes, including normal female-female or male-female interactions. Both factors apparently giving some protection to young seals from the startle response of the herd.

Potential Effects on Marine Mammals

The impact to the harbor seals and California sea lions would be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced by implementation of the proposed work restrictions and mitigation measures (see below).

During the work period, harbor seal and on rare occasions, California sea lion incidental harassment is expected to occur on a daily basis upon initiation of the retrofit work. When harbor seals no longer perceive construction noise and activity as being threatening, they are likely to resume their regular hauling out behavior. The number of seals disturbed will vary daily depending upon tidal elevations. It is expected that disturbance to harbor seals during peak periods of abundance will not occur since construction activities will not take place within the restricted work area during the peak period (see Mitigation below).

It is not known whether California sea lions will react to construction noise and move away from the rocks during construction activities. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are likely therefore to be less impacted.

Potential Effect on Habitat

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haul out site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haul out and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping currently occur within the area. In addition, mitigation measures and proposed work restrictions are designed to preclude abandonment.

Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals, of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

Mitigation

Several mitigation measures to reduce the potential for marine mammal harassment will be implemented by CALTRANS as part of their proposed activity. General restrictions include: No piles installed between 7 p.m. and 7 a.m., imposition of a construction noise limit of 86 dBA at 50 ft (15 m) between 7 p.m. and 7 a.m., and a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period.

Marine mammal mitigation measures include: (1) A February 1 through June 30 restriction on work in the water south of the Bridge center line and on piers and pilings from Piers 52 through 57; and (2) no watercraft will be deployed during the year within the exclusion zone located between Piers 52 and 57 on the south side of the Bridge, except for when construction equipment is required for seismic retrofitting of piers 52 through 57. This exclusion area will be restricted as a controlled access area on plans and will be marked off with buoys located 200 ft (60 m) from the rocks.

To further minimize potential harassment, NMFS proposes to require CALTRANS to the following: (1) Minimize vessel traffic in the exclusion zone when conducting construction activities between piers 52 and 57; (2) construction noise levels on the superstructure will be limited to 86 dB re 20 μPa-m for 24 hours/day in the vicinity of Castro Rocks during the pupping/molting restriction period; and (3) no retrofit construction work will occur on the towers associated with piers 52 through 57 between February 1 and June 30.

Monitoring

During the time that seismic retrofit construction activities occur on Piers 52 through 57, harbor seal monitoring at Castro Rocks will be made for an 8-hour period once a week. Sound levels will be recorded on those days that seals are being monitored. Monitoring will be conducted by a minimum of one trained biologist approved by NMFS.

Monitoring of harbor seals at Castro Rocks will continue on a quarterly basis for one year after the retrofit construction is completed.

Reporting

CALTRANS will provide weekly reports to NMFS and a final report will be provided within 3 months of completion of construction work on Piers 52 through 57. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults and sub-adults, number of females/males, number of redcoats, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haul-out patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

National Environmental Policy Act

In conjunction with this notice, NMFS has released a draft EA that addresses the impacts on the human environment from issuance of the authorization and the alternatives to the proposed action. A copy of the draft EA is available upon request (see **ADDRESSES**).

Conclusions

NMFS has preliminarily determined that the short-term impact of a seismic retrofit construction of the Bridge will result, at worst, in a temporary modification in behavior by harbor seals and possibly some California sea lions. While behavioral modifications, including temporarily vacating the haul-out, may be made by these species to avoid the resultant noise, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated and takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned above.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization to CALTRANS for the possible harassment of small numbers of harbor seals and California sea lions incidental to seismic retrofit construction of the Bridge, provided the above mentioned mitigation, monitoring and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activities would result in the harassment of only small numbers of harbor seals and possibly California sea lions and will have no more than a negligible impact on these marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: August 26, 1997.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–23251 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081297B]

Longline and Billfish Advisory Panels; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Atlantic Billfish Advisory Panel (AP) and the AP for the pelagic longline fishery for Atlantic highly migratory species (HMS) will hold their second meetings on Sept. 18 and 19, 1997, respectively, in Miami, FL to discuss future management options for the Atlantic billfish and pelagic longline fisheries. Additionally, a longline technical workshop will be held on the evening of Sept. 18, 1997.

DATES: The billfish AP will meet from 8:00 a.m. to 4:00 p.m. on Sept. 18, 1997, followed by the longline technical workshop from 6:00 to 9:00 p.m. The longline AP will meet on Sept. 19, 1997, from 8 a.m. to 4:00 p.m.

ADDRESSES: The AP meetings will be held at the NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The longline technical workshop will be held at the Sheraton Biscayne Bay on Brickell Point, 495 Brickell Ave., Miami, FL 33131.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Liz Lauck, telephone: (301) 713–2347, Fax: (301) 713–1917, e-mail: jill.stevenson@noaa.gov or liz.lauck@noaa.gov.

SUPPLEMENTARY INFORMATION: The billfish and longline APs are established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. The longline AP will assist the Secretary of Commerce (Secretary) in preparing a study on the feasibility of implementing a comprehensive management system for the pelagic longline fishery for Atlantic HMS. The billfish AP will assist the Secretary in collecting information to develop an amendment to the Atlantic Billfish Fishery Management Plan. The AP meetings and the technical workshop are open to the public and will be attended by members of the AP, including appointed members, representatives of the five Fishery Management Councils that work with HMS, the Atlantic and Gulf states, the Atlantic and Gulf States Marine Fisheries Commissions, and the Chair, or his representative, of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas. Agenda items for the billfish AP include:

(1) Enforcement of domestic billfish regulations.

(2) Discussion of a draft Issues/Options (scoping) document.

(3) Discussion of scoping meetings and draft schedule.

(4) Recreational fishery data collection and analysis.

(5) Seasonal billfish bycatch analysis.

(6) Discussion of two petitions for rulemaking.

(7) Presentation and discussion of economic valuation issues by fishery.

Potential issues to be presented at the technical workshop include limited access, individual transferable quotas, quota monitoring, data collection and analysis, and other technical issues related to the pelagic longline fishery.

Potential agenda items for the pelagic longline AP include:

(1) Discussion of the longline survey, questionnaire, and workshops.

(2) Discussion of a draft problem statement that highlights issues to be considered in the study.

(3) Further topics concerning development of the study.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jill Stevenson or Liz Lauck, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347 at least 7 days prior to the meeting date.

Dated: August 29, 1997.

Gary C. Matlock,

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

[FR Doc. 97–23329 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration]

[I.D. 082197A]

Marine Mammals; Photography Permit (File No. 860–1374)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Michael deGruy, The Film Crew, 22838 Burbank Blvd., Woodland Hills, CA 91367, has applied in due form for a permit to take several species of non-threatened, non-endangered small cetaceans for purposes of commercial/educational photography.

DATES: Written comments must be received on or before October 3, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213

(310/980–4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of Section 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a ''pilot'' application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes. The applicant seeks authorization to photograph gray whales (*Eschrichtius robustus*) and Northern elephant seals (*Mirounga angustirostris*) in California waters.

Dated: August 21, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–23252 Filed 9–2–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Tuesday, September 2, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–23485 Filed 8–29–97; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Tuesday, September 9, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–23486 Filed 8–29–97; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Wednesday, September 24, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–23487 Filed 8–29–97; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Thursday, September 25, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–23488 Filed 8–29–97; 1:18 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Tuesday, September 30, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–23489 Filed 9–2–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DOD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction At of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 3, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to DoD Educational Activity, Rm 610, 4040 N. Fairfax Drive, ATTN: Ms. Teresa M. Jenkins, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call Teresa M. Jenkins at (703) 696–3104x2637.

Title, Associated Form, and OMB Control Number: Employment Opportunities for Educators; DS Forms 5010, 5011, 5012 and 5013; OMB Number 0704–0370.

Needs and Uses: This information collection requirement is necessary to obtain information on prospective applicants for educator positions within the Department of Defense Education Activity, Department of Defense Dependents Schools. The information is used to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on candidates selected for positions. In addition, the information is used to ensure that those individuals selected for employment with the Department of Defense Education Activity possess the abilities and personal traits which give promise of outstanding success under the unusual circumstances they will find working abroad. Information gathered is also used to ensure that the Department of Defense Dependents Schools personnel practices meet the requirements of Federal law.

Completion of the forms is entirely voluntary with the exception of the form requesting a professional evaluation of the applicant. This information is gathered from those in supervisory and managerial positions to ascertain information relative to the educator's personality and professional abilities.

Affected Public: Individuals or households.

Annual Burden Hours: 15,141.

Number of Respondents: 36,300.

Responses Per Respondent: 1.

Average Burden Per Response: 75 minutes.

Frequency: On occasion.

SUPLEMENTARY INFORMATION:

Summary of Information Collection

The primary objective of the information collection is to ensure a quality education from prekindergarten through grade 12 for the eligible minor dependents of the Department of Defense military and civilian personnel on official overseas assignments. This is accomplished by securing data from applicants for educational positions and officials with sufficient information to address the applicant's traits and characteristics.

The forms associated with this data collection include:

Department of Defense Dependents Schools Supplemental Application for Overseas Employment (DS Form 5010). The primary objective of this voluntary form is to ascertain applicant's eligibility for educator positions.

Department of Defense Dependents Schools Professional Evaluation (DS Form 5011). This form is provided to officials in managerial and supervisory positions as a means of verifying abilities and personal traits of applicants for educator positions to ensure the selection of the best qualified individual to occupy educator positions.

Department of Defense Dependents Schools Voluntary Questionnaire (DS Form 5012). This voluntary form helps ensure that the Department of Defense Education Activity's personnel practices meet the requirements of Federal law.

Department of Defense Dependents Schools Verification of Professional Educator Employment For Salary Rating Purposes (DS Form 5013). The purpose of this voluntary form is to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on selected candidates.

Dated: August 28, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–23296 Filed 9–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Closed Meeting of the Chief of Naval Operations (CNO) Executive Panel

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet 26 September 1997 from 1500–1600 at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350–2000. This session will be closed to the public.

The purpose of this meeting is to conduct the final briefing of the Business Simulation Task Force to the Chief of Naval Operations. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c) (1) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Janice Graham, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302–0268, telephone number (703) 681–6205.

Dated: August 22, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–23328 Filed 9–2–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 3, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, 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, SW., 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 Deputy Chief Information Officer, Office of the Chief Information Officer, 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: August 27, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Title: Guaranty Agency Monthly Claims and Collections Report

Frequency: Monthly.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 37.

Burden Hours: 2,220.

Abstract: The ED Form 1189 is used by a guaranty agency to request payments of reinsurance for default, bankruptcy, death, disability claims paid to lenders and for costs incurred for supplemental preclaims assistance, closed school, false certification and lender of last resort and lender referral fee payments. Agencies use the form to make payments owed to ED for collections on defaulted loans.

[FR Doc. 97–23281 Filed 9–2–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission) and describes the functions of the Commission. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: Monday, September 15, 1997, 1:30 p.m.–5 p.m. (est) and Tuesday, September 16, 1997, 9 a.m.–5 p.m. (est).

LOCATION: American Council on Education; 8th Floor Kellogg Conference Room, One Dupont Circle NW., Washington, DC.

FOR MORE INFORMATION CONTACT: Edmundo DeLeon, Special Assistant, White House Initiative on Educational Excellence for Hispanic Americans (Initiative) at 202–401–8459 (telephone), 202–401–8377 (FAX), ed__DeLeon@ed.gov (e–mail) or mail: U.S. Department of Education, 600 Independence Ave. SW., room 2115, Washington, DC 20202–3601.

SUMMARY INFORMATION: The Commission was established under Executive Order 12900 (February 22, 1994) to provide the President and the Secretary of Education with advice on (1) the progress of Hispanic Americans toward achievement of the National Goals and other standards of educational accomplishment; (2) the development, monitoring, and education for Hispanic Americans; (3) ways to increase, State, county, private sector and community involvement in improving education; and (4) ways to expand and complement Federal education initiatives.

The agenda for the Commission's two day meeting will explore the reauthorization of the Higher Education Act, education partnerships for family involvement, Federal agency outreach strategies, especially that of the Department of Education, and a work plan for the Fall 1997 and 1998.

Records are kept of Commission proceedings and are available for public inspection at the Initiative office, room 2115, 600 Independence Ave. SW., Washington, DC, from 9 a.m. to 5 p.m. (est).

Dated: August 27, 1997.

Connie Jameson,

Acting Assistant Secretary.

[FR Doc. 97–23247 Filed 9–2–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–461–000]

Black Marlin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1997.

Take notice that on August 25, 1997, Black Marlin Pipeline Company (BMP)

tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective September 1, 1997:

Second Revised Sheet No. 217

BMP states that in accordance with the Commission's ''Order on Remand'' issued February 27, 1997 (February 27 Order) in Docket Nos. RM91–11–006 and RM87–34–072, BMP is hereby revising the Right of First Refusal (ROFR) Section 15.3 of the General Terms and Conditions of its FERC Gas Tariff to reflect the Commission's adoption of a five-year matching term cap in place of the previous cap of twenty years.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23266 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF97–2101–000]

United States Department of Energy—Bonneville Power Administration; Notice of Filing

August 27, 1997.

Take notice that on August 14, 1997, the Bonneville Power Administration of the United States Department of Energy (BPA) tendered for filing proposed rate adjustments for its charges under the Pacific Northwest Coordination Agreement (PNCA) pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839e(a)(2). BPA states that it seeks interim approval of the revised PNCA rates effective October 13, 1997, pursuant to Commission regulation 300.20, 18 CFR 300.20. BPA seeks final approval of the proposed rates continuing until such time as revised rates are approved and become effective.

BPA states that the parties to the PNCA have entered into a successor agreement, the Amended and Integrated Pacific Northwest Coordination Agreement. BPA states that this agreement includes new rates for the exchanges of energy and capacity under the PNCA and that therefore BPA is seeking approval of these new rates.

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 September 12, 1997. 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. 97–23265 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–34–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1997.

Take notice that on August 25, 1997, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1997:

Twenty-Third Revised Sheet No. 8A
Fifteenth Revised Sheet No. 8A.01
Fifteenth Revised Sheet No. 8A.02
Twenty-First Revised Sheet No. 8B
Fourteenth Revised Sheet No. 8B.01

FGT states that Section 27 of the General Terms and Conditions (GTC) of its Tariff provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (FRCP), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (UFS), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1, (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that is is filing to establish an FRCP of 3.5% to become effective October 1, 1997 based on the actual company fuel use, lost and unaccounted for volumes, and Market Area deliveries for the period from October 1, 1996 through March 31, 1997. FGT states that it is also filing to establish a Winter Period UFS of ($0.0019) per MMBtu to become effective October 1, 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Loisw D. Cashell,

Secretary.

[FR Doc. 97–23267 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–462–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1997.

Take notice that on August 25, 1997, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to become effective September 1, 1997:

Fourth Revised Sheet No. 187

FGT states that in accordance with the Commission's ''Order on Remand'' issued February 27, 1997 (February 27 Order) in Docket Nos. RM91–11–006 and RM87–34–072, FGT is hereby revising the Right of First Refusal (ROFR) Section 20 of the General Terms and Conditions of its FERC Gas Tariff to reflect the Commission's adoption of a five-year matching term cap in place of the previous cap of twenty years.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secertary.

[FR Doc. 97–23269 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–157–007]

Gas Transport, Inc.; Notice of Compliance Filing

August 27, 1997.

Take notice that on August 25, 1997, Gas Transport, Inc. (GTI) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

Effective November 1, 1997

Sub. Fourth Revised Sheet No. 162
Sub. Third Revised Sheet No. 162A

GTI states that these tariff sheets are being filed to comply with the letter order issued by the Commission on August 19, 1997.

GTI states that copies of this filing were served upon its jurisdictional customers and the Regulatory Commissions of the states of Ohio and West Virginia.

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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23272 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–157–006]

Gas Transport, Inc.; Notice of Compliance Filing

August 27, 1997.

Take notice that on August 22, 1997, Gas Transport, Inc. (GTI) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

Effective June 1, 1997

Sub. First Revised Sheet No. 194
Sub. First Revised Sheet No. 195
Sub. First Revised Sheet No. 196
Sub. Original Revised Sheet No. 198

GTI states that these tariff sheets are being filed to comply with the letter order issued by the Federal Energy Regulatory Commission on August 11, 1997.

GTI states that copies of this filing were served upon its jurisdictional customers and the Regulatory Commissions of the states of Ohio and West Virginia.

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 Section 385.211). All such motions or protests must be filed in accordance with Section 154.210 of 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. 97–23273 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–174–004]

Gulf States Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1997.

Take notice that on August 22, 1997 Gulf States Transmission Corporation (GSTC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, certain tariff sheets to be effective November 1, 1997.

GSTC states that the purpose of the filing is to comply with the Commission's Order No. 587C, issued March 4, 1997 in Docket No. RM96–1–004.

GSTC has modified its tariff to insert the revised and new GISB standards accepted by the Commission in Order No. 587–C.

GSTC states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23271 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–63–000]

Kentucky West Virginia Gas Company, L.L.C.; Notice of Refund Report

August 27, 1997.

Take notice that on August 22, 1997, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West) filed a Report summarizing the refunds of GRI overcollections which were credited to the July billing invoice of its sole eligible customer.

Kentucky West states that on May 30, 1997, it received a refund from GRI of $58,044 for collections in excess of 105% of Kentucky West 1996 GRI funding level. Kentucky West states that it credited this amount to the account of its sole eligible firm customer.

Kentucky West states that a copy of its report has been served on its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23275 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–419–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

August 27, 1997.

Take notice that on August 22, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective August 14, 1997:

Substitute Second Revised Sheet No. 1408

Koch states that this filing is in compliance with a Letter Order (Order) from the Office of Pipeline Regulation dated August 11, 1997. As directed in the Order, Koch is filing this tariff sheet to correct a pagination error. In the Order, the Commission approved the filing made to remove a partially duplicated paragraph, subject to Koch refiling within ten days to correct the pagination of this sheet.

Koch also states that copies of the instant filing have been served upon each of persons designated on the official service list compiled by the Secretary in this proceeding.

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 Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 97–23270 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–463–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1997.

Take notice that on August 25, 1997, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 370. National Fuel states that this filing is in compliance with Ordering Paragraph (B) of the Commission's February 27, 1997 Order on Remand in Docket Nos. RM91–11–006 and RM87–34–072. (Order No. 636–C, 78 FERC 61,186 (1997)).

National Fuel states that the purpose of this filing is to submit the revised tariff sheet to establish a new contract term cap of five years for its right-of-first-refusal tariff provisions consistent with the new cap established in Order No. 636–C. National Fuel requests an effective date of September 24, 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this 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 available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23268 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP97–7–000]

Plains Petroleum Company and Plains Petroleum Operating Company; Notice of Petition for Adjustment

August 27, 1997.

Take notice that on August 22, 1997, Plains Petroleum Company and Plains Petroleum Operating Company, (Plains) tendered for filing a petition for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Rules 1101–1117 of the Commission's Rules of Practice and Procedure, requesting an adjustment to their potential liability to pay refunds and interest that Plains may be directed to make with respect to gas production between October 1, 1984, and January 16, 1987, owing to Plains' collection of Kansas *ad valorem* tax reimbursements from gas purchasers, reimbursements that have since been deemed to be in excess of the NGPA's applicable maximum lawful gas prices, all as more fully set forth in the subject petition, which is on file with the Commission and available for public inspection.

Plains states that this matter arises from the decision by the United States Court of Appeals for the District of Columbia Circuit in *Public Service Company of Colorado* v. *FERC,* 91 F. 3d 1478 (D.C. Cir. 1996), that refunds should be paid with respect to Kansas

ad valorem tax reimbursements on production between October 4, 1983, and June 28, 1988, and the Supreme Court's denial of cross-petitions for certiorari, filed in connection with the D.C. Circuit's decision in *Public Service Company of Colorado* v. *FERC*.

Plains requests that the Commission adjust Plains' potential liability for any refunds of Kansas *ad valorem* tax recoveries by: (i) waiving the payment of interest on any refund principal for which Plains is ultimately determined to be liable; (ii) reducing any refund obligation to account for sums taken by royalty owners who are now deceased or bankrupt or cannot be located, or sums which fall below a *de minimis* standard; (iii) granting relief where the original consumer who pay any tax reimbursements cannot be identified or located; and (iv) reducing any refund obligation by an amount equal to the taxes Plains paid on the value of the *ad valorem* tax reimbursements.

Plains states that copies of the filing have been served upon persons listed on the service list attached to the filing.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Commission within 15 days after publication of this notice in the Federal Register. 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 participate in this proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23276 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–698–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

August 27, 1997.

Take notice that on August 15, 1997, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP97–698–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon and remove its Colorado Interstate Gas Company (CIG) Measuring and Regulating (M&R) Station receipt point located within a pipe storage yard in Sweetwater County, Wyoming, under Questar's blanket certificate issued in Docket No. CP82–491–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar states that the CIG M&R Station was historically used as a gas supply facility to receive natural gas volumes purchased from CIG into Questar's Main Line Nos. 1 and 13 at Crossover 19. Questar explains that the receipt point facilities proposed to be abandoned and removed are comprised of: (1) an 8-inch-diameter Daniel Senior meter run; (2) a 6-inch-diameter control valve; (3) a 4-foot by 6-foot meter building; (4) an 8-foot by 12-foot by 8-foot fiberglass telemetry building; (5) approximately 60 feet of buried 6-inch-diameter pipeline; and (6) miscellaneous valves, fittings and other appurtenances. Questar also states that the 6-inch-diameter pipeline will be disconnected from piping at Crossover 19, a 6-inch weld cap will be installed, and all buried pipelines will be removed as part of the abandonment work.

Questar further explains that the CIG M&R Station facilities have not been utilized for more than 10 years and it is anticipated that Questar will not resume receiving natural gas volumes from CIG at this site.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23277 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP95–197–031 and RP96–44–007]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

August 27, 1997.

Take notice that on August 21, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Commission the calculation of its return allowance as required by Opinion No. 414. Opinion No. 414 addresses Transco's capital structure and return allowance for the Docket No. RP95–197 rate period beginning September 1, 1995 through April 30, 1997.

Transco states that it has calculated its return allowance in accordance with the two-step DCF methodology specified in Opinion No. 414. The calculation of Transco's return allowance and the workpapers supporting those calculations are attached in Appendix A to the filing.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23274 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP91–2778–002]

Valero Transmission, L.P.; Notice of Filing

August 27, 1997.

Take notice that on August 21, 1997, Valero Transmission, L.P. (Valero) located at P.O. Box 400, San Antonio, TX 78292, filed in Docket No. CP91–2778–002, a notice concerning a change in its corporate name, all as more fully set forth in the notice which is on file with the Commission and open to public inspection.

Valero states that its corporate name was changed to PG&E Texas Pipeline, L.P. (PG&E Texas), effective August 8, 1997. Valero requests the Commission to modify its records in this docket to reflect Valero's new name, specifically the Presidential Permit and Section 3 of the Natural Gas Act import and export authorization previously issued to Valero (57 FERC ¶61,299 and 68 FERC ¶61,191). Valero further states that the name change to PG&E Texas is a change in name only and does not reflect any substantive change of ownership, corporate structure, organization or operations.

Any person desiring to be heard or to make any protest with reference to said notice should on or before September 17, 1997 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23278 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009–009]

Virginia Electric and Power Company; Notice of Availability of Final Environmental Assessment

August 27, 1997.

An environmental assessment (EA) is available for public review. The EA is for an application for non-project use of project lands and waters. The application is to permit the City of South Hill, Virginia, to construct, operate and maintain a water intake facility within the Gaston and Roanoke Rapids Project boundary in Lake Gaston for withdrawal of up to 7.0 million gallons per day of water for municipal purposes. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Project is located on the Roanoke River, Virginia and North Carolina.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed in the Reference and Information Center, Room 2A, of the Commission's Offices at 888 First Street, N.E., Washington, D.C. 20426.

For further information, please contact the project manager, Mr. Robert Grieve at (202) 219–2655.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23305 Filed 9–2–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5887–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request Number 0820.06: Hazardous Waste Generator Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB):

Hazardous Waste Generator Standards, EPA ICR Number 0820.06, OMB Control Number 2050–0035, current expiration date February 20, 1998. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 3, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–97–HGIP–FFFFF to RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–HGIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway 1, 1235 Jefferson Davis Highway, first floor, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page.

Copies of the original ICR may be requested from the docket address and phone number listed above or may be found on the Internet. On the Internet, access the main EPA gopher menu and locate the directory: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA/hazardous waste-RCRA Subtitle C/generators.

Follow these instructions to access the information electronically:

Gopher: gopher.epa.gov

WWW: http://www.epa.gov

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained in the RCRA Information Center (the RIC address is listed above in this section).

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call (703) 412–9610 or TDD (703) 412–3323. For technical information, contact Ann Codrington at (703) 308–8825 or Bryan Groce at (703) 308–8750.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are generators of hazardous wastes; transporters who commingle wastes with different Department of Transportation descriptions; and importers or exporters of hazardous wastes.

Title: Hazardous Waste Generator Standards, OMB Control No. 2050–0035; EPA ICR No. 0820.06. expiring 2/20/98.

Abstract: In the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from ''cradle to grave.'' Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA among other things states that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators.

Finally, section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste (additional reporting requirements for exporters and importers of recyclable materials are covered under ICR Number 1647.01).

This ICR targets four categories of informational requirements in part 262: pre-transport requirements for both large (LQG) and small (SQG) quantity generators (including the generator pre-transport requirements referenced in 40 CFR part 265), air emission standards requirements for LQGs (referenced in 40 CFR part 265, subparts I and J), recordkeeping and reporting requirements for LQGs and SQGs, and export requirements for LQGs and SQGs (i.e., notification of intent to export and annual reporting).

This collection of information is necessary to help generators and EPA (1) identify and understand the waste streams being generated and the hazards associated with them, (2) determine whether employees have acquired the necessary expertise to perform their jobs, and (3) determine whether LQGs have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water. This information is also needed to help EPA determine whether tank systems are operated in a manner that is fully protective of human health and the environment and to ensure that releases to the environment are managed quickly and efficiently.

Additionally, this information contributes to EPA's goal of preventing contamination of the environment from hazardous waste accumulation practices, including contamination from equipment leaks and process vents. Export information is needed to ensure that (1) foreign governments consent to U.S. exported wastes, (2) exported waste is actually managed at facilities listed in the original notifications, and (3) documents are available for compliance audits and enforcement actions. In general, these requirements contribute to EPA's goal of preventing contamination of the environment.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The estimated number of likely respondents under this collection of information is 244,932 (20,932 LQGs and 224,000 SQGs). The bottom line annual reporting and recordkeeping burden to respondents under this collection of information is 282,696 hours. The average annual public reporting burden per response for LQGs under this collection of information is estimated to range from 21 minutes to 32 hours, and the average annual public reporting burden per response for SQGs is estimated to range from 21 minutes to 7 hours. The average annual recordkeeping burden per response for LQGs under this collection of information is estimated to range from 27 minutes to 1 hour, and the average annual recordkeeping burden per response for SGQs is estimated to range from 18 minutes to 45 minutes. The total average annual burden cost for all generators, collectively is: $13, 544, 854 in labor costs; $29,692 in capital costs; and $1,837,612 in annual O&M costs (O&M costs include a purchase of service component). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 15, 1997.

Elizabeth Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97–23359 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5886–8]

Proposed Settlement Agreement; Ozone Nonattainment Areas; Determination of Air Quality for Phoenix, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement.

SUMMARY: In accordance with Section 113(g) of the Clean Air Act (''Act''), as

amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement concerning litigation instituted against the Environmental Protection Agency (''EPA'') by the Arizona Center for Law in the Public Interest. The lawsuit concerns EPA's alleged failure to perform a nondiscretionary duty with respect to determining whether the Phoenix, Arizona ozone nonattainment area has timely attained the national ambient air quality standard (''NAAQS'') for ozone, and if the area has not, to publish that determination in the **Federal Register**. The settlement commits EPA to a schedule for making the determination as to whether the area attained the NAAQS, except that EPA is not obligated to make this determination if, instead, EPA determines that the area is eligible for an attainment date extension. If EPA determines that Phoenix failed to attain the ozone NAAQS as of the end of 1996, Phoenix will be reclassified, by operation of law, from a Moderate ozone nonattainment area to a Serious nonattainment area.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement agreement. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement agreement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the settlement agreement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7606. Written comments should be sent to Howard J. Hoffman at the above address and must be submitted on or before October 3, 1997.

Dated: August 21, 1997.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 97–23353 Filed 9–2–97; 8:45 am]

BILLING CODE 6565–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00473B; FRL–5744–1]

Antimicrobial Rule Development; Cancellation of Antimicrobial Stakeholder Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Cancellation of a meeting.

SUMMARY: The Antimicrobials Division (AD) of the Office of Pesticide Programs of EPA announced a series of stakeholder meetings in the **Federal Register** of July 9, 1997 to obtain views about the antimicrobial rule that is being developed. The meeting scheduled for September 11, 1997, is cancelled.

DATES: The stakeholder meeting announced for Thursday, September 11, 1997, is cancelled.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Mandula, Antimicrobials Division (7510W), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Office location, telephone, fax, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, 703–308–7378; fax: 703–308–8481; e-mail: mandula.barbara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA announced in the **Federal Register** of July 9, 1997 (62 FR 36805) (FRL–5731–2), a series of stakeholder meetings to be held in Rm. 1126 (''Fishbowl''), Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Va. The meeting scheduled for September 11, 1997, is cancelled because the documents that would have been the major agenda items will not be ready in time. The documents are expected to be ready for discussion at the next stakeholder meeting, which is scheduled to be held on October 21, 1997.

List of Subjects.

Environmental protection.

Dated: August 28, 1997.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 97–23454 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42191A; FRL–5741–5]

Endocrine Disruptors; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA is announcing the fifth meeting of the Endocrine Disruptors Screening and Testing Advisory Committee (EDSTAC), a committee established under the provisions of the Federal Advisory Committee Act (FACA) to advise EPA on a strategy for screening chemicals and pesticides for their potential to disrupt endocrine function in humans and wildlife.

DATES: The EDSTAC Plenary meeting will begin on Monday, October 7, 1997, at 9 a.m. and end on Tuesday, October 8, 1997, at 4 p.m.

ADDRESSES: The meeting will be held at the La Guardia Marriott located at 102–05 Ditmars Boulevard, East Elmhurst, NY 11369. The telephone number is (718) 565–8900; fax number (718) 899–0764. (Rooms for member of the public wanting to attend the meeting are available at a rate of $124.00 per night plus tax until September 22, 1997, after this date rates and availability cannot be guaranteed. If you wish to make use of this room rate, please contact the hotel directly at 1–800–882–1043.

FOR FURTHER INFORMATION CONTACT: For technical information about the EDSTAC, contact Dr. Anthony Maciorowski (telephone: (202) 260–3048; e-mail: maciorowski.tony@epamail.epa.gov) or Mr. Gary Timm (telephone (202) 260–1859; e-mail: timm.gary@epamail.epa.gov) at EPA. To obtain additional information please contact the contractor assisting EPA with meeting facilitation and logistics: Ms. Tutti Otteson, The Keystone Center, P.O. Box 8606, Keystone, CO 80435; telephone: (970) 468–5822; fax: (970) 262–0152; e-mail: totteson@keystone.org.

SUPPLEMENTARY INFORMATION: The tentative agenda for the October 7–8, 1997 plenary meeting includes status reports for all three work groups. It is expected that the Screening and Testing Work Group and the Priority Setting Work Group will have revised proposals that have incorporated feedback and suggestions offered at the July plenary. The Communications and Outreach Work Group will provide a status report and update of activities, as well. A more detailed agenda for the October 7–8 plenary will be posted to the EDSTAC Web Site in September.

A public comment session will be held on October 7, 1997, from 7 pm to 9 pm, as part of the open meetings of the EDSTAC process. Comments should be related to the design of approaches and methods for identifying endocrine disruptors or assigning priority to applying these methods to specific materials. The amount of time allowed each speaker will depend on the number of speakers who which to provide comment. Please be prepared to limit comments to approximately four minutes. The EDSTAC encourages you

to also submit written comment along with your verbal comments. In the interest of providing as much time as possible for all people who wish to present public comment, the EDSTAC encourages you to coordinate the preparation of your comments with other individuals or groups sharing your interests and concerns.

List of Subjects

Environmental protection.

Dated: August 25, 1997.

Susan H. Wayland,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–23358 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5587–6]

Gulf of Mexico Program's Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the Management Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Management Committee will hold a meeting at The Pontchartrain Hotel, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: James D. Giattina, Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–1172.

SUPPLEMENTARY INFORMATION: A meeting of the Management Committee of the Gulf of Mexico Program will be held at The Pontchartrain Hotel, 2031 St. Charles Street, New Orleans, LA. The committee will meet from 10:00 a.m. to 5:00 p.m. on October 1, and from 9:00 a.m. to 12:00 p.m. on October 2. Agenda items will include: FY 1998 Focus Area Performance Plans; Administrative Work from January 29, 1997 Meeting; Citizens Advisory Committee and Business Advisory Council Significant Activities Report and Future Goals for the Coming Year; and the Coastal America Program. The meeting is open to the public.

James D. Giattina,

Director, Gulf of Mexico Program.

[FR Doc. 97–23357 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5887–3]

Notice of Proposed Settlement for Cherokee Oil Sites, Mecklenbury County, North Carolina

AGENCY: Environmental Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to settle claims for response costs under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9622(g), with the State of North Carolina for a *de minimis* settlement. This claim relates to removal and response actions undertaken by EPA at the Cherokee Resources Sites on Berryhill Road and Summit Avenue in Charlotte, Mecklenbury County, North Carolina.

EPA will consider public comments on the proposed settlement which are received by EPA within thirty (30) days of the date of this notice. EPA may withdraw or withhold consent to the proposed settlement if such comments disclosed facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate.

A copy of the proposed settlement is available from Ms. Paula V. Batchelor at the address below. Written comments may be submitted to Ms. Batchelor at the same address within thirty (30) days of the date of publication.

Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104, 404/562–8887

Dated: August 21, 1997.

Robert Johnson,

Waste Management Division.

[FR Doc. 97–23361 Filed 9–2–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested

August 27, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments by November 3, 1997.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0136.

Title: Temporary Permit to Operate a General Mobile Radio Service System.

Form Number: FCC Form 574–T.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents: 1,500.

Estimate Hour Per Response: 6 minutes.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 150 hours.

Needs and Uses: The Commission rules state that eligible applicants for new or modified radio stations in the General Mobile Radio Service complete FCC Form 574–T for immediate authorization to operate the radio station. The applicant retains this form during the processing of their application for license grant as a 180-day temporary authorization to operate their radio station. This form is required

by the Communications Act of 1934, as amended, International Treaties and FCC Rules 47 CFR Parts 1.922, 95.71 and 95.73.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–23302 Filed 9–2–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Approved by Office of Management and Budget

August 27, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Jerry Cowden, Federal Communications Commission, (202) 418–0447.

Federal Communications Commission

OMB Control No.: 3060–0340.

Expiration Date: 08/31/2000.

Title: Section 73.51—Determining operating power.

Estimated Annual Burden: 1,470 hours; 0.25 hour per notation (4,872 respondents) and 3 hours per efficiency factor determination (84 respondents).

Description: When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power may be used on a temporary basis. Section 73.51(d) requires that a notation be made in the station log indicating the dates of commencement and termination of measurement using the indirect method of power determination. Section 73.51(e) requires that AM stations determining the antenna input power by the indirect method must determine the value F (efficiency factor) applicable to each mode of operation and must maintain a record thereof with a notation of its derivation. This recordkeeping requirement is used by FCC staff in field investigations to monitor licensee's compliance with the FCC's technical rules and to ensure that licensee is operating in accordance with its station authorization. The value F (efficiency factor) is used by station personnel in the event that measurement by the indirect method of power is necessary.

OMB Control No.: 3060–0341.

Expiration Date: 08/31/2000.

Title: Section 73.1680—Emergency antennas.

Estimated annual burden: 70 hours; 1 hour per response (request would be contracted out and completed and filed by attorneys; consultation time with these attorneys is estimated to be 0.5 hours); 140 respondents.

Description: Section 73.1680 requires that licensees of AM, FM or TV stations submit an informal request to the FCC (within 24 hours of commencement of use) to continue operation with an emergency antenna. An emergency antenna is one that is erected for temporary use after the authorized main and auxiliary antennas are damaged and cannot be used. The data is used by FCC staff to ensure that interference is not caused to other existing stations.

OMB Control No.: 3060–0344.

Expiration Date: 08/31/2000.

Title: Section 1.1705—Method for determining duration of Cuban interference.

Estimated annual burden: 45 hours; 45 hours per respondent; 1 respondent.

Description: Section 1.1705 requires U.S. applicants (AM stations) for compensation to monitor and log signals of interfering Cuban stations for 60 consecutive days and submit the results to the Commission. The data is used by FCC staff to assure that a Cuban station has caused objectionable interference within the service area of an AM station.

OMB Control No.: 3060–0345.

Expiration Date: 08/31/2000.

Title: Section 1.1709—Requirements for filing applications for compensation.

Estimated annual burden: 2 hours; 30 hours per response (respondent would spend approximately 2 hours in consultation with hired attorney; remaining time would be spent by attorney in preparing application); 1 respondent.

Description: Section 1.1709 requires that U.S. AM radio stations submit an informal application for compensation of expenses incurred in mitigating the effects of Cuban interference and any supplemental information the Commission may request the applicant to file. The application must be accompanied by certain documentation demonstrating that the expenses were incurred in connection with the acquisition, installation or construction of facilities for the purpose of mitigating the effects of interference from Cuba. The informal application and supplemental information is used by FCC staff to assure that compensation to the station is justified.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–23300 Filed 9–2–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, August 26, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and liquidation activities.

In calling the meeting, the Board determined, on motion of Mr. John F. Downey, acting in the place and stead of Director Nicolas P. Retsinas (Acting Director, Office of Thrift Supervision), seconded by Director Joseph H. Neely (Appointive), concurred in by Ms. Julie Williams, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: August 27, 1997.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 97–23455 Filed 8–29–97; 12:13 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1186–DR]

Colorado; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Colorado, (FEMA–1186–DR), dated August 1, 1997, and related determinations.

EFFECTIVE DATE: August 21, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Colorado, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 1, 1997:

Clear Creek and Phillips Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23331 Filed 9–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1186–DR]

Colorado; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Colorado, (FEMA–1186–DR), dated August 1, 1997, and related determinations.

EFFECTIVE DATE: August 26, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Colorado, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 1, 1997:

County of Elbert for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23332 Filed 9–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1186–DR]

Colorado; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Colorado, (FEMA–1186–DR), dated August 1, 1997, and related determinations.

EFFECTIVE DATE: August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Colorado, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 1, 1997:

Crowley, Kiowa, and Weld Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23333 Filed 9–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1186–DR]

Colorado; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Colorado, (FEMA–1186–DR), dated August 1, 1997, and related determinations.

EFFECTIVE DATE: August 20, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Colorado, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 1, 1997:

Baca and Otero Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23334 Filed 9–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1183–DR]

Montana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana, (FEMA–1183–DR), dated July 25, 1997, and related determinations.

EFFECTIVE DATE: August 25, 1997

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Montana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 25, 1997:

Madison, Missoula, and Stillwater Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23335 Filed 9–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1179–DR]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas, (FEMA–1179–DR), dated July 7, 1997, and related determinations.

EFFECTIVE DATE: August 21, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 7, 1997:

Goliad County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–23336 Filed 9–2–97; 8:45 am]

BILING CODE 6718–02–U

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–011465–005.

Title: South America Pacific Coast Rate Agreement.

Parties:

Mediterranean Shipping Company, S.A.

P&O Nedlloyd B.V.

Transportacion Maritima Grancolombiana S.A.

Synopsis: The proposed modification authorizes the parties to discuss and agree to service contract terms and conditions, and to agree to aggregate cargo volume for service contract purposes, with the other members of the West Coast South America Discussion Agreement. The parties have requested a shortened review period.

Dated: August 27, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–23258 Filed 9–2–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Continental Logistics Inc., One World Trade Center, Suite 2145, New York, NY 10048, Officer: Ernst W. Heintze, President.

C & C Group, Inc., 18037 SW 30th Court, Miramar, FL 33029, Officers: Claudia Quintero, President, Charlie Diaz, Vice President.

Pacific Shipping Company, 1011 Klickitat Way, Suite 203, Seattle, WA 98134, Officers: Kim Knise, President, James G. Rosselot, Vice President.

Apparel Transportation, Inc., 3101 Northwest 74th Avenue, Miami, FL 33122, Officers: Leo Del Calvo, President, Antonio Yunta, Vice President.

Arrisco International, Inc., 1809 G Cross Beam Drive, Charlotte, NC 28217, Officers: Sam Arris, President, Hassan Aris, Vice President.

Dated: August 27, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–23297 Filed 9–2–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 26, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. New Amboy, Inc., Old Bridge, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Amboy Bancorporation, Old Bridge, New Jersey, and thereby indirectly acquire Amboy National Bank, Old Bridge, New Jersey.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Peoples Commercial Bancorp, Inc., Stilwell, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of the Bank of Commerce, Stilwell, Oklahoma, and thereby indirectly acquire Peoples Bank, Westville, Oklahoma.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Texas Financial Bancorporation, Inc., Minneapolis, Minnesota, and Delaware Financial, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of CNB Bancshares of Victoria, Victoria, Texas, and thereby indirectly acquire Citizens Bancorp of Delaware, Inc., Wilmington, Delaware, and Citizens National Bank, Victoria, Texas.

Board of Governors of the Federal Reserve System, August 28, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–23316 Filed 9–2–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 26, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Spectrum Bancorporation, Inc., Omaha, Nebraska; to acquire First Savings & Loan Association of South Dakota, Inc., Aberdeen, South Dakota, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 28, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–23317 Filed 9–2–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: None.

SUMMARY: The Federal Trade Commission (FTC or Commission) is announcing an opportunity for public comment on the proposed extension of OMB approval under the Paperwork Reduction Act for ''collection of information'' requirements contained in the Mail or Telephone Order Merchandise Trade Regulation Rule, 16 CFR Part 435.

DATES: Submit written comments on the collection of information on or before November 3, 1997.

ADDRESSES: Send written comments to Elaine W. Crockett, Attorney, Office of the General Counsel, Room 598, 6th St. and Pennsylvania Ave., N.W. 20580. All comments should be identified as responding to this notice.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that cause members of the public to submit reports, keep records, or provide information to a third party. As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Mail or Telephone Order Merchandise Rule.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the FTC's functions, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents through the use of automated collection techniques, when appropriate, and other forms of information technology.

Mail or Telephone Order Merchandise Trade Regulation Rule, 16 CFR Part 435—(OMB Control Number 3084–0106)—Extension

The Mail Order Merchandise Rule was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship mail order merchandise on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. The Rule took effect on February 2, 1976. A second rulemaking proceeding in 1993 demonstrated that the delayed shipment and refund problems of the mail order industry were being experienced by consumers who ordered merchandise over the telephone. The Commission amended the Rule, effective on March 1, 1994, to include merchandise ordered by telephone, including by FAX or by computer through the use of a modem.

Generally, the Rule requires a merchant to: (1) Have a reasonable basis for any express or implied shipment representation made in soliciting the sale; (2) ship within the time period promised, and if no time period is promised, within 30 days; (3) notify the consumer and obtain the consumer's consent to any delay in shipment; and (4) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.

The notice provisions in the Rule require a merchant, who is unable to ship within the promised shipment time or 30 days, to notify the consumer of a revised date and his or her right to cancel the order and obtain a prompt refund. Delays beyond the revised shipment date also trigger a notification requirement to consumers. When the Rule requires the merchant to make a refund and the consumer paid by credit card, it also requires the merchant to notify the consumer either that any charge to the consumer's charge account will be reversed or that the merchant will take no action that will result in a charge.

Burden statement: In its 1995 PRA submission to OMB, the FTC estimated that 1,897 large businesses and 68,663 small businesses are covered by the Rule. As stated in the agency's 1995 submission, the conditional nature of some of the Rule's requirements makes it difficult to quantify the exact PRA burden involved. Nonetheless, the agency estimated that 70,560 businesses spend an average of 229.78 hours per

year on compliance with the Rule, for a total estimate of 16,213,300 burden hours.

No provisions in the Mail or Telephone Order Merchandise Rule have been amended or changed in any manner. All of the requirements relating to disclosure and notification remain the same. We have, however, reduced the 1995 total burden estimate of 16,213,300 hours for the reasons discussed below.

In the OMB regulation implementing the PRA, *burden* is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2). In past rulemaking proceedings, industry trade associations and individual witnesses have testified that compliance with the Rule is now widely regarded by direct marketers as being good business practice. The Rule's notification requirements would be followed in any event by most merchants to meet consumer expectations with respect to timely shipment, notification of delay, and prompt and full refunds. Providing consumers with notice about the status of their orders fosters consumer loyalty and encourages repeat purchases that are important to the success of direct marketers. Thus, much of the time and expense associated with Rule compliance is not properly treated as burden under the PRA.

In estimating any remaining burden, the agency has considered ''the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency.'' 5 CFR 1320.3(b)(1). This includes ''developing, acquiring, installing, and utilizing technology and systems for the purpose of disclosing and providing information.'' 5 CFR 1320.3(b)(1)(iv). Although not expressly stated in the regulation, it seems reasonable to infer that the definition of *burden* would include upgrading and maintaining computer systems used to comply with the Rule's requirements.

The mail order industry has been subject to the basic provisions of the Rule since 1976 and the telephone order industry since 1994. Thus, businesses have had several years (and some have had decades) to integrate compliance systems into their business procedures. Nonetheless, staff has allocated some hours, estimated at 150 hours annually per company, toward the maintenance of computer systems by the affected companies, even though maintenance and upkeep arguably would also be part of ordinary business practice in the industry.

Further, in our best judgment (more accurate data from the industry is not currently available), approximately 1,000 new companies have entered the market since 1995. Thus, the current total affected firms would consist of approximately 71,560 companies. Additionally, staff estimates that the approximately 1,000 new companies enter the covered market each year. Further, we estimate that new companies entering the market would need 230 hours per year (1995 figure of 229.78 rounded to 230) for compliance measures associated with system start-up, although again, it could be argued that such efforts would be undertaken even absent the Rule. We have therefore estimated that the total burden for compliance with the Rule would be approximately 10,964,000 hours. (1,000×230=230,000)+ (71,560×150=10,734,000.)

To emphasize, the FTC has not amended, nor is it in the process of amending, the Mail or Telephone Order Merchandise Rule. The burden hours associated with the Rule have been recalculated because the originally-estimated hours included one-time start up tasks (i.e., implementing systems and processes to meet the Rule's requirements) that have now been completed by most of the affected companies.

FOR FURTHER INFORMATION CONTACT: Elaine W. Crockett (202) 326–2453; FAX (202) 326–2447; E-mail: ecrockett@ftc.gov.

Jay C. Shaffer,

Acting General Counsel.

[FR Doc. 97–23311 Filed 9–2–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 F.R., Friday, August 22, 1997, Page No. 44698.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, September 4, 1997.

CHANGES IN THE AGENDA: The Federal Trade Commission has canceled its previously scheduled Oral Argument meeting for September 4, 1997, at 10:00 a.m.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 97–23385 Filed 8–28–97; 4:11 pm]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 F.R., Friday, August 22, 1997, Page No. 44698.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., Wednesday, September 3, 1997.

CHANGES IN THE AGENDA: The Federal Trade Commission has cancelled its previously scheduled Oral Argument meeting for September 3, 1997, at 2:00 p.m.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 97–23527 Filed 8–29–97; 3:28 pm]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Information Collection Requirements Contained in 42 CFR part 1004 (Revised Peer Review Organization Sanctions for Failing to Meet Statutory Obligations)—This information collection requirement is necessary to enable a Peer Review Organization (PRO) to submit a report and recommendation to the OIG if PRO-identified violations have not been resolved. In addition, an alternative sanctions notification process provides sanctioned practitioners or other persons the option of informing patients directly to the sanction action taken against them.—*Respondents:* Individuals, Business or other for-profit; Not-for-profit institutions—Burden Information for the PRO Report—*Annual Responses:* 7;*Annual Burden per Response:* 4 hours;*Annual Burden for PRO Report:* 28 hours—Burden Information for the Sanction Notification—*Annual Responses:* 5;*Annual Burden per Response:* 2 hours;*Annual Burden for Sanction Notification:* 10 hours—*Total Burden:* 38 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: August 27, 1997.

William R. Beldon,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 97–23304 Filed 9–2–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Two Meetings of the National Bioethics Advisory Commission (NBAC): One Each of its Genetics and Human Subjects Subcommittees

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of two meetings of the National Bioethics Advisory Commission. Commission members will solicit testimony on the protection of the rights and welfare of human subjects in research including decisionally and/or cognitively impaired populations and will address the use of genetic information involved in tissue storage. The meetings are open to the public and opportunities for statements by the public will be provided.

DATES/TIMES/LOCATIONS:

Human Subjects Subcommittee

September 18, 1997, 8:15 am–5:30 pm, (9:00 am–12 noon public hearing)—National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 10, Bethesda, Maryland 20892

Genetics Subcommittee

September 18, 1997, 3:00 pm–5:30 pm—National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 9, Bethesda, Maryland 20892

September 19, 1997, 8:30 am–12:30 pm—Same Location as Above

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) by Executive Order 12975 on October 3, 1995. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council and other entities on bioethical issues arising from the research on human biology and behavior, and in the applications of that research including clinical applications.

Public Participation

All meetings are open to the public with attendance limited by the availability of space. On September 18, 1997, the Human Subjects Subcommittee of the National Bioethics Advisory Commission will discuss possible guidelines for research involving decisionally or cognitively impaired subjects, and public testimony is invited on the ethical issues of such research. A public hearing will be held on ethical issues in research involving decisionally or cognitively impaired individuals from 9:00 am—12 noon on September 18, 1997. Members of the public who wish to present oral statements should contact the Deputy Executive Director of the NBAC by telephone, fax machine, or mail as shown below prior to the meeting as soon as possible. Individuals unable to make oral presentations are encouraged to mail or fax their comments to the NBAC staff office for distribution to the subcommittee members or Commission and inclusion in the public record.

Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta D. Hyatt-Knorr, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: August 28, 1997.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, Acting, National Bioethics Advisory Commission.

[FR Doc. 97–23377 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0353]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by October 3, 1997.

ADDRESSES: Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

Food Additives and Food Additive Petitions (21 CFR Parts 171, 172, 173, 175 to 178, and 180) (OMB Control Number 0910–0016—Reinstatement)

Section 409(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(a)) provides that any particular use or intended use of a food additive shall be deemed to be unsafe, unless the additive and its use or intended use are in conformity with a regulation issued under section 409 of the act that describes the condition(s) under which the additive may be safely used, or unless the additive and its use or intended use conform to the terms of an exemption for investigational use. Food additive petitions are submitted by individuals or companies to obtain approval of a new food additive or to amend the conditions of use permitted under an existing food additive regulation. Section 171.1 (21 CFR 171.1)

specifies the information that a petitioner must submit in order to establish that the proposed use of a food additive is safe and to secure the publication of a food additive regulation describing the conditions under which the additive may be safely used. Parts 172, 173, 175 to 178, and 180 (21 CFR parts 172, 173, 175 to 178, and 180) contain labeling requirements for certain food additives to ensure their safe use.

FDA scientific personnel review food additive petitions to ensure the safety of the intended use of the food additive in or on food, or of a food additive that may be present in food as a result of its use in articles that contact food. FDA requires food additive petitions to contain the information specified in § 171.1 in order to determine whether a petitioned use for a food additive is safe, as required by the act. This regulation (§ 171.1) implements section 409(b)(2) of the act.

Respondents are businesses engaged in the manufacture or sale of food, food ingredients, or substances used in materials that come into contact with food.

FDA estimates the burden of complying with the information collection provisions of the agency's food additive petition regulations as follows:

TABLE 1. — ESTIMATED ANNUAL REPORTING BURDEN

21 CFR	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
171.1	44	1	44	2,876	126,560
Part 172	44	1	44	0	0
Part 173	44	1	44	0	0
Parts 175 to 178	44	1	44	0	0
Part 180	44	1	44	0	0
Total	44				126,560

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the average number of new food additive petitions received in fiscal year 1995 and the total hours expended by petitioners to prepare the petitions. The burden varies with the complexity of the petition submitted, because food additive petitions involve the analysis of scientific data and information, as well as the work of assembling the petition itself. Because labeling requirements under parts 172, 173, 175 to 178, and 180 for particular food additives involve information required as part of the food additive petition safety review process under § 171.1, the estimate for the number of respondents is the same and the burden hours for labeling are included in the estimate for § 171.1.

Dated: August 26, 1997.

William B. Schultz,

Deputy Commissione for Policy.

[FR Doc. 97–23246 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0145]

Determination of Regulatory Review Period for Purposes of Patent Extension; PRELAY™ and REZULIN™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PRELAY™ and REZULIN™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug products PRELAY™ and REZULIN™ (troglitazone). PRELAY™ and REZULIN™ are indicated for use in patients with type II diabetes currently on insulin therapy whose hyperglycemia is inadequately controlled (HbA_{1c}>8.5%) despite insulin therapy of over 30 units per day given as multiple injections. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for PRELAY™ and REZULIN™ (U.S. Patent No. 4,572,912) from Sankyo Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 21, 1997, FDA advised the Patent and Trademark

Office that these human drug products had undergone a regulatory review period and that the approvals of PRELAY™ and REZULIN™ represented the first permitted commercial marketing or use of the products. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PRELAY™ and REZULIN™ is 2,885 days. Of this time, 2,703 days occurred during the testing phase of the regulatory review period, while 182 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: March 9, 1989. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on March 9, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: August 1, 1996. The applicant claims July 31, 1996, as the date the New Drug Applications (NDA's) for PRELAY™ (NDA 20–719) and REZULIN™ (NDA 20–720) were initially submitted. However, FDA records indicate that NDA's 20–719 and 20–720 were submitted on August 1, 1996.

3. *The date the application was approved*: January 29, 1997. FDA has verified the applicant's claim that NDA's 20–719 and 20–720 were approved on January 29, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,534 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 3, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 2, 1998, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 24, 1997.

Allen B. Duncan,

Acting Associate Commissioner for Health Affairs.

[FR Doc. 97–23244 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Open Meeting for Representatives of Health Professional Organizations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing an open meeting with representatives of health professional organizations. The meeting will be chaired by Sharon Smith Holston, Deputy Commissioner for External Affairs. This meeting will provide participants an opportunity to hear a discussion on the Food Safety Initiative and reducing food-borne illness.

DATES: The meeting will be held on Monday, October 6, 1997, from 1:30 p.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the Bethesda Holiday Inn, 8210 Wisconsin Ave., Bethesda, MD. Interested persons may register with Betty Palsgrove at 301–443–1652. Registrations also may be transmitted by FAX to 1–800–344–3332 or 301–443–2446.

FOR FURTHER INFORMATION CONTACT: Peter H. Rheinstein, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide an opportunity for representatives of health professional organizations and other interested persons to be briefed by senior FDA staff as well as representatives from the Centers for Disease Control and Prevention (CDC), the U.S. Department of Agriculture (USDA), and the Environmental Protection Agency (EPA). It will also provide an opportunity for informal discussion on the role of the Federal Government and health professional organizations in reducing food-borne illness in general, as well as identifying and treating the illness in patients.

This public meeting is free of charge; however, space is limited. Registration for the meeting will be accepted in the order received and should be sent to the contact person listed above. Registration should include the name and title of the person attending and the name of the organization being represented, if any.

Dated: August 27, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–23299 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Proposed Review Criterion for Grants for Primary Care Training Programs for Fiscal Year 1998

Grants for Primary Care Training programs are authorized under sections 747 (a) and (b), 748, 750 and 751, title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992. These grant programs include:

Grants for Predoctoral Training in Family Medicine
Grants for Faculty Development in Family Medicine
Grants for Graduate Training in Family Medicine
Grants for Establishment of Departments of Family Medicine
Grants for Residency Training in General Internal Medicine and General Pediatrics
Grants for Faculty Development in General Internal Medicine and General Pediatrics
Grants for Physician Assistant Training
Grants for Podiatric Primary Care Residency Training

Proposed Review Criterion

The following criterion is proposed to be added to the existing review criteria established in 61 FR 52034 on October 4, 1996:

''5. Project impact/influence in shaping the curriculum, program, department, institution and the community.''

The review criterion is proposed in this combined notice, rather than individual program announcements, to provide consistent review of all primary care medical education grant applications. An announcement will be made in the *HRSA Preview* for grant programs which will conduct competitive cycles in FY 1998.

The comment period is 30 days. All comments received on or before October 3, 1997 will be considered before the final review criteria are established. Written comments should be addressed to: Enrique Fernandez, M.D., Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9A–20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone : (301) 443–1467, FAX: (301) 443–8890.

All comments received will be available for public inspection and copying at the Division of Medicine, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: August 28, 1997.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 97–23373 Filed 9–2–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Cancer Prevention Control and Surveillance.

Date: September 15, 1997.

Time: 1 p.m. to adjournment.

Place: Teleconference, Executive Plaza North, Conference Room E, 6130 Executive Boulevard, Bethesda, MD 20852.

Contact Person: Courtney M. Kerwin, Ph.D., M.P.H., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 630I, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7421.

Purpose/Agenda: To evaluate and review responses to Request for Proposal.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposal and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 26, 1997.

LaVeen Ponds,

Policy Analyst, NIH, CMO.

[FR Doc. 97–23284 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Evaluation of Chemopreventive Agents by In vitro Techniques.

Date: September 11–12, 1997.

Time: 9 a.m. to 5 p.m.

Place: Ramada Inn-Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Boulevard, North, Room 622B, Bethesda, MD 20892–7410, Telephone: 301/496–7575.

Purpose/Agenda: To evaluate and review responses to a Request for Proposal.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 26, 1997.

LaVeen Ponds,

Policy Analyst, National Institutes of Health, Committee Management Office.

[FR Doc. 97–23285 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical/Experimental Radiation Research Studies (CERRIS).

Date: October 5–6, 1997.

Time: October 5—7:30 p.m. to 11 p.m.; October 6—8 a.m. to 6 p.m.

Place: The Bethesda Ramada Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kevin Ryder, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 611D, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/402–2785.

Purpose/Agenda: To evaluate and review a grant application.

The meeting will be closed in accordance with the provision set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Application and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 26, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 97–23287 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a teleconference meeting of the Advisory Committee to the Director, National Cancer Institute.

This meeting will be open to the public as indicated below, with attendance by the public limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 609, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708). A summary of the meeting and the roster of committee members will be provided upon request. Other information pertaining to the meeting may be obtained from the contact person indicated below.

Committee Name: Advisory Committee to the Director, National Cancer Institute.

Date: September 18, 1997.

Place: National Institutes of Health, Building 31 Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 3 p.m. to 4:30 p.m.

Agenda: Update on the progress of the NCI Working Groups.

Contact Person: Susan J. Waldrop, Executive Secretary, National Cancer Institute, Federal Building Room 312, 7550 Wisconsin Avenue (MSC 9010), Bethesda, MD 20892–9010, 301–496–1458.

Dated: August 26, 1997.

LaVeen Ponds,

Policy Analyst, NIH, CMO.

[FR Doc. 97–23288 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke *Special Emphasis Panel.*

Date: September 8, 1997.

Time: 11 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814, (301) 657–1234.

Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, Scientific Review Branch, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate one grant application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders, No. 93.854, Biological Basis Research in the Neurosciences)

Dated: August 26, 1997.

LaVeen M. Ponds,

Policy Analyst, National Institutes of Health, Committee Management Office.

[FR Doc. 97–23286 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Amended Notice of Closed Meeting

Notice is hereby given of a change in the July 28, 1997 National Institute of Nursing Research Special Emphasis Panel meeting, Review of Individual National Research Service Award Applications (Telephone Conference Call), which was published in the **Federal Register** on July 14, 1997 (62 FR 37586).

This meeting will now be held on September 22, 1997, with the following changes:

Time: 1:30 p.m.

Place: II Rockledge Building, Room 7186, 6701 Rockledge Drive, Bethesda, Maryland 20892.

Contact Person: Anne P. Clark, Ph.D., II Rockledge Drive, Room 7186, Bethesda, MD 20892, (301) 435–0280.

Purpose/Agenda: To review and evaluate grant applications.

Dated: August 26, 1997.

LaVeen M. Ponds,

Policy Analyst, NIH CMO.

[FR Doc. 97–23289 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting President's Cancer Panel

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given at a meeting of the President's Cancer Panel.

This meeting will be open to the public as indicated below, with attendance by the public limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 609, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708). A summary of the meeting and the roster of committee members will be provided upon request. Other information pertaining to the meeting may be obtained from the contact person indicated below.

Committee Name: President's Cancer Panel.

Date: September 29, 1997.

Place: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Open: 8:00 a.m. to 5:00 p.m.

Agenda: Concerns of Special Populations in the National Cancer Program: The Real Impact in the Reduction in Cancer Morality.

Contact Person: Maureen O. Wilson, Ph.D., Executive Secretary, National Cancer Institute, Building 31, Room 4A48, Bethesda, MD 20892–2473, Telephone: (301) 496–1148.

Dated: August 26, 1997.

LaVeen Ponds,

Policy Analyst, NIH CMO.

[FR Doc. 97–23382 Filed 9–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. FR–4278–D–01]

Delegation of Personnel Management Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: In this notice, the Secretary delegates authority to perform personnel management functions. Authority is delegated to the Deputy Secretary with concurrences by the Chief of Staff or by the General Counsel, as specified.

EFFECTIVE DATE: August 27, 1997.

FOR FURTHER INFORMATION CONTACT: Virginia Stephens, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708–0622. (This is not a toll-free number.) For hearing/speech-impaired individual, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION: The Secretary is making these changes to assist in the management of the Department and the carrying out of its mission. In this document, the Secretary delegates personnel management authorities, as specified below, to the Deputy Secretary, with the concurrence of the Chief of Staff; and to the Deputy Secretary, with the concurrence of either the Chief of Staff or the General Counsel in certain actions involving Senior Executive Service employees.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated With Respect to Specific Personnel Actions

The Deputy Secretary, with the concurrence of the Chief of Staff or the General Counsel, is delegated the authority to:

1. Select candidates for positions at grades GS–14 and GS–15.
2. Make an Intergovernmental Personnel Act (IPA) assignment.
3. Detail an employee at grades GS–14 or GS–15 to another HUD position in increments of up to 120 days.
4. Detail an employee to a position in another Federal agency in increments of up to 120 days.
5. Detail an employee to:
   a. the Panama Canal Commission,
   b. an international organization, or
   c. a foreign government.
6. Approve/disapprove a temporary work-at-home arrangement.
7. Promote employees to, demote employees voluntarily from, or reassign employees to positions at the GS–14 or GS–15 level.
8. Make time-limited promotions to the GS–14 or GS–15 level to meet temporary needs.
9. Noncompetitively promote a GS–14 or GS–15 employee, temporarily or permanently, to the highest grade previously held up to the GS–15 level.
10. Authorize payment of up to 25% of basic pay as a recruitment bonus.
11. Authorize payment of up to 25% of basic pay as a relocation bonus.
12. Authorize payment of up to 25% of basic pay as a retention allowance.
13. Approve/disapprove a reduction-in-force.
14. Approve/disapprove a transfer of function.

Section B. Authority Delegated With Respect to Senior Executive Service and Schedule C and Other Actions

The Deputy Secretary, with the concurrence of either the Chief of Staff or the General Counsel; or the General Counsel with a concurrence of the Chief of Staff are delegated the authority to:

1. Select, terminate, promote, reclassify, or extend SES positions.
2. Make selections for Secretary's Representative and State/Area coordinator positions.
3. Make selections for Administrative Law Judge positions, Senior Level positions, and positions on the Board of Contract Appeals.
4. Make selections for experts or consultant positions.
5. Select, terminate, promote, reclassify, or extend Schedule C (political) appointees.
6. Detail or reassign SESers or Schedule C appointees to other SES or Schedule C positions.
7. Detail non-SESers to SES positions.
8. Recertify, conditionally recertify, or not recertify career SESers.
9. Approve/disapprove Presidential Rank Award nominations for SESers.
10. Approve/disapprove SES performance awards.
11. Approve/disapprove SES performance ratings.
12. During the notice period of an adverse action: assign SESer to other duties; approve annual or sick leave or leave without pay; place SESer in absent without leave status; or place SESer on excused absence.
13. Remove or suspend an SES employee for misconduct, neglect of duty, malfeasance, failure to accept a directed reassignment, or failure to accompany a position in a transfer of function.

Section C. Authority To Redelegate

The authority delegated under Sections A and B may be redelegated to the Deputy General Counsel for Programs and Regulations. The authority delegated under number 6 of Section A may be redelegated to the Assistant Secretary for Administration.

Section D. Authority Modified and Superseded

This delegation of authority supersedes all prior delegations inconsistent with the authority delegated herein. In addition, this delegation of authority specifically modifies the Delegation of Authority to the Assistant Secretary for Administration, dated March 14, 1966, published in the **Federal Register** at 31 FR 10754 (August 12, 1966); the Delegation of Authority to the Assistant Secretary for Administration, published in the **Federal Register** on June 5, 1975 at 40 FR 24228; and the Delegation of Concurrent Authority to the Deputy Secretary, published in the **Federal Register** on January 1, 1996 at 61 FR 353.

Authority: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 27, 1997.

Andrew Cuomo,

Secretary of Housing and Urban Development.

[FR Doc. 97–23298 Filed 9–2–97; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3918–N–14]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of a Computer Matching Program—HUD and the United States Postal Service (USPA).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, (Public Law 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a recurring computer matching program with the United States Postal Service (USPS).

EFFECTIVE DATE: Computer matching is expected to begin at least 40 days from the date this computer matching notice is published, provided no comments are received which would result in a

contrary determination. It will be accomplished 18 months from the beginning date.

Comments Due Date: October 14, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR PRIVACY ACT INFORMATION FROM SOURCE AGENCY CONTACT: Jeanette Smith, Departmental Privacy Act Officer, 451 7th Street, SW, Room 4178, Washington, DC 20410, telephone number (202) 708–2374. (This is not a toll-free number).

FOR PROGRAM INFORMATION FROM SOURCE AGENCY CONTACT: Debbie Holt, Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 470 L'Enfant Plaza, SW, Room 3115, Washington, DC 20024, telephone number (202) 755–7570. (This is not a toll-free number).

REPORTING: In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;'' copies of this Notice and a report are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

AUTHORITY: The matching program will be conducted pursuant to Pub. L. 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, the Federal Debt Collection Act of 1982 (Pub. L. 97–276), which authorizes Federal agencies to offset a Federal employee's salary as a means of satisfying delinquent debts owed to the United States (5 U.S.C. 5514 (a)); 26 CFR 301.6402–6 *et seq.*, Chapter I, Subchapter F—Procedure and Administration (Tax Refund Regulations issued by Internal Revenue Service); and 24 CFR part 17, Administrative Claims, subpart C 17.60 and 17.125 through 17.140, Salary Offset Provisions (HUD).

OBJECTIVES TO BE MET BY THE MATCHING PROGRAM: The matching program will allow HUD to discover the identities and locations of postal employees who are indebted to the Department and to collect debts owed to the Federal Government.

RECORDS TO BE MATCHED: HUD will provide extracts from its system of records entitled HUD/DEPT–2, Accounting Records, last published in the **Federal Register** at 59 FR 52985 on October 20, 1994, containing records of more than 250,000 debtors of the records to be matched. Disclosures will be made under routine use (i) of that system.

The USPS will provide extracts from its Privacy Act System of Records USPS 050.020, Finance Records—Payroll System, containing payroll records for approximately 800,000 current USPS employees. Disclosure will be made under routine use No. 24 of that system, a full description of which was last published in 57 FR 57515, dated December 4, 1992.

NOTICE PROCEDURES: HUD will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and USPS will also publish notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

CATEGORIES OF RECORDS/INDIVIDUALS INVOLVED: The debtor records include these data elements from HUD's system of records, HUD/Dept–2: SSN, claim number, program code, and indication of indebtedness. Categories of records include: Records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures.

Categories of individuals include: former mortgagors and purchasers of HUD-owned properties manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

PERIOD OF THE MATCH: Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 40 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other in writing to terminate or modify the agreement.

Issued at Washington, DC.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Steven M. Yohai,

Chief Information Officer.

[FR Doc. 97–23283 Filed 9–2–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permits Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permits issued for the months of January 1997–August 1997.

Notice is hereby given that the U.S. Fish and Wildlife Service, Region 3, has taken the following action with regard to permit applications duly received in accordance with section 10 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1539, *et seq.*). Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Name	Permit No.	Date issued
Tamara Ross	PRT 801463 A1*	5/1/97
TAMS Consultants	PRT 801466 A1*	5/29/97
Malacological Consultants	PRT 801471 A2*	6/19/97
Malacological Consultants	PRT 801471 A3*	7/30/97
Dr. John Whitaker	PRT 802777 A3*	3/17/97

Name	Permit No.	Date issued
Dr. John Whitaker	PRT 802777 A4*	5/12/97
Dr. Daniel Soluk	PRT 805269 A2*	7/9/97
3D/Environmental	PRT 809227 A3*	5/28/97
3D/Environmental	PRT 809227 A4*	6/5/97
3D/International, Envir Grp	PRT 809227 A5*	7/30/97
Dr. Patrick Redig	PRT 810396 A1*	5/27/97
Dr. Daniel Hornbach	PRT 811008 A1*	2/7/97
Mr. Don Helms	PRT 811314 A2*	6/5/97
Thomas C. Erdman	PRT 813259	5/14/97
Mark C. Hove	PRT 814107 A1*	5/9/97
Midwest Science Center	PRT 825176	2/7/97
Wolf Timbers	PRT 821343	5/1/97
Dr. Cynthia Rebar	PRT 825177	6/12/97
Wisconsin DNR	PRT 824384	4/18/97
Wayne P. Steffens	PRT 826077	6/9/97
R. Mies/K. Williams	PRT 827309	6/16/97
Field Museum of Natural History	PRT 829986	8/18/97

* Indicates permit amendment.

Additional information on these permit actions may be requested by contacting the U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, telephone 612/725–3536, during normal business hours (7:30 am–4:00 pm) weekdays.

Dated: August 26, 1997.

John A. Blankenship,

Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 97–23378 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for Three Plant Species on Nihoa Island for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for three plant species on Nihoa Island: *Amaranthus brownii, Pritchardia remota,* and *Schiedea verticillata.* These species are known only from the island of Nihoa and are federally listed as endangered. The numbers of known remaining populations and individuals are as follows (# of colonies, # of individuals): *Amaranthus brownii* (4, <40), *Pritchardia remota* (4, 680), and *Schiedea verticillata* (10, 359).

DATES: Comments on the draft recovery plan received by November 3, 1997 will receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, Room 3108, 300 Ala Moana Boulevard, P.O. Box 50088, Honolulu, Hawaii 96850 (phone: 808/541–3441). Requests for copies of the draft recovery plan and written comments and materials regarding the plan should be addressed to Brooks Harper, Field Supervisor-Ecological Services, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion at the Honolulu address given above.

FOR FURTHER INFORMATION CONTACT: Chris Swenson, at the Honolulu address given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States, its Territories and Commonwealths. 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 implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The draft plan covers the following three plant taxa, all of which are federally listed as endangered: *Amaranthus brownii, Pritchardia remota,* and *Schiedea verticillata.* All of these taxa are believed to be endemic to the island of Nihoa, in the Northwestern Hawaiian Islands. However, an uncollected palm, no longer extant, was observed growing on Laysan Island, and may have been a *Pritchardia remota.* These three taxa grow only on Nihoa, which has an area of 0.25 square mile (0.65 square kilometer). Nihoa is part of the Hawaiian Islands National Wildlife Refuge.

Due to the small number of existing individuals and their extremely limited distributions, these taxa and all of their populations are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events. These taxa and their habitats have been variously affected or are currently threatened by one or more of the following: Fire; potential habitat degradation and competition with alien plants; predation by rodents that could easily be introduced by shipwrecks; introduced insects, possibly leading to

predation on plants and loss of pollinators; and natural events such as landslides, erosion, rockslides, and flash floods.

The objective of this plan is to provide a framework for the recovery of these three taxa so that protection by the Act is no longer necessary. Recovery efforts will focus on increasing monitoring, establishing *ex situ* collections of seeds and plants in botanical gardens, conducting applied research, controlling threats, increasing numbers on Nihoa, and exploring the feasibility and desirability of establishing the taxa on other Hawaiian islands.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 27, 1997.

Thomas J. Dwyer,

Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 97–23290 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–013–1990–00; N–60822]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following land in Elko County, Nevada is being considered for disposal by direct sale, including the mineral estate with no known value, under Section 203 and Section 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719) at no less than fair market value:

Mount Diablo Meridian, Nevada

T. 33 N., R. 52 E.,
Section 22, SW¼SW¼, E½SE¼SW¼.
Comprising 60 acres, more or less.

The above described land is being offered as a direct sale to the City of Carlin, Nevada.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the **Federal Register** of a Notice of Termination of Segregation, or 270 days from date of this publication, whichever occurs first.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada 89801. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: August 21, 1997.

Helen Hankins,

District Manager.

[FR Doc. 97–23254 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Keweenaw National Historical Park, Draft Environmental Impact Statement/ General Management Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of draft environmental impact statement and General Management Plan for the Keweenaw National Historical Park, located in Houghton County, Michigan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the Draft Environmental Impact Statement (DEIS) and General Management Plan (GMP) for the Keweenaw National Historical Park. The DEIS responds to Public Law 102–543, establishing Keweenaw National Historical Park. This notice also announces public meetings for the purpose of receiving public comments on the DEIS.

This DEIS for the GMP presents a proposal and three alternative strategies for guiding future management of the national historical park and balancing resource protection and public use. The major subject areas are, cultural resources, visitor experience, park management and operations, and the establishment of a public partnership.

Alternative 1 presents a continuation of existing trends and management, and projects these conditions into the foreseeable future, providing a basis to evaluate the other alternatives. Alternative 2, the ''community assistance alternative,'' would place the community at the forefront of implementing preservation actions and interpretive programs at sites in the park. The NPS would play a major support role, providing a comprehensive program of technical and financial assistance to the community to help make their actions a success. Under alternative 3, the ''traditional park in the core industrial areas'' alternative, the NPS would establish a very visible and traditional presence in the core industrial areas in each unit. The NPS would lease or acquire one or more buildings in each unit for visitor use and administration services. Other significant properties within the core industrial areas of the Calumet and Quincy units could be leased or purchased and interpreted when funding and staffing levels were adequate. The proposed action (alternative 4) is a blend of the community assistance alternative, number 2, and a refinement of the more traditional national park alternative, number 3. Through selected acquisition and other preservation tools, the NPS would have a strong public presence in both park units. Through community assistance, the NPS would be a contributing member of a very organized and active partnership of local government and community groups. The DEIS evaluates the potential environmental impacts associated with the four alternatives.

DATES: Comments on the DEIS should be received no later than October 31, 1997. Public meetings regarding the DEIS will be held at 7:00 p.m. on September 22 and 23, 1997.

ADDRESSES: Comments on the DEIS shall be submitted to the Superintendent, Keweenaw National Historical Park, 100 Red Jacket Road, Second Floor, Calumet, Michigan, 49913.

Public meetings will be held at the following locations:

Calumet High School All Purpose Room, Calumet, Michigan 7:00 p.m., September 22, 1997.

Finnish-American Heritage Center, Suomi College campus, Hancock,

Michigan, 7:00 p.m., September 23, 1997.

SUPPLEMENTARY INFORMATION: Public reading copies of the DEIS will be available for review at the following locations:

Park Headquarters, Keweenaw National Historical Park, 100 Red Jacket Road, Second Floor, Calumet, Michigan
Park Headquarters, Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan
Portage Lake District Library, 105 Huron, Houghton, Michigan
Calumet Public Library, 102 Calumet, Calumet, Michigan
Hancock Public Library, Hancock High School, Hancock, Michigan
Lake Linden-Hubbell Public Library, 601 Calumet, Lake Linden, Michigan
Michigan Technological University Library, Houghton, Michigan
Village of Calumet Clerk's Office, 106 Red Jacket Road, Calumet, Michigan
Village of Laurium Clerk's Office, 310 Hecla, Laurium, Michigan
Hancock City Manager, City Hall, Hancock, Michigan
Houghton City Manager, 616 Shelden Ave., Houghton, Michigan
Peter White Public Library, 217 North Front Street, Marquette, Michigan
Kelly Eastwood Olson Library, Northern Michigan University, 1401 Presque Isle, Marquette, Michigan

A limited number of copies of the DEIS are available from:

Superintendent, Keweenaw National Historical Park, 100 Red Jacket Road, Second Floor, Calumet, Michigan 49913, (906) 337–3168

FOR FURTHER INFORMATION CONTACT: Frank Fiala, Superintendent, Keweenaw National Historical Park at the above address, or he can be reached at 906–337–3168.

Dated: August 15, 1997.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 97–23323 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement for General Management Plan; San Francisco Maritime National Historical Park, San Francisco County, California; Notice of Availability

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service has prepared a Final Environmental Impact Statement (FEIS) assessing the potential impacts of the General Management Plan (GMP) for San Francisco Maritime National Historical Park, San Francisco, California. Once approved, the plan will guide management of the park over the next 15 to 20 years.

The Draft Environmental Impact Statement/General Management Plan (DEIS/GMP) was released for public review on July 25, 1996. A Notice of Availability was published in the **Federal Register** on August 2, 1996 to formally initiate a 60 day public review period (which closed on October 3, 1996). During this period, two public meetings were held with the park's Advisory Commission and written comments were also received. The FEIS/GMP contains responses to the comments received and minor modifications or clarifications to the document as needed in response to the comments.

Alternative A (the proposed action) would provide a plan for the preservation and maintenance of the park's collection, including the fleet of historic vessels, small watercraft, historic structures, library, and archival materials. Minimal measures to slow down deterioration of the steam schooner *Wapama* would be implemented, but the vessel's underlying structural decay would not be addressed. The ship would be dismantled when it could no longer be maintained in a safe condition. However, before this action would be taken, efforts would be made to seek out other agencies or private organizations interested in reconstructing or preserving *Wapama* as a dryberth exhibit. The park would pursue multiple strategies for major ship restoration, such as continued use of commercial shipyards and appropriate agreements with San Francisco Bay Area dry dock facilities. Greater use of the park's collection by the public for research and interpretive purposes would be provided through the use of additional facilities, including rehabilitation of the Haslett Warehouse. The intersection at Hyde and Jefferson Streets would be redesigned to enhance pedestrian access and visibility of the pier and historic ships and to expand interpretive opportunities. Aquatic Park would be enhanced and maintained as a public open space, and recreational activities in the lagoon such as swimming, rowing, and the temporary mooring of sailboats would continue to be provided to all users. Park volunteer programs would be enhanced and visitors would be encouraged to experience other related sites in the San Francisco Bay Area.

In addition to the proposed action, two alternatives were considered. Alternative B emphasized preservation and maintenance of the historic ships, small watercraft, historic structures, library, and archival materials (as would Alternative A). Space would be upgraded and expanded for the park's collection. The park would pursue multiple strategies for major ship restoration work. Under Alternative B the intersection of Hyde and Jefferson Streets would be developed further as an expanded-permanent pedestrian plaza with public seating, unobstructed views of the ships and Bay, and additional space for interpretive demonstrations, displays, and public programs. Alternative C (No Action-Minimum Requirements) would continue current management strategies, with minimal actions implemented to stabilize and preserve the park's collection and historic properties.

The environmental consequences of the proposed action and the alternatives were fully documented in the DEIS/GMP, and mitigation provided as appropriate to minimize impacts. The FEIS/GMP provides additional information on mitigation measures for the *Wapama* and other historic properties in the final Programmatic Agreement between the California State Historic Preservation Office, the Advisory Council on Historic Preservation, and the NPS.

SUPPLEMENTARY INFORMATION: It should be noted that this FEIS/GMP is an ''abbreviated'' final environmental impact statement (changes from the DEIS/GMP are minor, with no modification of the alternatives and no new information which might have a significant effect on the environment). The FEIS/GMP was prepared in accordance with environmental regulations set forth at 40 CFR 1503.4(c). It is recommended that readers of the FEIS/GMP have available a copy of the DEIS/GMP. The ''no-action'' period for this FEIS/GMP will end thirty (30) days after the Environmental Protection Agency has listed the availability of the document in the **Federal Register**. For further information, please contact the Superintendent, San Francisco Maritime National Historical Park, National Park Service, Building E, Fort Mason, San Francisco, California, 94123; telephone (415) 556–1659.

Copies of the FEIS/GMP will be available for public inspection at the headquarters office of San Francisco Maritime National Historical Park (contact info above), as well as at area

libraries and at Offices of Public Affairs, Washington Office of the National Park Service (1849 C Street NW, Washington DC) and Pacific West Regional Office of the National Park Service (600 Harrison Street, Suite 600, San Francisco, California).

Dated: August 21, 1997.

Holly Bundock,

Acting Regional Director, Pacific West Region.

[FR Doc. 97–23324 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement: Availability of Environmental Assessment for the Southside Barrier Project

The National Park Service, at the request of the Department of the Treasury, has prepared an Environmental Assessment for a construction project to replace temporary security barriers around the south side of the White House. The document is available for review and public comment through September 30, 1997.

Copies may be requested by calling the National Park Service, White House Liaison, at (202) 619-6344 weekdays from 9 a.m. to 4:00 p.m. Written requests may be sent to 1100 Ohio Drive, SW., Room 344, Washington, D.C. 20242.

Dated: August 20, 1997.

Stan E. Lock,

Deputy Director, White House Liaison.

[FR Doc. 97–23327 Filed 8–28–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Region; National Capital Memorial Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Tuesday September 23, 1997, at 1:30, at the National Building Museum, Room 312, 5th and F Streets, NW.

The Commission was established by Pub. L. 99–652, the Commemorative Works Act, for the purpose of preparing and recommending to the Secretary of the Interior; Administrator, General Services Administration; and Members of Congress broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statutes. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary and Administrator, and to serve as information focal point for those persons seeking to erect memorials on Federal land in the National Capital Region.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
The Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact the Commission at (202)619–7097. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of Stewardship and Partnerships, National Capital Support Office, 1100 Ohio Drive, SW., Room 220, Washington, D.C., 20242.

Dated: August 25, 1997.

Joseph M. Mawler,

Acting Regional Director, National Capital Region.

[FR Doc. 97–23325 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

San Francisco Maritime National Historical Park Meeting

Agenda for the September 24, 1997 public meeting for the Advisory Commission for the San Francisco Maritime National Historical Park, Fort Mason Center, Building F, 10:00 am–12:00 pm.

10:00 AM
Welcome—Neil Chaitin, Chairman
Opening Remarks—Neil Chaitin, Chairman; William G. Thomas, Superintendent
Approval of Minutes—June 11, 1997 meeting
10:15 AM
Update—Haslett Warehouse, William G. Thomas, Superintendent
10:30 AM
Update—General Management Plan, William G. Thomas
10:45 AM
Status—Space needs/Presidio, William G. Thomas
11:15 AM
Status—Ship Preservation Update, Wayne Boykin and Staff
11:45 AM
WAPAMA—Status of Alarm System/Telephone Lines, Marc Hayman, Chief IRM
11:55 AM
Public comments and questions
12:00 PM
Agenda items/Date for next meeting

Jeanne Haugh,

Superintendent.

[FR Doc. 97–23326 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Fort Stevenson, Dakota Territory in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains from Fort Stevenson, Dakota Territory in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

A detailed assessment of the human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Cheyenne River Sioux Tribe, Devil's Lake Sioux Tribe, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Standing Rock Sioux Tribe.

In 1867, human remains representing three individuals were removed from Fort Stevenson, Dakota Territory by U.S. Army Surgeon Charles C. Gray and Acting Assistant Surgeon Washington Matthews on behalf of the Smithsonian

Institution. No known individuals were identified. No associated funerary objects are present.

Neither the records of the Peabody Museum of Archaeology and Ethnology nor the Smithsonian Institution indicate the date of transfer of these individuals to the Peabody Museum of Archaeology and Ethnology. Primary accession and catalogue documents associated with these individuals at the Smithsonian record the individuals to be ''Yanktonnais Sioux.'' Cuthead Band of Upper Yanktonai Sioux oral traditions and historical documents indicate that Fort Stevenson was located within the Cuthead Band's traditional territory during the nineteenth century. The specific cultural affiliation attributed to the individuals by the collectors and the known policy during the nineenth century of the Smithsonian to request the remains of recently deceased Native individuals to be collected by U.S. Army personnel and Indian agents and sent to the Smithsonian Institution further support affiliation with the Cuthead Band of Yanktonai Sioux. The Cuthead Band of Yanktonai Sioux are represented by the Cheyenne River Sioux Tribe, Devil's Lake Sioux Tribe, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Standing Rock Sioux Tribe.

Based on the above mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Cheyenne River Sioux Tribe, Devil's Lake Sioux Tribe, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Standing Rock Sioux Tribe.

This notice has been sent to officials of the Cheyenne River Sioux Tribe, Devil's Lake Sioux Tribe, Assiniboine and Sioux Tribes of the Fort Peck Reservation, and the Standing Rock Sioux Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138; telephone: (617) 495–2254, before [*thirty days after publication in the* **Federal Register**]. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: August 28, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–23367 Filed 9–2–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from New York in the Possession of the Springfield Science Museum, Springfield, MA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from New York in the possession of the Springfield Science Museum which meet the definition of ''cultural patrimony'' under Section 2 of the Act.

The cultural items are a Seneca false face mask and a Seneca corn husk mask. The false face mask is black wood with brown horsehair and tin eyeplates with a split leather harness to secure the mask at the back. The corn husk mask has white cotton shoelace attachment cords.

Before 1975, these masks were given to Mr. John Hesen of Longmeadow, MA by the maker, Mr. Francis Kettle of the Cattaraugus Indian Reservation, NY. In 1983, Mrs. Betty S. Hesen donated these masks to the Springfield Science Museum.

Consultation evidence indicates one item is a medicine or false face mask. Such masks represent the power of particular medicine beings. The other mask, known as a Husk Face, or Bushy Head, is also used in ceremonies. Representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations affirm that these masks are needed by the traditional religious leaders of the Seneca Nation of Indians and the Tonawanda Band of Seneca for the practice of traditional ceremonies by present-day adherents. Representatives of the Haudenosaunee Standing Committee on Burial Rules and Regulations have also stated that false face masks are owned collectively by the members of the False Face Society and that corn husk masks are owned by the Husk Face Society; and therefore, no individual had the right to sell or otherwise alienate the masks.

Officials of the Springfield Science Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), these two cultural items have ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Springfield Science Museum have also determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these items and the Seneca Nation of Indians and the Tonawanda Band of Seneca.

This notice has been sent to officials of the Haudenosaunee Standing Committee on Burial Rules and Regulations, the Seneca Nation of Indians, the Tonawanda Band of Seneca, and the Seneca-Cayuga Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact John Pretola, Curator of Anthropology, Springfield Science Museums, 236 State Street, Springfield, MA 01103; before *[thirty days following publication in the* **Federal Register**]. Repatriation of these objects to the Haudenosaunee Standing Committee on Burial Rules and Regulations on behalf of the Seneca Nation of Indians and the Tonawanda Band of Seneca may begin after that date if no additional claimants come forward.

Dated: August 28, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–23366 Filed 9–2–97 ; 8:45 am]

BILLING CODE 4310–70–F

OVERSEAS PRIVATE INVESTMENT CORPORATION

September 16, 1997 Board of Directors Meeting

TIME AND DATE: Tuesday, September 16, 1997, 1:00 PM (OPEN Portion) 1:30 PM (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting OPEN to the Public from 1:00 PM to 1:30 PM; Closed portion will commence at 1:30 PM (approx.)

MATTERS TO BE CONSIDERED:

1. President's Report
2. Approval of June 10, 1997 Minutes (Open Potion)

4. Meeting schedule through June, 1998

FURTHER MATTERS TO BE CONSIDERED:

(Closed to the Public 1:30 PM)

1. Finance Project in Venezuela
2. Finance Project in Jamaica
3. Finance Project in India
4. Finance and Insurance Project in Bangladesh
5. Investment Fund in the Middle East & North Africa
6. Investment Fund in the West Bank, Gaza and Jordan
7. Investment Fund in Africa
8. Pending Major Projects
9. Proposed FY 1999 Budget and Allocation of Retained Earnings
10. Approval of June 10, 1997 Minutes (Closed Portion)

CONTACT PERSON FOR INFORMATION:

Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: August 29, 1997.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 97–23447 Filed 8–29–97; 11:24 am]

BILLING CODE 3210–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer Of Controlled Substances; Notice of Application

Pursuant to Section 1301.33 of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 6, 1997, Arenol Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
Difenoxin (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II

The firm plans to manufacture the listed controlled substances to produce pharmaceutical products for its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication.

Dated: August 20, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–23310 Filed 9–2–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

West End Drugs, Inc. Revocation of Registration

On May 28, 1997, the Acting Deputy Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to West End Drugs, Inc., (West End Drugs) of Nashville, Tennessee, proposing to revoke its DEA Certificate of Registration AH5042077, and to deny any pending applications for registration as a retail pharmacy for reason that its continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4). Additionally, citing his preliminary finding that the continued registration of West End Drugs posed an imminent danger to the public health and safety, the Acting Deputy Administrator ordered the immediate suspension of DEA Certificate of Registration AH5042077 during the pendency of these proceedings pursuant to 21 U.S.C. 824(d). The Order to Show Cause also notified West End Drugs that should no request for a hearing be filed within 30 days of receipt, its hearing right would be deemed waived.

The Order to Show Cause/Immediate Suspension of Registration was personally served on Henry Birdsong, the owner and pharmacist of West End Drugs, on May 29, 1997. No request for a hearing or any other reply was received by the DEA from West End Drugs or anyone purporting to represent it in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that West End Drugs is deemed to have waived its hearing right. After considering the relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that in January 1997, the Tennessee Board of Pharmacy (Board) was contacted by a local drug wholesaler regarding large purchases by West End Drugs of diazepam 10 mg., a Schedule IV controlled substance, and Guiatuss AC syrup and Cheratussin AC syrup, both Schedule V controlled substances. As a result of this information, investigators of the Board and the Tennessee Bureau of Investigation conducted random surveillance of West End Drugs on the day, or day after the pharmacy had received orders of diazepam 10 mg. The investigators noticed certain vehicles arriving at the pharmacy that were registered to individuals with criminal histories, including some with arrests and convictions for fraudulently obtaining controlled substances.

On March 4, 1997, a Board investigator conducted an inspection of the pharmacy. The inspection revealed that the majority of the prescriptions in the pharmacy's files were for controlled substances, and that the majority of the prescriptions for diazepam were written by one of three doctors. During this inspection, Mr. Birdsong informed the investigator that the pharmacy fills approximately 40 to 45 prescriptions per day and that some individuals pick up prescriptions for other people. According to investigators familiar with the dispensing practices of community pharmacies in the area, West End Drugs' filling of 40 to 45 prescriptions per day is well below the average of pharmacies similar to West End Drugs which fill 100 or more prescriptions per day.

As part of the investigations, the local wholesaler compared West End Drugs' purchases of dizaepam 10 mg., Cheratussin AC syrup, and Guiatuss AC syrup to purchases by its other customers for the period March 1, 1996 to February 28, 1997. West End Drugs was the largest purchaser of diazepam 10 mg., purchasing 138,000 tablets. The second and third largest purchasers bought 25,000 tablets and 15,500 tablets respectively, during the same time period. West End Drugs was also the number one purchaser of Cheratussin AC syrup buying from the wholesaler 3,112 four ounce bottles. The number two purchaser during this time period bought 447 four ounce bottles, and the number three purchaser bought 175 four ounce bottles. Finally, West End Drugs was the largest purchaser of Guiatuss AC syrup buying 1,046 four ounce bottles. For the same time period, the second and third largest purchasers bought 223 and 142 four ounce bottles, respectively.

In March 1997, DEA joined the investigation of West End Drugs, and on April 16, 1997, a search warrant and administrative inspection warrant were executed at the pharmacy. During the search, records of controlled substances dispensed by West End Drugs were seized. The records were analyzed for the period March 10, 1997 through April 16, 1997, and revealed that at least 639 controlled substance prescriptions filled by West End Drugs were either not issued by the physician whose name appeared on the prescription or a fictitious name was used as the issuing physician.

For example, investigators identified approximately 106 controlled substance prescriptions during this time period that were allegedly written by Dr. John Reynolds and were filled by West End Drugs. These prescriptions bore a DEA registration number that was later determined to be a fraudulent number. The prescriptions included 5 prescriptions for acetaminophen with codeine #4, totaling 500 dosage units; 23 prescriptions for diazepam 10 mg., totaling 2,300 dosage units; 5 prescriptions for Fastin, totaling 300 dosage units; 3 prescriptions for Lorcet Plus, totaling 300 dosage units; and 67 prescriptions for Lortab 7.5/500 mg., totaling 6,700 dosage units.

During the execution of the search warrant on April 16, 1997, the pharmacy received a telephone call from an individual identifying herself as an employee of Dr. Reynolds and advising Mr. Birdsong that she was calling in prescriptions for 12 new patients. These prescriptions included approximately 1,200 dosage units of Lortab 7.5 mg., and approximately 600 dosage units of diazepam 10 mg., and were to be picked up the following day by another individual.

Mr. Birdsong informed the investigators that he never verified the prescriptions issued by Dr. John Reynolds, but that Dr. Reynolds worked at Vanderbilt Medical Center. However, the investigators later contacted Vanderbilt Medical Center and were advised that no Dr. John Reynolds worked there. Further investigation revealed that only two Dr. John Reynolds were registered with DEA in Tennessee. One had retired from practice in December 1996, and the other, a dentist, advised investigators that he had not called in any prescriptions to West End Pharmacy on April 16, 1997, and that he rarely called in prescriptions for Lortab and never for such large amounts.

On April 17, 1997, the individual arrived at the pharmacy and picked up the medication dispensed pursuant to the prescriptions called in the previous day. As she was leaving the pharmacy, she was questioned by investigators and admitted that since approximately July 1996, she had been calling in 10 to 12 fictitious prescriptions to West End Drugs every week using the name of Dr. John Reynolds. She further stated that prior to July 1996, her sister had called in prescriptions to West End Drugs using the fictitious name of Dr. John Reynolds.

During execution of the search warrant, the investigators noted controlled substance prescriptions allegedly issued by Dr. Charles McGinnis. When asked about these prescriptions, Mr. Birdsong stated that Dr. McGinnis sends prescriptions to the pharmacy by courier. Mr. Birdsong fills the prescriptions and the courier then returns and pays cash for the medication. A review of the prescriptions seized from the pharmacy revealed that between March 10, 1997 and April 16, 1997, West End Drugs filled approximately 199 controlled substance prescriptions allegedly written by Dr. Charles McGinnis. These prescriptions included 51 prescriptions for acetaminophen with codeine #4, totaling 4,590 dosage units; 15 prescriptions for diazepam 10 mg., totaling 1,355 dosage units; 65 prescriptions for Lortab, totaling 2,492 dosage units; and 63 prescriptions for Valium 10 mg., totaling 5,670 dosage units. Investigators later contacted the office of Dr. Charles McGinnis and were advised that Dr. McGinnis had not authorized any prescriptions since suffering a stroke in December 1996.

The investigators also noted approximately 300 controlled substance prescriptions allegedly authorized by Dr. George Herda that were filled by West End Drugs. These prescriptions included 56 prescriptions for acetaminophen with codeine #4, totaling 5,040 dosage units; 113 prescriptions for diazepam 10 mg., totaling 10,120 dosage units; 58 prescriptions for Lortab 10 mg., totaling 2,320 dosage units; 59 prescriptions for Lortab 7.5/500 mg., totaling 2,360 dosage units; 3 prescriptions for Tylenol with codeine #4, totaling 270 dosage units; and 10 prescriptions for Valium 10 mg., totaling 900 dosage units. Investigators contacted Dr. Herda who indicated that he had not authorized these prescriptions.

While the investigators were in West end Drugs on April 17, 1997, waiting for the individual to pick up the prescriptions allegedly authorized by Dr. Reynolds, the pharmacy received a telephone call from an individual identifying himself as Dr. Herda and calling in prescriptions for hydrocodone and Tylenol with codeine. Mr. Birdsong expressed reluctance to fill the prescriptions stating that he did not know the individual. The individual replied that he has had an arrangement with West End Drugs for over two years. Ultimately, at the direction of the investigators, Mr. Birdsong filled the prescriptions. Later that day, the investigators stopped an individual leaving West end Drugs with the filled prescriptions for hydrocodone and Tylenol with codeine. The individual admitted that another individual had asked him to pick up the prescriptions; that that individual had called in prescriptions to West end Drugs on at least 12 other occasions; and that the individual had used the names ''McGinnis'' and ''Herda'' to call in the prescriptions.

On April 16, 1997, Mr. Birdsong voluntarily provided a written statement. Specifically, Mr. Birdsong stated that, ''I had my doubts that the prescriptions containing the physicians[']' names of McGinnis, Reynolds and Herda were not written for legitimate medical purposes but I did not follow up on my doubts.''

On April 18, 1997, the investigators were informed by the local wholesaler that West End Drugs had placed an order for 1,000 diazepam 10 mg. and 500 diaxepam 5 mg. to be picked up that day. Later that day, a local police officer observed a female leave West End Drugs having difficulty walking. The individual got into her vehicle and was later stopped by the officer who discovered a vial with 65 hydrocodone tablets. The label indicated that the prescriptions had been authorized by Dr. Teresa Cook and had been filled at West End Drugs. Mr. Birdsong was later questioned about the hydrocodone and he admitted that he had filled the prescription. He stated that Dr. Cook was new in the area and gave the officer a telephone number for Dr. Cook which turned out to be a pager number. Further investigation revealed that there is no Dr. Teresa Cook registered with the State of Tennessee or with DEA to practice medicine or handle controlled substances in Tennessee, nor was there anyone listed by that name in the local telephone directory.

A subsequent review of the prescriptions seized from West End Drugs during execution of the search warrant revealed approximately 34 controlled substance prescriptions allegedly issued by Dr. Teresa Cook between March 10, 1997 and April 16, 1997, which were filled by West End Drugs. These prescriptions included 22 prescriptions for Lortab 5 mg., totaling

1,495 dosage units; 7 prescriptions for Valium 10 mg., totaling 240 dosage units; and 4 prescriptions for Vicodin, totaling 255 dosage units.

Subsequently, on April 22, 1997, a second search warrant was executed at West End Drugs. During the search, a DEA investigator observed Mr. Birdsong filling a prescription for Lortab 10 mg. which appeared to have been altered from 20 to 30 tablets. The investigator contacted the physician who signed the prescription. The physician indicated that he had issued the prescription to the patient, but for 20 dosage units, not 30.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See* Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16,422 (1989).

Regarding factors one and three, there is no evidence in the record that the State of Tennessee has taken any action against the pharmacy license of West End Drugs, or that the pharmacy or its owner has been convicted of any offense relating to controlled substances. However, in considering factors two and four, West End Drugs' experience in dispensing controlled substances and its compliance with applicable laws relating to controlled substances, the Acting Deputy Administrator finds that there is more than ample evidence to support the revocation of the pharmacy's DEA Certificate of Registration.

Between March 10 and April 16, 1997, West End Drugs filled over 600 controlled substance prescriptions that were either not issued by the physician whose name appeared on the prescription or a fictitious name was used as the issuing physician. Mr. Birdsong admitted that he did not verify these prescriptions with the physicians who allegedly issued them, and further admitted that he had his doubts that most of these prescriptions were legitimate. Two individuals who were questioned during the investigation after picking up multiple prescriptions from West and Drugs admitted that the prescriptions were not valid. In addition, Mr. Birdsong was observed filling a prescription where the quantity prescribed had been altered.

In light of the above, the Acting Deputy administrator finds that Mr. Birdsong violated 21 CFR 1306.04, which provides that,

> A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is on the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. . . .

West End Drugs and Mr. Birdsong clearly abrogated its corresponding responsibility. Mr. Birdsong admitted that he had his doubts about the legitimacy of these prescriptions, yet he filled them anyway without verifying their legitimacy. As a result, thousands of dosage units of controlled substances were diverted into the illicit market.

The Acting Deputy administrator finds that based upon the foregoing, the continued registration of West End Drugs would be inconsistent with the public interest. No evidence of explanation or mitigating circumstances has been offered on behalf of West End Drugs. Therefore, the Acting Deputy Administrator concludes that its registration must be revoked.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AH5042077, previously issued to West End Drugs, Inc., be, and it hereby is revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are denied. This order is effective immediately.

When the order to Show Cause/ Immediate Suspension was served on West End Drugs, Inc., all controlled substances possessed by the pharmacy under the authority of its then-suspended registration were placed under seal and removed for safekeeping. Title 21 U.S.C. 824(f) provides that no disposition may be made of such controlled substances under seal until all appeals have been concluded or until the time for taking an appeal has elapsed. Accordingly, those controlled substances shall remain under seal until October 3, 1997, or until any appeal of this order has been concluded. At that time, all such controlled substances shall be forfeited to the United States and shall be disposed of pursuant to 21 U.S.C. 881(e).

Dated: August 27, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–23309 Filed 9–2–97; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of two currently approved information collections used in the National Historical Publications and Records Commission (NHPRC)'s grant program for subvention of part of the costs of manufacturing and distributing volumes published by NHPRC-supported documentary editorial projects. One collection is a grant application prepared by university and other non-profit presses applying for a subvention grant. The other collection is is a sales report made by a non-profit press which has received a subvention grant from the NHPRC. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before November 3, 1997 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information

collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

1. Title: NHPRC Subvention Grant Guidelines and Application.
OMB number: 3095–0021.
Agency form number: N/A.
Type of review: Regular.
Affected public: Universities and non-profit presses.
Estimated number of respondents: 12.
Estimated time per response: 9 hours.
Frequency of response: On occasion. On the average, a press submits two subvention applications per year.
Estimated total annual burden hours: 180 hours.
Abstract: The information collection is prescribed by 36 CFR 1206. The application is submitted by university and other non-profit presses applying to the NHPRC grant program for subvention of part of the costs of manufacturing and distributing volumes published by NHPRC-supported editorial projects.

2. *Title:* NHPRC Annual Sales Reports for Subvention Grants.
OMB number: 3095–0022.
Agency form number: None.
Type of review: Regular.
Affected public: Non-profit presses that have received an NHPRC subvention grant.
Estimated number of respondents: 12.
Estimated time per response: 2 hours.
Frequency of response: One time only. On the average, a press has two on-going subvention grants and therefore submits two sales reports per year.
Estimated total annual burden hours: 120 hours.
Abstract: The information collection is prescribed by 36 CFR 1206. The sales information provided by non-profit presses is used by Commission staff to gauge interest among scholars and the general public in documentary editions supported by Commission grants.

Dated: August 25, 1997.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 97–23292 Filed 9–2–97; 8:45 am]
BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 20, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301) 713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency to longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Army (N1–AU–97–12). Army periodical management records.
2. Department of the Army (N1–AU–97–13). General counseling records.
3. Department of the Army (N1–AU–97–19). Drug testing results.
4. Department of the Army (N1-AU–97–21). Family support, child custody, and paternity records.
5. Department of the Army (N1-AU–97–24). Military pay reports.
6. Department of Commerce, Patent and Trademark Office (N1-241–97–1). Revisions to the PTO comprehensive schedule.
7. Department of Education, Office of Hearings and Appeals (N1–441–97–4). Administrative adjudication case files

and related records, where the final decision is proposed as a permanent record.

8. Department of Energy, Office of Human Radiation Experiments (N1–434–96–7). Temporary electronic systems used by the Office of Human Radiation Experiments in carrying out its work. Included are systems used to: identify the locations of records relevant to the Office's work; identify human radiation experiments and the related scientific literature; track the status of requests for information received by the Office from the President's Advisory Committee on Human Radiation Experiments; and track responses to individuals who corresponded with the Department of Energy concerning human radiation experiments, including those who claimed they were exposed to radiation. (This schedule also provides for the permanent retention in electronic form of the 250,000 pages of documents accumulated by the Office concerning human radiation experiments, with related indexes).

9. Department of Health and Human Services (N1–443–97–1). National Institutes of Health committee management records, (substantive records will be preserved).

10. Department of Justice (N1–60–97–5). Witness Immunity Unit records.

11. Department of State, Bureau of Democracy, Human Rights, and Labor (N1–59–97–27). Reduction in retention period for Department's copies of asylum application files and establishment of advisory opinion letters as a separate category.

12. Bureau of Public Debt (N1–53–97–3). Savings bond operations records maintained by Federal Reserve Banks.

13. Central Intelligence Agency (N1–263–97–2). Copies of documents released under the Historical Review Program.

14. Environmental Protection Agency (N1–412–97–3). Water pollution lab evaluation system data.

15. Federal Energy Regulatory Commission (N1–138–97–1). Superseded, rejected or canceled electronic tariff sheets.

16. Panama Canal Commission (N1–185–97–18). Aedes Aegypti Monquito System.

17. Panama Canal Commission (N1–185–97–19). Payroll and pay administration records.

18. Tennessee Valley Authority (N1–142–97–14). Discharge monitoring reports and background data.

19. Tennessee Valley Authority (N1–142–97–23). Waivers of posting position requests.

Dated: August 26, 1997.

Michael J. Kurtz,

Assistant Archivist, for Record Services—Washington, DC.

[FR Doc. 97–23293 Filed 9–2–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Records Services.

DATES: September 22, 1997, from 10 a.m. to 11:30 a.m.

ADDRESSES: Cannon House Office Building, Legislative Resource Center Conference Room (B106).

FOR FURTHER INFORMATION CONTACT: Michael L. Gillette, Director, Center for Legislative Archives, (202) 501–5350.

SUPPLEMENTARY INFORMATION:

Agenda: Update on the Task Force on Electronic Records.

Report on Status: Legislative Systems Projects (Archival Implications), Update on Declassification of Executive and Legislative Branch Records, Report of the Center for Legislative Archives, Other current issues and new business.

The meeting is open to the public.

Dated: August 27, 1997.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 97–23294 Filed 9–2–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Submission for OMB Review; NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment, the first was published in the **Federal Register** at 62 FR 34315–34316 and no comment was receive. NSF will forward the proposed renewal submission to OMB for clearance with the publication of this second notice.

DATES: The Office of Management and Budget (OMB) should receive written comments by October 3, 1997.

ADDRESSES: Submits comments to Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gail A. McHenry, the NSF Reports Clearance Officer on (703) 306–1125 x2010 or send e-mail to gmchenry@nsf.gov. You may also obtain a copy of the data collection instrument and instructions from Mrs. McHenry.

SUPPLEMENTARY INFORMATION

Abstract. NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations (NPOs) will collect information on the science and engineering (S&E) research and development (R&D) activities of nonprofit organizations for the two most recently completed years. (On a historic note, a prior study with similar objectives was conducted in 1973.) The purposes of the study are to: (1) Develop estimates of the amounts of R&D funding provided by NPOs and the types of organizations supported; (2) develop estimates of the amount of R&D performed by NPOs; and (3) develop estimates of R&D employment in NPOs. Two different survey questionnaires will be used. R&D performers will be asked for R&D expenditures by source of funds, by field of science and engineering, by category of work (Basic, Applied, Development), by state, and amounts expended for capital improvements, and for employment. R&D funders will be asked for amount of S&E R&D they fund at various categories of R&D performers. The information is needed to update available data on the R&D activities of the nonprofit segment. The Gallup Organization will conduct the study for NSF.

Two samples will be drawn: one of NPO R&D performers and a second of NPO R&D funders. The R&D performers'

sample will be drawn from organizations filing a 990 tax return. An initial sample of roughly, 4,460 potential NPO R&D performers will be selected and sent a short screening questionnaire to establish eligibility for the main study. NPOs in this initial sample will be drawn from four strata:

1. NPOs which received Federal Funds for Science and Engineering (S&E) R&D between 1974 and 1994 based on NSF's Federal Support to Universities, Colleges, and Nonprofit Institutions (FS) survey and which were found in the 990 database.

2. NPOs in the 990 database which have National Taxonomy of Exempt Entities (NTEE) codes with a high likelihood of containing S&E R&D performers.

3. NPOs in the 990 database which are not in the FS or in the high likelihood NTEE codes.

4. NPOs in NSF's 1973 survey, all nonprofit-administered Federally Funded Research and Development Centers, and others to be included with certainty.

Depending on stratum, unweighted response rates of 80 to 90 percent are anticipated. Also depending on stratum, from 60 to 90 percent of the participating organizations are expected to be eligible. These approximately 2,360 organizations will be sent a main questionnaire that is expected to yield a final working sample size of about 2,100.

The R&D funders sample will be drawn from both 990PF tax returns for private foundations and 990 returns for public charities. As with the performers, a sample of potential NPO R&D funders will be selected to receive a short screening questionnaire to establish eligibility (N=700). Of these, 90 percent are expected to participate and 90 percent of these are expected to be eligible to participate. The roughly 560 eligible organizations will be sent a main questionnaire that is expected to yield a total working sample of 500.

To minimize burden on small entities and to make sure that a high proportion of the nonprofit sector's R&D funding and performance is captured, the sample will be designed with probabilities proportional to size. Thus, a large NPO has a higher probability of being selected than a small NPO has. This method is justified because large NPOs are more likely to perform R&D than small NPOs are. Size will be determined by budgets, assets, or awards.

The main questionnaires will be distributed in hardcopy and via the World Wide Web. To minimize burden, the world Wide Web questionnaires will be computer-assisted to ease user input, provide automatic totals of numerical information and aid users in error correction. Security procedures will minimize the risk of unwanted disclosure over the Internet. Definitions of key survey terms have been made consistent with OMB Circulars A–122 and A–133 to minimize potential confusion and unnecessary effort by survey respondents.

Information being collected is not considered to be sensitive. In general, assurances of data confidentiality will not be provided to respondents to the NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations. The utility of the data will be increased by allowing access to collected data. Results of pretesting and discussions with possible respondents have suggested this approach for handling confidentiality.

Use of the Information. The purpose of this study is to collect data about R&D funding and performance by nonprofit organizations. The NSF will publish a separate report of the findings and also include them in other NSF compilations such as National Patterns of R&D Resources and Science and Engineering Indicators. A public release file of collected data will be made available to researchers on the World Wide Web. The results of the survey will help policy makers in decisions on R&D funding, regulations, and reporting guidelines.

Burden on the Public. The Foundation estimates that a total annual reporting and recordkeeping burden of 27,056 hours will result from the collection of information. The calculation is:

	Hours
4,460 performers × 1 screening questionnaire × 12.5 minutes = ...	930
2,360 performers × 1 survey questionnaire × 10.5 hours = ...	24,780
700 funders × 1 screening questionnaire × 12.5 minutes = ...	146
560 funders × 1 shorter questionnaire × 2 hours = ...	1,120
Total	27,056

Dated: August 27, 1997.

Gail A. McHenry,

Reports Clearance Officer.

[FR Doc. 97–23365 Filed 8–27–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Statement of Principles and Policy for the Agreement State Program; Policy Statement on Adequacy and Compatibility of Agreement State Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statements.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing two final policy statements: the ''Statement of Principles and Policy for the Agreement State Program,'' and ''Policy Statement on Adequacy and Compatibility of Agreement State Programs.''

EFFECTIVE DATE: September 3, 1997.

ADDRESSES: Documents referenced in this notice are available for inspection in the Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC, between 7:45 am and 4:15 pm.

FOR FURTHER INFORMATION CONTACT: Ms. Cardelia Maupin, Sr. Project Manager, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–2312.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statement of Principles and Policy for the Agreement State Program

On August 25, 1993, the Commission requested the NRC staff to recommend improvements to the NRC's Agreement State Program to assure adequate protection of public health and safety. The draft Policy Statement was published in the **Federal Register** on August 5, 1994 (59 FR 40058). At the Commission's request, the public comment period scheduled to end on October 4, 1994, was extended to December 19, 1994 (59 FR 52316).

A final Policy Statement was prepared based on the public comments, other activities and issues before the Commission, e.g., the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs,'' issues discussed at public briefings of the Commission by the Organization of Agreement States (OAS), and the Commission's deliberations on the Integrated Materials Performance Evaluation Program. On May 5, 1995, the NRC staff submitted to the Commission the ''Final Statement of Principles and Policy for the Agreement State Program'' and ''Procedures for Suspension and Termination of an Agreement State Program'' (SECY 95–115) that contained the full analysis of

comments. By Staff Requirements Memorandum dated June 29, 1995, the Commission provided comments on the Statement of Principles and Policy for the Agreement State Program and directed staff to develop procedures for placing an Agreement State in probationary status and for implementing the phase-in of a new Agreement State program.

On October 3, 1996, the NRC staff submitted to the Commission the Statement of Principles and Policy for the Agreement State Program that had been modified as directed by the Commission (SECY 96–213). Further revisions were made to ensure consistency with the revised Policy Statement on Adequacy and Compatibility of Agreement State Programs. The procedures for suspension, emergency suspension and termination of agreements were finalized on April 25, 1996, and the procedure for placing an Agreement State in probationary status was finalized on July 3, 1996.

B. Statement on Adequacy and Compatibility of Agreement State Programs.

On July 21, 1994 (59 FR 37269), the Commission published in the **Federal Register**, for public comment, a draft Policy Statement regarding the adequacy of Agreement State programs to protect public health and safety and compatibility with NRC regulatory programs. The comment period for the draft Policy Statement was scheduled to expire on October 19, 1994, but was extended to December 19, 1994 (59 FR 52317). In addition, a public workshop was held on November 15, 1994 (59 FR 52321) to provide an opportunity for Agreement States and interested members of the public to provide comments on the draft Policy Statement.

A final ''Policy Statement on Adequacy and Compatibility of Agreement State Program'' was prepared based on the public comments and other activities and issues before the Commission. On May 3, 1995, the NRC staff submitted to the Commission the ''Final Policy Statement on Adequacy and Compatibility of Agreement State Programs'' (SECY 95–112) that contained the full analysis of comments.

C. Status of the Policy Statements

The Commission approved both policy statements in principle with a Staff Requirements Memorandum dated June 29, 1995, but deferred their implementation until all implementing procedures were completed and approved by the Commission. On August 2, 1995 (60 FR 39463), the Commission published in the **Federal Register** the status of these two policy statements and a notice of their availability.

NRC staff also prepared draft implementing procedures for phased implementation of a new Agreement State program that contained language for a standard agreement (Management Directive 5.8 and its associated handbook). Comments on the draft implementing procedures for phased implementation of new agreements and the standard agreement were requested from the Agreement States on November 15, 1996. The complete analysis of these comments is included in ''Final Recommendations on Policy Statements and Implementing Procedures for: Statement of Principles and Policy for the Agreement State Program and Policy Statement on Adequacy and Compatibility of Agreement State Programs'' (SECY 97–054, dated March 3, 1997) that is available for inspection at the NRC Public Document Room. A summary of the comments appears with the text of the final policy statement in this notice.

In October 1995, a Working Group consisting of representatives of Agreement States and the NRC was formed to develop implementing procedures for the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs.'' The formation of this Working Group was announced in the **Federal Register** on December 1, 1995 (60 FR 61716). A notice announcing availability of the initial Working Group report (August 21, 1996) and implementing procedures was published in the **Federal Register** on September 19, 1996 (61 FR 49357). Comments also were requested specifically from Agreement States and panelists who participated in the November 15, 1994, public workshop. The analysis of State and public comments is part of the supplemental report of the Working Group dated January 27, 1997, that is available for inspection at the NRC Public Document Room. A summary of the comments appears with the text of the final policy statement in this notice.

II. Statement of Principles and Policy for the Agreement State Program

A. Comment Summary

Comment letters were received from twelve Agreement States on the implementing procedures for phased agreements (Management Directive 5.8). There was strong opposition from the Agreement States on the inclusion of mandatory phased agreements for states seeking Agreement State status. Staff analyzed the comments and agreed with the concerns associated with the use of phased agreements. Changes were made to the Policy Statement to remove the phased agreement concept and to include revisions offered by the Agreement States, as appropriate. The Policy Statement was also edited to conform it to the position that Agreement States have flexibility to impose legally binding requirements on its licensees through mechanisms other than rules.

The text of the final policy statement follows.

B. The Commission Policy

Statement of Principles and Policy for the Agreement State Program

1. *Purpose:* The purpose of this Statement of Principles and Policy for the Agreement State Program is to clearly describe the respective roles and responsibilities of the U.S. Nuclear Regulatory Commission (NRC) and States in the administration of programs carried out under Section 274 of the Atomic Energy Act of 1954, as amended. Section 274 provides broad authority for the NRC to establish Federal and State cooperation in the administration of regulatory programs for the protection of public health and safety in the industrial, medical, and research uses of nuclear materials.

This Policy Statement addresses the Federal-State interaction under the Atomic Energy Act to: (1) Establish and maintain agreements with States under Section 274(b) that provide for discontinuance by the NRC, and the assumption by the State, of responsibility for administration of a regulatory program for the use of byproduct, source, and small quantities of special nuclear material; and (2) ensure that post-agreement interactions among the NRC and Agreement State radiation control programs are coordinated and compatible and that Agreement State programs continue to provide adequate protection of public health and safety.

This Policy Statement establishes principles, objectives, and goals that the Commission expects will be reflected in the implementing guidance and programs of the NRC and Agreement States to meet their respective program responsibilities and that should be achieved in the administration of these programs.

This Policy Statement is intended solely as guidance for the Commission and the Agreement States in the implementation of the Agreement State program. This Policy Statement does not itself impose legally binding

requirements on the Agreement States. In addition, nothing in this Policy Statement expands the legal authority of Agreement States beyond that already granted to them by Section 274 of the AEA and other relevant legal authority. Implementation procedures adopted pursuant to this Policy Statement shall be consistent with the legal authorities of the Commission and the Agreement States.

2. Statement of Legislative Intent: The Atomic Energy Act of 1954 did not specify a role for the States in regulating the use of nuclear materials. Many States were concerned as to what their responsibilities in this area might be and expressed interest in seeing that the boundaries of Federal and State authority were clearly defined. This need for clarification was particularly important in view of the fact that although the Federal government retained sole responsibility for protecting public health and safety from the radiation hazards of byproduct, source, and special nuclear material, the responsibility for protecting the public from the radiation hazards of other sources such as x-ray machines and radium had been borne for many years by the States.

Consequently, in 1959 Congress enacted Section 274 of the Atomic Energy Act to establish a statutory framework under which States could assume certain regulatory jurisdiction over byproduct, source, and special nuclear material in quantities less than a critical mass. The primary purpose of the legislation was to authorize the Commission to discontinue its regulatory authority over the use of these materials and for assumption of this authority by the States. The Commission retained regulatory authority over the licensing of certain facilities and activities such as nuclear reactors, larger quantities of special nuclear material, and the export and import of nuclear materials.

In considering the legislation, Congress recognized that the Federal government would need to assist the States to ensure that they developed the capability to exercise their regulatory authority in a competent and effective manner. Accordingly, the legislation authorized the Commission to provide training and other services to State officials and employees. However, in rendering this assistance, Congress did not intend that the Commission would provide any grants to a State for the administration of a State regulatory program. This was fully consistent with the objectives of Section 274 to qualify States to assume independent regulatory authority over certain defined areas of regulatory jurisdiction and to permit the Commission to discontinue its regulatory responsibilities in those areas.

In order to relinquish its authority to a particular State, the Commission must find that the program is compatible with the Commission's program for the regulation of radioactive materials and that the State program is adequate to protect public health and safety. In addition, the Commission has an obligation, pursuant to Section 274(j) of the Act, to review existing Agreement State programs to ensure continued adequacy and compatibility. Section 274(j) of the Act provides that the NRC may terminate or suspend all or part of its agreement with a State if the Commission finds that such termination is necessary to protect public health and safety or that the State has not complied with the provisions of Section 274(j). In these cases, the Commission must offer the State reasonable notice and opportunity for a hearing. In addition, the Commission may temporarily suspend all or part of an agreement in the case of an emergency situation.

C. Principles of Program Implementation

1. Good Regulation Principles

In 1991, the Commission adopted ''Principles of Good Regulation'' to serve as a guide to both agency decision making and to individual behavior as NRC employees. Adherence to these principles has helped to ensure that NRC's regulatory activities have been of the highest quality, appropriate, and consistent. The ''Principles of Good Regulation'' recognize that strong, vigilant management and a desire to improve performance are prerequisites for success, for both regulators and the regulated industry. The Commission believes that NRC's implementation of these principles has served the public, the Agreement States, and the regulated community well. The Commission further believes that such principles may be useful as a part of a common culture that NRC and the Agreement States share as co-regulators. Accordingly, the Commission encourages each Agreement State to adopt a similar set of principles for use in its own regulatory program.

Regulatory decisions and actions should be developed and implemented in an open and publicly credible manner and should be able to withstand scrutiny. Such scrutiny should be welcomed by the regulator. The regulator should be independent and impartial in its actions, and this should be clearly evident. Regulations and regulatory decisions should be based on assessments of the best available information from affected and interested individuals and organizations, as well as on the best available knowledge from research and operational experience. Significant decisions, for example, a change in enforcement policy, should be documented explaining the rationale for such decisions. The public should have an opportunity for early involvement in significant regulatory program decisions. Where several effective alternatives are available, the alternative that best assures safety while considering differing views should be adopted, considering the resources needed to implement that alternative. Regulations should be necessary, and appropriate, to assure safety, and should be clear, coherent, logical, and practical. Regulatory actions should be fully consistent with regulations or other legally binding requirements and good public policy and should lead to stability and predictability in the planning and implementation of radiation control programs.

Failure to adhere to these principles of good regulation in the conduct of operations should be a sufficient reason for a regulatory program to self-initiate program changes that will result in needed improvements. All involved should welcome expressions of concern that indicate a program may not be operating in accordance with these principles and revise their program to more completely reflect these principles.

It is not intended that these principles of good regulation be established as formal criteria against which NRC and Agreement State programs would be assessed. Rather, the expectation is that these principles will be incorporated into the day-to-day operational fabric of NRC and Agreement State materials programs. These principles should be used in the formulation of policies and programs, implementation of those policies and programs, and assessments of program effectiveness. Application of these principles will ensure that complacency will be minimized, that adequate levels of protection of public health and safety are being provided, and that government employees tasked with the responsibility for these Federal and State regulatory programs serve the public in an effective, efficient, and responsive manner. These principles are primarily for the use of NRC and Agreement State materials program managers and staff in the self assessment of their respective programs and to use in the establishment of goals and objectives for the continual improvement of their respective

programs. Deficiencies identified during the conduct of NRC Region and Agreement State formal program performance reviews may indicate that the program is not adhering to these principles of good regulation. The organization being assessed should factor the need for these principles into its actions to address identified deficiencies.

2. Coherent Nationwide Effort

The mission of the NRC is to assure that civilian use of nuclear materials in the United States is carried out with adequate protection of public health and safety. NRC acknowledges its responsibility, shared with the Agreement States, to ensure that the regulatory programs of the NRC and the Agreement States collectively establish a coherent nationwide effort for the control of AEA materials. The basic elements of such regulatory programs include ability to ensure adequate protection of public health and safety, compatibility in areas of national interest, sufficient flexibility to accommodate local needs and conditions, ability to assess program performance on a consistent and systematic basis, and principles of good regulation in program administration.

Each of these elements is reflected and addressed in specific sections of this Policy Statement.

3. Adequate to Protect Public Health and Safety

NRC and the Agreement States have the responsibility to ensure adequate protection of public health and safety in the administration of their respective regulatory programs controlling the uses of AEA materials. Accordingly, NRC and Agreement State programs shall possess the requisite supporting legislative authority, implementing organization structure and procedures, and financial and human resources to effectively administer a radiation control program that ensures adequate protection of public health and safety.

4. Compatible in Areas of National Interest

NRC and the Agreement States have the responsibility to ensure that consistent and compatible radiation control programs are administered. Such radiation control programs should be based on a common regulatory philosophy including the common use of definitions and standards. They should be not only effective and cooperatively implemented by NRC and the Agreement States, but also should provide uniformity and consistency in program areas having national significance.

Such areas include those affecting interstate commerce, movement of goods and provision of services, and safety reviews for sealed source devices sold nationwide. Also necessary is the ability to communicate using a nationally accepted set of terms with common understanding, the ability to ensure an adequate level of protection of public health and safety that is consistent and stable across the nation, and the ability of NRC and each Agreement State to evaluate the effectiveness of the NRC and Agreement State programs for the regulation of agreement material with respect to protection of public health and safety.

5. Flexibility

With the exception of those compatibility areas where all programs should be essentially identical, to the extent possible, Agreement State radiation control programs for AEA materials should be provided with flexibility in program implementation to accommodate individual State preferences, State legislative direction, and local needs and conditions. However, the exercise of such flexibility should not preclude, or effectively preclude, a practice authorized by the Atomic Energy Act, and in the national interest. That is, a State would have the flexibility to design its own program, including incorporating more stringent, or similar, requirements provided that the requirements for adequacy are still met and compatibility is maintained, and the more stringent requirements do not preclude or effectively preclude a practice in the national interest without an adequate public health and safety or environmental basis related to radiation protection.

D. New Agreements

Section 274 of the Atomic Energy Act requires that once a decision to seek Agreement State status is made by the State, the Governor of that State must certify to the NRC that the State desires to assume regulatory responsibility and has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State covered by the proposed agreement. This certification will be provided in a letter to the NRC that includes a number of documents in support of the certification. These documents include the State's enabling legislation, the radiation control regulations, a narrative description of the State program's policies, practices and procedures, and a proposed agreement.

The NRC has published criteria describing the necessary content these documents are required to cover. The NRC reviews the request and publishes notice of the proposed agreement in the **Federal Register** to provide an opportunity for public comment. After consideration of public comments, if the Commission determines that the State program is adequate and compatible, and approves the agreement, a formal agreement document is signed by the Governor and the Chairman of the NRC.

E. Program Assistance

NRC will offer training and other assistance to States, such as assistance in developing regulations and program descriptions to help individual States prepare for entrance into agreements and to help them prior to the assumption of regulatory authority. Following assumption of regulatory authority by a new Agreement State, to the extent permitted by resources, NRC can provide training and other assistance such as review of proposed regulatory changes to help States administer their regulatory responsibilities. NRC would also use its best efforts to provide specialized technical assistance to Agreement States to address unique or complex licensing, inspection, and enforcement issues. In areas where Agreement States have particular expertise or are in the best position to provide immediate assistance to the NRC, the Agreement States are encouraged to do so. In addition, NRC and Agreement States will keep each other informed about relevant aspects of their programs. NRC will provide an opportunity for Agreement States to have early and substantive involvement in rulemaking, policy, and guidance development activities. Agreement States should provide a similar opportunity to the NRC to make it aware of, and to provide the opportunity to review and comment on, proposed changes in regulations and significant changes to Agreement State programs, policies, and regulatory guidance.

If an Agreement State experiences difficulty in program administration, the Commission would use its best efforts to assist the State in maintaining the effectiveness of its radiation control program. Such assistance could address an immediate difficulty or a chronic difficulty affecting the State's ability to discharge its responsibility to continue to ensure adequate protection of public health and safety.

F. Performance Evaluation

Under Section 274 of the Atomic Energy Act of 1954, as amended, the

Commission retains authority for ensuring that Agreement State programs continue to provide adequate protection of public health and safety. In fulfilling this statutory responsibility, NRC will provide oversight of Agreement State radiation control programs to ensure that they are adequate and compatible prior to entrance into a Section 274(b) agreement and that they continue to be adequate and compatible after an agreement is effective. The Commission, in cooperation with the Agreement States, will establish and implement a performance evaluation program to provide NRC and Agreement State management with systematic, integrated, and reliable evaluations of the strengths and weaknesses of their respective radiation control programs and identification of areas needing improvement.

As a part of this performance evaluation process, the Commission will take any necessary actions to help ensure that Agreement State radiation control programs remain adequate and compatible. These actions include: (1) Periodic assessments of Agreement State radiation control programs against established review criteria; (2) provision of assistance to help address weaknesses or areas within an Agreement State radiation control program requiring improvement, to the extent permitted by NRC resources; (3) placing a State on a probationary status for serious program deficiencies that require heightened oversight; (4) temporary suspension of an agreement and reassertion of NRC regulatory authority in an emergency if an Agreement State program experiences any immediate program difficulties preventing the State from continuing to ensure adequate protection of public health and safety; and (5) suspension or termination of an agreement and reassertion of NRC regulatory authority if the Agreement State program experiences difficulties that jeopardize the State's ability to continue to ensure adequate protection of public health and safety or to continue to maintain a compatible program. The basis for NRC's actions will be based on a well defined and predictable process and a performance evaluation program that will be consistently and fairly applied.

G. Levels of Agreement State Program Review Findings

The following discussion outlines the nature of NRC findings regarding the NRC's Agreement State review process.

Finding 1—Adequate To Protect Public Health and Safety and (or not) Compatible

If the NRC finds that a State program has met all of the Agreement State program review criteria or that only minor deficiencies exist, the Commission would find that the State's program is adequate to protect public health and safety. If the NRC determines that a State program contains all required NRC program elements for compatibility, or only minor discrepancies exist, the program would be found compatible. If the NRC determines that a State has a program that disrupts the orderly pattern of regulation among the collective regulatory efforts of the NRC and other Agreement States, i.e., creates conflicts, gaps, or duplication in regulation, the program would be found not compatible.

Finding 2—Adequate, but Needs Improvement and (or not) Compatible

If the NRC finds that a State program protects public health and safety, but is deficient in meeting some of the review criteria, the NRC may find that the State's program is adequate, but needs improvement. The NRC would consider in its determination plans that the State has to address any of the deficiencies noted during the review. In cases where less significant Agreement State deficiencies previously identified have been uncorrected for a significant period of time, NRC may also find that the program is adequate but in need of improvement. If the NRC determines that a State program contains all required NRC program elements for compatibility, or only minor discrepancies exist, the program would be found compatible. If the NRC determines that a State has a program that disrupts the orderly pattern of regulation among the collective regulatory efforts of the NRC and other Agreement States, i.e., creates conflicts, gaps, or duplication in regulation, the program would be found not compatible.

Finding 3—Inadequate to Protect Public Health and Safety and (or not) Compatible

If the NRC finds that a State program is significantly deficient in some or all of the review criteria, the NRC would find that the State's program is not adequate to protect public health and safety. If the NRC determines that a State program contains all required NRC program elements for compatibility, or only minor discrepancies exist, the program would be found compatible. If the NRC determines that a State has a program that disrupts the orderly pattern of regulation among the collective regulatory efforts of the NRC and other Agreement States, i.e., creates conflicts, gaps, or duplication in regulation, the program would be found not compatible.

H. NRC Actions as a Result of These Findings

The following discussion outlines the options available to the NRC as a result of making any of the above findings. The appropriate action will be determined on a case-by-case basis by NRC management.

Letters

In all cases, subsequent to an Agreement State program review, the findings would be recounted in a letter to senior level State management. In the event that the NRC finds that a State program is adequate and compatible, no further action would be required, except a response by the State to any suggestions or recommendations. In the case where minor deficiencies are noted or areas for improvement are identified, the State would be requested to describe their proposed corrective action. If the corrective action appears appropriate, no further NRC action is required. If additional clarification of the corrective actions is needed, additional correspondence may be necessary.

Follow-up Reviews

In the event that deficiencies are noted during the program review, NRC may increase the frequency of contacts with the State to keep abreast of developments and conduct onsite follow-up reviews to assure that progress is being made on correcting program deficiencies. If, during follow-up reviews, it is shown that the State has taken corrective actions, a letter finding the State adequate and compatible would be provided.

Probationary Status

There are three circumstances that can lead to an adequate but needs improvement or incompatible State program being placed in a probationary status: (1) There are cases in which program deficiencies may be serious enough to require immediate heightened oversight; (2) in other cases, Agreement State program deficiencies previously identified may have been uncorrected for a significant period of time; and (3) if the NRC determines that a State program has been late in adopting required compatibility program elements and significant disruption in the collective nationwide efforts to

regulate AEA materials has occurred. If the NRC was not confident that the State would address the program deficiencies in an expeditious and effective manner, the Commission would place the State program on probation.

As a result of placing a State program on probation, the NRC would communicate its findings to a higher level of State management. Notice of such probationary status would normally be addressed to the Governor of the State. Notice would also be published in the **Federal Register**. A copy of the letter to the Governor would be placed in the Public Document Room and a press release would be issued.

Once a State program is placed on probation, the NRC would heighten its oversight of the program. This would include obtaining commitments from the State in the form of a management plan to describe actions to be taken by the State to address the program deficiencies, including specific goals and milestones. The NRC would increase observation of State program activities under the agreement to assure adequate protection of public health and safety. If requested and in accordance with terms agreed to by the parties, the NRC would consider providing technical support for the maintenance of the regulatory program. The probationary period would last for a specified period of time. This period would not normally be more than one year, but could be extended based on extenuating circumstances. At the end of that time, if the State has not addressed the deficiencies, the NRC would institute suspension or termination proceedings.

Suspension

Section 274j of the Atomic Energy Act gives the Commission authority to suspend all or part of its agreement with a State if the suspension is required to protect public health and safety, or if the State has not complied with one or more of the requirements of Section 274 of the Act. In cases where the Commission finds that program deficiencies related to either adequacy or compatibility are such that the Commission must take action to protect public health and safety, or if the program has not complied with one or more of the requirements of Section 274 of the Act, the Commission would suspend all or part of its agreement with the State. In cases where a State has failed to respond in an acceptable manner during the probationary period, suspension would be considered. If the situation is not resolved, termination will be considered.

Before reaching a final decision on suspension, the Commission will notify the State and provide the State an opportunity for a hearing on the proposed suspension. Notice of the proposed suspension will also be published in the **Federal Register**. Suspension, rather than termination, would be the preferred option in those cases where the State provides evidence that the program deficiencies are temporary and that the State is committed to correcting the deficiencies that led to the suspension.

In addition to the normal suspension authority, Section 274j(2) of the Act also addresses emergency situations and gives the Commission authority to temporarily suspend all or part of its agreement with a State without notice or hearing if an emergency situation exists requiring immediate action to protect public health and safety, and the State has failed to take necessary action within a reasonable time.

Termination

Section 274j of the Atomic Energy Act gives the Commission authority to terminate its agreement with a State if such termination is required to protect public health and safety, or if the State program has not complied with one or more of the requirements of Section 274 of the Act (e.g., is found to be not compatible with the Commission's program). When the Commission finds such significant program deficiencies, the Commission would institute proceedings to terminate its agreement with the State.

In cases where a State has failed to respond in an acceptable manner during the probationary period and there is no prospect for improvement, termination will be considered. Before reaching a final decision on termination, the Commission will notify the State and provide the State an opportunity for a hearing on the proposed termination.

Also, notice of the proposed termination will be published in the **Federal Register**. There may be cases where termination will be considered even though the State program has not been placed on probation.

I. Program Funding

Currently, Section 274 does not allow federal funding for the administration of Agreement State radiation control programs. Section 274 permits the NRC to offer training and other assistance to a State in anticipation of entering into an Agreement with NRC, however, it is NRC policy not to fund the establishment of new Agreement State programs. Regarding training, given the importance in terms of public health and safety of having well trained radiation control program personnel, the NRC offers certain relevant training courses and notifies Agreement State personnel of their availability.

J. Regulatory Development

NRC and Agreement States will cooperate in the development of new regulations and policy. Agreement States will have early and substantive involvement in the development of new regulations affecting protection of public health and safety and of new policy affecting administration of the Agreement State program. Likewise, the NRC expects to have the States provide it with early and substantive involvement in the development of new Suggested State Regulations. NRC and Agreement States will keep each other informed about their individual regulatory requirements (e.g., regulations or license conditions) and the effectiveness of those regulatory requirements so that each has the opportunity to make use of proven regulatory approaches to further the effective and efficient use of resources.

K. Program Evolution

The NRC-Agreement State program is dynamic and the NRC and Agreement States will continue to jointly assess the NRC and Agreement State programs for the regulation of AEA materials to identify specific changes that should be considered based on experience or to further improve overall performance and effectiveness. The changes considered may include possible legislative changes. The program should also include the formal sharing of information and views such as briefings of the Commission by the Agreement States.

III. Policy Statement on Adequacy and Compatibility of Agreement State Programs

A. Comment Summary

Ten comment letters were received, one from the Organization of Agreement States, six Agreement State program directors, two industry organizations and one environmental group. The Joint NRC-Agreement State Working Group for Development of Implementing Procedures for the Final Policy Statement on Adequacy and Compatibility of Agreement State Programs analyzed the comments and changes were made to the Policy Statement (1) to add additional clarifying language for the terms ''adequacy'' and ''compatibility'' and the cooperative nature of the NRC—Agreement State relationship; (2) to

conform it to the position that Agreement States have flexibility with respect to the legally binding mechanism by which regulatory requirements needed for adequacy or compatibility are adopted; and (3) to simplify the language describing compatibility categories. Changes also were made in response to the June 30, 1997 Staff Requirements Memorandum. These changes (1) reflect that program elements for compatibility also impact public health and safety and may also be considered program elements for adequacy; (2) clarify the definition of basic radiation protection standard; and (3) clarify that States may not adopt program elements reserved exclusively to NRC. The implementing procedures were changed to reflect the final Policy Statement.

One Agreement State specifically commented that it did not believe that Section 274 of the AEA required compatibility of programs or program elements after an agreement is effective except for requirements pertaining to the Uranium Mill Tailings Radiation Control Act in section 274(o). This position also was reflected in the recommended changes to the Policy Statement submitted by the Organization of Agreement States.

The Commission does not agree with this interpretation of the AEA. Both Sections 274d.(2) and 274g. indicate that the Commission must find a State program to be compatible with that of NRC in order to enter into a Section 274b. agreement with the State. It is the Commission's view that, pursuant to Section 274, an Agreement State's program should be compatible with NRC's program for the duration of the Agreement for the following reasons:

Subsection 274g. authorizes and directs the Commission to cooperate with the States in the formulation of radiation protection standards ''to assure that the State and Commission programs for the protection against hazards of radiation will be coordinated and compatible.'' This provision demonstrates Congress' intention that the compatibility between the NRC and Agreement State programs should be maintained on a continuing basis.

Section 274j.(1) calls on the Commission to suspend or terminate an Agreement State's program if ''the State has not complied with one or more of the requirements'' of the Section 274. The Commission believes that this phrase ''one or more of the requirements,'' encompasses all requirements of Section 274, including the requirement for compatibility.

Under subsection 274d.(2), the Commission is authorized to enter into an agreement with a State if the Commission makes both requisite findings that the State program is compatible with the NRC's program and adequate to protect public health and safety. Absent a continuing compatibility requirement, an Agreement State could divert from having a compatible program the day after any agreement is signed with NRC. This would render the Commission's initial compatibility finding required by Section 274d.(2) meaningless.

Therefore, the Commission does not believe that Congress intended such meaning for the compatibility requirement and no changes were made to the Policy Statement in response to this comment.

The text of the final policy statement follows.

B. The Commission Policy

Policy Statement on Adequacy and Compatibility of Agreement State Programs

Purpose: Section 274 of the Atomic Energy Act (AEA) of 1954, as amended, provides for a special Federal-State regulatory framework for the control of radioactive materials under which the NRC, by agreement with a State, relinquishes its authority in certain areas to the State government as long as the State program is adequate to protect public health and safety and compatible with the Commission's program. Section 274 further directs the Commission to periodically review State programs to ensure compliance with provisions of Section 274. This Policy Statement presents the Nuclear Regulatory Commission's policy for determining the adequacy and compatibility of Agreement State programs established pursuant to Section 274. This Policy Statement clarifies the meaning and use of the terms ''adequate to protect public health and safety'' and ''compatible with the Commission's regulatory program'' as applied to the Agreement State program. The Policy Statement also describes the general framework that will be used to identify those program elements [1] that Agreement State programs should implement to be adequate to protect public health and safety and to be compatible with the Commission's regulatory program. Finally, the Policy Statement reflects principles discussed in the Commission's Statement of Principles and Policy for the Agreement State Program which should be considered in conjunction with this Policy Statement.

This Policy Statement is solely guidance for the Commission and the Agreement States in the implementation of the Agreement State program. This Policy Statement does not itself impose legally binding requirements on the Agreement States. In addition, nothing in this Policy Statement expands the legal authority of Agreement States beyond that already granted to them by Section 274 of the Atomic Energy Act and other relevant legal authority. Implementation procedures adopted pursuant to this Policy Statement shall be consistent with the legal authorities of the Commission and the Agreement States.

Background: The terms ''adequate'' and ''compatible'' represent fundamental concepts in the Agreement State program authorized in 1959 by Section 274 of the Atomic Energy Act of 1954, as amended (AEA). Subsection 274d. states that the Commission shall enter into an Agreement under subsection b., discontinuing NRC's regulatory authority over certain materials in a State, provided that the State's program is adequate to protect public health and safety and compatible, in all other respects, with the Commission's regulatory program. Subsection 274g. authorizes and directs the Commission to cooperate with States in the formulation of standards to assure that State and Commission standards will be coordinated and compatible. Subsection 274j.(1) requires the Commission to review periodically the Agreements and actions taken by States under the Agreements to ensure compliance with provisions of Section 274. In other words, the Commission must review the actions taken by States under the Agreements to ensure that the programs continue to be adequate to protect public health and safety and compatible with the Commission's program.

Section 274 of the AEA requires that Agreement State programs be both ''adequate to protect the public health and safety'' and ''compatible with the Commission's program.'' These separate findings are based on consideration of two different objectives. First, an Agreement State program should provide for an acceptable level of protection of public health and safety in an Agreement State (the ''adequacy'' component). Second, the Agreement State should ensure that its program serves an overall nationwide interest in radiation protection (the ''compatibility'' component). As discussed in more detail below, an ''adequate'' program should consist of those program elements necessary to maintain an acceptable level of protection of public health and safety within an Agreement State. A ''compatible'' program should consist of those program elements necessary to

[1] For the purposes of this Policy Statement, ''program element'' means any component or function of a radiation control regulatory program, including regulations and/or other legally binding requirements imposed on regulated persons, that contributes to implementation of that program.

meet a larger nationwide interest in radiation protection generally limited to areas of regulation involving radiation protection standards and activities with significant transboundary implications. Program elements for adequacy focus on the protection of public health and safety within a particular State, whereas program elements for compatibility focus on the impacts of an Agreement State's regulation of agreement material on a nationwide basis or its potential effects on other jurisdictions. Many program elements for compatibility also impact public health and safety; therefore, they may also be considered program elements for adequacy.

In identifying those program elements for adequate and compatible programs, or any changes thereto, the Commission will seek the advice of the Agreement States and will consider such advice in its final decision.

Adequacy: An Agreement State's radiation control program is adequate to protect public health and safety if administration of the program provides reasonable assurance of protection of public health and safety in regulating the use of source, byproduct, and small quantities of special nuclear material (hereinafter termed ''agreement material'') as identified by Section 274b. of the AEA. The level of protection afforded by the program elements of NRC's materials regulatory program is presumed to be that which is adequate to provide a reasonable assurance of protection of public health and safety. The overall level of protection of public health and safety provided by a State program should be equivalent to, or greater than, the level provided by the NRC program. To provide reasonable assurance of protection of public health and safety, an Agreement State program should contain five essential program elements, identified below, that the Commission will use to define the scope of its review of the program. The Commission also will consider, when appropriate, other program elements of an Agreement State which appear to affect the program's ability to provide reasonable assurance of public health and safety protection. Such consideration will occur only if concerns arise.

A. Legislation and Legal Authority

State statutes should:

Authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under an Agreement with the Commission;

Authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of protection of public health and safety;

Authorize the State to license, inspect, and enforce legally binding requirements such as regulations and licenses; and

Be otherwise consistent with Federal statutes, as appropriate, such as Pub. L. 95–604, The Uranium Mill Tailings Radiation Control Act (UMTRCA).

In addition, the State should have existing legally enforceable measures such as generally applicable rules, license provisions, or other appropriate measures, necessary to allow the State to ensure adequate protection of public health and safety in the regulation of agreement material in the State. Specifically, Agreement States should adopt a limited number of legally binding requirements based on those of NRC because of their particular health and safety significance. In adopting such requirements, Agreement States should adopt the essential objectives of those of the Commission.

B. Licensing

The State should conduct appropriate evaluations of proposed uses of agreement material, before issuing a license, to assure that the proposed licensee's operations can be conducted safely. Licenses should provide for reasonable assurance of public health and safety protection in relation to the licensed activities.

C. Inspection and Enforcement

The State should periodically conduct inspections of licensed activities involving agreement material to provide reasonable assurance of safe licensee operations and to determine compliance with its regulatory requirements. When determined to be necessary by the State, the State should take timely enforcement action against licensees through legal sanctions authorized by State statutes and regulations.

D. Personnel

The State should be staffed with a sufficient number of qualified personnel to implement its regulatory program for the control of agreement material.

E. Response to Events and Allegations

The State should respond to and conduct timely inspections or investigations of incidents, reported events, and allegations involving agreement material within the State's jurisdiction to provide reasonable assurance of protection of public health and safety.

Compatibility

An Agreement State radiation control program is compatible with the Commission's regulatory program when its program does not create conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. For purposes of compatibility, the State should address categories A, B, and C identified below:

A. Basic Radiation Protection Standards

For purposes of this Policy Statement, this category includes ''basic radiation protection standards'' meaning dose limits, concentration and release limits related to radiation protection in 10 CFR part 20 that are generally applicable, and the dose limits in 10 CFR 61.41.[2] Also included in this category are a limited number of definitions, signs, labels and scientific terms that are necessary for a common understanding of radiation protection principles among licensees, regulatory agencies, and members of the public. Such State standards should be essentially identical to those of the Commission, unless Federal statutes provide the State authority to adopt different standards. Basic radiation protection standards do not include constraints or other limits below the level associated with ''adequate protection'' that take into account permissible balancing considerations such as economic cost and other factors.

B. Program Elements with Significant Transboundary Implications

The Commission will limit this category to a small number of program elements (e.g., transportation regulations and sealed source and device registration certificates) that have significant transboundary implications. Agreement State program elements should be essentially identical to those of the Commission.

C. Other Commission Program Elements

These are other Commission program elements (e.g., reciprocity procedures) that are important for an Agreement State to have in order to avoid conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. Such Agreement State program elements should embody the essential objective of the corresponding Commission program elements.

[2] The Commission will implement this category consistent with its earlier decision in the LLW area to allow Agreement States flexibility to establish pre-closure operational release limit objectives, ALARA goals or design objectives at such levels as the State may deem necessary or appropriate, as long as the level of protection of public health and safety is at least equivalent to that afforded by Commission requirements.

D. Program Elements not Required for Compatibility

An Agreement State has the flexibility to adopt and implement program elements based on those of the Commission (other than those identified in A, B, and C above) or other program elements within the State's jurisdiction that are not addressed by NRC.

All program elements of an Agreement State relating to agreement material should:

Be compatible with those of the Commission (i.e., should not create conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis);

Not preclude, or effectively preclude, a practice [3] in the national interest without an adequate public health and safety or environmental basis related to radiation protection; or

Not preclude, or effectively preclude, the ability of the Commission to evaluate the effectiveness of the NRC and Agreement State programs for agreement material with respect to protection of public health and safety.

E. Areas of Exclusive NRC Regulatory Authority

These are program elements that address areas of regulation that cannot be relinquished to Agreement States pursuant to the AEA or provisions of Title 10 of the Code of Federal Regulations. However, an Agreement State may inform its licensees of certain of these NRC provisions through a mechanism that is appropriate under the State's administrative procedure laws as long as the State adopts these provisions solely for the purposes of notification, and does not exercise any regulatory authority pursuant to them.

Summary and Conclusions

To foster and enhance a coherent and consistent nationwide program for the regulation of agreement material, the Commission encourages Agreement States to adopt and implement program elements that are patterned after those adopted and implemented by the Commission. However, the fact that an Agreement State's program is compatible with that of the Commission does not affect that State's obligation to maintain an adequate program as described in this Policy Statement.

[3] ''Practice'' means a use, procedure, or activity associated with the application, possession, use, storage, or disposal of agreement material. The term ''practice'' is used in a broad and encompassing manner in this Policy Statement. The term encompasses both general activities involving use of radioactive materials such as industrial and medical uses and specific activities within a practice such as industrial radiography and brachytherapy.

By adopting the criteria for adequacy and compatibility as discussed in this Policy Statement the Commission will provide Agreement States a broad range of flexibility in the administration of individual programs. In doing so, the Commission allows Agreement States to fashion their programs so as to reflect specific State needs and preferences, recognizing the fact that Agreement States have responsibilities for radiation sources in addition to agreement material.

The Commission will minimize the number of NRC regulatory requirements that the Agreement States will be requested to adopt in an identical manner to maintain compatibility. At the same time, requirements in these compatibility categories will allow the Commission to ensure that an orderly pattern for the regulation of agreement material exists nationwide. The Commission believes that this approach achieves a proper balance between the need for Agreement State flexibility and the need for coordinated and compatible regulation of agreement material across the country.

* * * * *

Paperwork Reduction Act Statement

These final policy statements do not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0183.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Dated at Rockville, Md., this 27th day of August, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–23330 Filed 9–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Chemical Process Safety at Fuel Cycle Facilities; Availability of NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the completion and availability of NUREG–1601, ''Chemical Process Safety at Fuel Cycle Facilities,'' dated July 1997.

ADDRESSES: Copies of NUREG–1601 may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is also available for inspection and/or copying, for a fee, in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Lidia Roché, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7830.

SUPPLEMENTARY INFORMATION: NRC is announcing the availability of NUREG–1601, ''Chemical Process Safety at Fuel Cycle Facilities.'' NUREG–1601 is the first report to address chemical safety issues affecting fuel cycle facilities as they relate to the performance of an integrated safety analysis (Integrated Safety Analysis Guidance Document (Draft NUREG–1513)). NUREG–1601 was developed in conformance with the Memorandum of Understanding, between NRC and the Occupational Safety and Health Administration, which gives NRC regulatory authority over chemicals hazards that may impact NRC-licensed nuclear material, including: (a) Chemical risks posed by radioactive materials; (b) interactions of chemicals with NRC-licensed nuclear material; and (c) plant conditions that may directly or indirectly affect the licensed nuclear material in an adverse manner.

NUREG–1601 provides broad guidance on chemical safety issues relevant to fuel cycle facilities. It addresses chemical safety issues, relevant to fuel cycle facilities, as they pertain to the performance of an integrated safety analysis. It explains to license holders and applicants a general

philosophy of the role of chemical process safety in relation to NRC-licensed materials. It sets forth the basic information needed to properly evaluate chemical process safety. It describes plausible methods of identifying and evaluating chemical hazards and assessing the adequacy of the chemical safety of the proposed equipment and facilities. Examples of equipment and methods commonly used to prevent and/or mitigate the consequences of chemical incidents are discussed in this document.

NUREG–1601 highlights the importance of performing an adequate analysis of chemical hazards in processing licensed material at fuel cycle facilities, so as to reduce the potential for radiological and nonradiological exposures to workers and the public and to minimize releases to the environment. NUREG-1601 is not a substitute for the regulations, and compliance is not a requirement. This guidance document describes a general philosophy of the role of chemical process safety regarding NRC-licensed material.

Electronic Access

NUREG–1601 is also available electronically by visiting NRC's Home Page (http://www.nrc.gov).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Act of 1996, NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 1st day of August, 1997.

For the Nuclear Regulatory Commission.

Theodore S. Sherr,

Chief, Regulatory and International Safeguards Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–23337 Filed 9–2–97; 8:45 am]

BILLING CODE 7590–01–U

OFFICE OF MANAGEMENT AND BUDGET

Data Collection Form Required by OMB Circular No. A–133

AGENCY: Office of Management and Budget.

ACTION: Notice of availability of standard form.

SUMMARY: This Notice indicates the availability of the final ''Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations'' (SF-SAC), which is required by Office of Management and Budget Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

ADDRESSES: Copies of the ''Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations'' (SF-SAC) may be obtained from the OMB home page on the Internet which is currently located at http://www.whitehouse.gov/WH/EOP/OMB/Grants. This standard form will soon be available from the OMB fax information line, 202-395–9068. Paper copies of the standard form are available from the Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132, telephone 1–888–222–9907.

FOR FURTHER INFORMATION CONTACT: Sheila Conley (telephone: 202-395–3993), Office of Federal Financial Management, Office of Management and Budget, 725–17th Street, N.W.—Room 6025, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the final ''Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations'' (SF-SAC), which is required by Office of Management and Budget (OMB) Circular A–133, recently re-titled ''Audits of States, Local Governments, and Non-Profit Organizations.'' Circular A–133, including the requirement to submit a SF-SAC, applies to audits of fiscal years beginning after June 30, 1996.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the first notice of the information collection request included in Circular A–133 was published in the November 5, 1996, **Federal Register** (61 FR 57232) as part of the proposed revision of Circular A–133. The second notice of announcing that this information collection request was submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for processing under 5 CFR 1320.10, as required by the Paperwork Reduction Act, was published in the **Federal Register** on June 30, 1997 (62 FR 35302) along with the final revision of Circular A–133 (62 FR 35278).

OMB received ten letters providing public comments in response to the June 30, 1997, **Federal Register** notice. The comment letters and OMB's responses are available for public inspection in the OIRA docket library. All comments were considered in finalizing the information collection form. Several changes were made to the form and its accompanying instructions.

OIRA, acting for OMB, approved the information collection without conditions with an expiration date of August 31, 2000, and assigned a control number, 0348–0057. Under the Paperwork Reduction Act, potential respondents are not required to respond to a collection of information unless it displays a currently valid control number assigned by OMB (44 U.S.C. 3512(a)).

G. Edward DeSeve,

Controller.

[FR Doc. 97–23369 Filed 9–2–97; 8:45 am]

BILLING CODE 3110–01–P

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1997, shall be at the rate of 35 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1997, 31.4 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 68.6 percent of the taxes collected under such Sections 1211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 25, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–23322 Filed 9–2–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 1, 1997.

A closed meeting will be held on Thursday, September 4, 1997 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, September 4, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: August 28, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–23393 Filed 8–28–97; 4:08 p.m.]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38972; File No. SR–CBOE–97–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Duties of Market Makers

August 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 24, 1997 the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'') or ''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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add an interpretation to Rule 8.7 and to Rule 7.5 to clarify CBOE's policy regarding the enforcement of those rules concerning the obligations of Market-Makers.

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 clarify the Exchange's policy regarding the enforcement of Rule 8.7 and Rule 7.5 concerning the obligations of Market-Makers. Rule 8.7(b) presently provides that, for each class of option contracts for which a Market-Maker holds an appointment under Rule 8.3, the Market-Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. In short, Rule 8.7(b) sets forth a Market-Maker's obligation to make markets in a class of options in which he holds an appointment.

Rule 7.5 presently provides a mechanism by which Exchange Order Book Officials may ''call upon'' Market-Makers to make bids (offers) in a particular class of options that contribute to meeting the standards set forth in Rule 8.7. In particular, at the request of a floor broker or on the Order Book Official's own initiative in the interests of a fair, orderly and competitive market, an Order Book Official may call upon those Market-Makers who hold an appointment to the particular options class or who that day have effected a transaction for their accounts in that class of options. The Order Book Official is required to make a record of Market-Makers ''who fail to respond'' to this request.[2]

The Exchange has always interpreted Rule 8.7(b) as applying to Market-Makers who are present on the Exchange floor and as applying with

[1] 15 U.S.C. 78s(b)(1).

[2] In addition, the Commission notes that other CBOE rules exist to help ensure a sufficient number of Market-Makers will be available to make markets in a particular trading crowd. For example, Rule 8.3(a) permits the CBOE Market Performance Committee to make additional Market-Maker appointments whenever this committee deems such action to be in the interests of a fair and orderly market. Therefore, if there were an insufficient number of Market-Makers to respond to a call to a particular trading crowd, the Market Performance Committee could appoint additional Market-Makers to the classes traded at the affected trading crowd, which would make those additional Market-Makers subject to the call to that trading crowd under Rule 7.5. Should the Exchange be unable to require a sufficient number of Market-Makers to appear at an affected trading crowd, the CBOE Allocation Committee could move the location on the Exchange's trading floor where the affected option classes are traded to a trading crowd that has an adequate number of Market-Makers present or that has a Designated Primary Market-Maker (''DPM''). DPMs, in contrast to Market-Makers, are required to be present at their trading posts throughout every business day. *See also* Letter from Arthur B. Reinstein, Senior Attorney, CBOE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated August 20, 1997 (discussing the aforementioned safeguards).

respect to the trading crowd in which the Market-Maker is present at the time in question. Similarly, the Exchange has always interpreted Rule 7.5 as applying to Market-Makers who are present on the Exchange floor at the time of the Order Book Official call. The Exchange has not interpreted Rule 8.7 or Rule 7.5 as requiring Market-Makers to appear on the Exchange floor to make markets on any particular day or under any particular market conditions.[3] However, when a Market-Maker is on the trading floor and is present in a particular trading crowd, the Exchange does enforce the obligations set forth in Rule 8.7 with respect to the Market-Maker's activities in that trading crowd. Similarly, whenever a Market-Maker is on the trading floor, the Exchange enforces the obligations set forth in Rule 7.5 as to that Market-Maker.

The Exchange's present interpretation is consistent with Rule 8.7(b) paragraphs (i) through (iii), which make clear that, *at the station where a Market-Maker is present,* a Market-Maker is expected to perform certain activities in the course of maintaining a fair and orderly market. Similarly, the Exchange's present interpretation is consistent with the text of Rule 7.5 which, by authorizing Order Book Officials to ''call upon'' Market-Makers and by requiring a record of those who ''fail to respond,'' implicitly recognizes that this procedure will apply to Market-Makers whose physical presence on the floor will enable them to hear and ''respond'' to such a ''call.'' The proposed Interpretation .09 to Rule 8.7 and proposed Interpretation .04 to Rule 7.5 would clarify CBOE's existing interpretation and enforcement policy regarding Rule 8.7(b) and Rule 7.5.

The Exchange believes such clarification is necessary because it knows of at least one instance where Rule 8.7 obligations were misinterpreted. In a class action lawsuit filed against the Exchange, *Spicer et al.* v. *Chicago Board Options Exchange, Inc. et al.*,[4] counsel for the class took the position that Rule 8.7 imposed an obligation on all Market-Makers to appear on the Exchange's trading floor and to make markets under certain market conditions. The Exchange believes the proposed interpretation will help avoid such misinterpretation of either Rule 8.7(b) or Rule 7.5 in the future.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[5] in that the Exchange's clarification of its interpretation and policy regarding Market-Maker obligations under Rule 8.7 and Rule 7.5 is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes an interpretation with respect to the enforcement of an existing rule of the self-regulatory organization. Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder.[7] At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, 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 the CBOE. All submissions should refer to File No. SR–CBOE–97–34 and should be submitted by September 24, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23340 Filed 9–2–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38974; File No. SR–CBOE–97–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Operation and Enforcement of Rules Relating to the Transmission of Orders to Exchange Electronic Order Systems Including RAES

August 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 22, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[3] Although Rule 8.7 and Rule 7.5 do not require Market-Makers to appear at the Exchange to perform their market-making duties, the Commission notes that other CBOE rules encourage Market-Makers to undertake their market- making functions. For example, Rule 8.60 provides that the CBOE Market Performance Committee may take remedial action against Market-Makers or trading crowds that fail to satisfy minimum minimum market performance standards. Accordingly, the failure of a Market-Maker or trading crowd to appear at the Exchange and to make markets in a volatile market situation is a factor the CBOE Market Performance Committee could consider in evaluating the performance of a Market-Maker or trading crowd and in determining whether to take remedial action against a Market-Maker or trading crowd pursuant to Rule 8.60. Letter from Arthur B. Reinstein, Senior Attorney, CBOE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated August 20, 1997.

[4] *Spicer* v. *Chicago Board Options Exchange, Inc.*, No. 88C 2139, 1990 WL 172712 (N.D. Ill. Oct. 30, 1990) *aff'd*, 977 F.2d 255 (7th Cir. 1992).

[5] 15 U.S.C. § 78f(b)(5).

[6] 15 U.S.C. § 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to issue a regulatory circular pertaining to the administration and enforcement of Exchange rules regarding the routing of ineligible orders to Exchange electronic order handling systems including RAES and the electronic public customer order book.

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 consolidate and clarify in a single regulatory circular (referred to as ''Regulatory Circular 97–aa'') the Exchange's policies concerning the administration and enforcement of the rules governing the entry of orders to Exchange electronic order handling systems including the Exchange's Retail Automatic Execution System (''RAES'')[2] and the electronic public customer order book.[3] In addition, the rule filing sets forth steps that member firms may take to avoid liability for the actions of their correspondent firms in entering ineligible orders to RAES and the electronic book.

Prohibition on RAES Unbundling

The first section of the circular merely restates and clarifies the terms of current CBOE rules and circulars concerning the order eligibility requirements that orders must meet in order to be executed on RAES. The Exchange believed it was important to combine these criteria into one circular to provide guidance to Exchange members regarding these matters.

First, the circular reiterates that to be eligible for RAES, orders must be market or marketable limit orders of public customers.[4] In addition, RAES will accept market or marketable limit orders with certain contingencies, pursuant to the terms of a regulatory circular approved by the Commission.[5] The circular also restates Exchange rules that specify that eligible public customer orders are orders for an account in which a member or a non-member broker-dealer does *not* have an interest.[6]

The circular continues by stating that generally the volume limitation for eligible RAES orders is ten contracts or fewer. The circular also states the volume parameters for a number of option classes where the eligible RAES order size is greater than ten contracts. The circular points out that a complete list of the applicable volume parameters is available from Exchange Support Systems.

Finally, the first section of the circular restates the Exchange's policy, which is also set forth in Exchange rules, that orders for more than the applicable contract limit are never eligible for execution on the RAES system and may not be split in an attempt to make the parts of the order eligible.[7]

Regulatory Requirements Governing the Entry of Orders Over Exchange Systems

The second section of the regulatory circular sets forth the Exchange's long-standing interpretations regarding the liability of member firms for the use of RAES and other Exchange electronic order-handling systems by those firms' correspondent firms.[8] In addition, this section of the circular sets forth recommended steps that a member firm may take to avoid potential disciplinary action for conduct of its correspondent firms in the use of RAES and other Exchange electronic order-handling systems.

First, the second section of the circular states that members and member firms who accept, execute, clear, and/or transmit agency orders for correspondent firms or who provide facilities for correspondent firms to transmit orders for execution via the Exchange's systems, including the Exchange's RAES systems or the electronic public customer book, should provide written notice to all correspondent firms that explains the proper use of those systems, including the eligibility of orders for entry and the prohibition of unbundling RAES orders.

The circular further states that when the member firms provide facilities for correspondent firms to transmit orders for execution via Exchange systems, including the Exchange's RAES system or the electronic public customer order book, the member firms should ensure that correspondents have adequate written procedures to monitor and supervise the entry of orders to minimize misuses of Exchange systems and the potential for errors. The circular states that member firms may accomplish this by (a) obtaining and maintaining as part of their books and records, a copy of their correspondents' written control procedures pertaining to electronic order entry or (b) establishing the procedures by which a correspondent must abide and having the correspondent sign an agreement stating that it will abide by such procedures.

The circular further states the Exchange's long-standing practice of seeking disciplinary action against member firms for the violative activity of the correspondent firms in connection with the improper use of RAES and the Exchange's electronic order-handling systems where the member firm has not taken reasonable steps to ensure compliance by the correspondent firm.

For purposes of the circular, a correspondent firm is any firm or customer that has been given access to the Exchange's systems by the member

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[2] RAES is the Exchange's automatic execution system for small public customer market or marketable limit orders.

[3] The electronic public customer order book (''EBOOK'') is an automated system whereby booked orders are automatically sorted and filed in price and time sequence. As orders are traded from EBOOK, Last Sale prices are automatically generated and overhead screens on the CBOE floor are simultaneously updated. Upon trade endorsement by Exchange book staff, execution reports are instantaneously generated.

[4] *See* Rule 6.8(a)(1) and Rule 24.15(a)(1).

[5] *See* Regulatory Circular RG97–67 (June 11, 1997) which permits market and marketable limit orders tagged with AON (All or None), IOC (Immediate or Cancel), FOK (Fill or Kill), or MIN (Minimum quantity) to be executed on RAES. For MIN orders, the total order quantity must be within the RAES volume. This circular was approved in Securities Exchange Act Release No. 38702 (May 30, 1997), 62 FR 31184 (June 6, 1997).

[6] Rule 6.8(a)(i) specifies that RAES is for the purpose of routing ''small public customer market or marketable limit orders. * * * as defined in Rule 7.4(a) regarding placing of orders on the public customer book.'' Rule 7.4(a) states that no order shall be placed on the public customer book in which a member, any non-member joint venture participant, or any non-member-broker/dealer has an interest.

[7] *See* Exchange Rule 6.8(a) and Exchange Rule 24.15(a).

[8] For purposes of the circular, a correspondent firm is any firm or customer that has been given access to the Exchange's systems by the member firm or by another correspondent of the member firm.

firm or by another correspondent of the member firm. Member firms should instruct their correspondents not to give access to the Exchange's systems to other customers without the prior knowledge and consent of the member firm through whose facilities such access would be provided.

The Exchange has carried out an increasing number of investigations of violative activity involving correspondent use of the Exchange's electronic order-handling systems. In addition, the Exchange has issued disciplinary decisions against member firms due to correspondents' improper use of Exchange electronic order-handling systems. The Exchange believes that the record-keeping suggested by the proposed regulatory circular will serve as an educational tool to help eliminate violations of the rules governing the use of such systems.

2. Statutory Basis

The Exchange represents that proposed rule change is consistent with the objectives of Section 6(b)(5)[9] in that it will serve to promote just and equitable principles of trade and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of the Exchange's rules and, therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[10] and subparagraph (e) of Rule 19b–4 thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 also will be available for inspection and copying at the principal office of the Chicago Board Options Exchange. All submissions should refer to File No. SR–CBOE–97–32 and should be submitted by September 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23341 Filed 9–2–97; 8:45 am]

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[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38971; File No. SR–DCC–97–04]

Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing of a Proposed Rule Change Relating to the Combining of Options and Repo Procedures

August 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 17, 1997, Delta Clearing Corp. (''Delta'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DCC–97–04) as described in Items, I, II, and III below, which items have been prepared primarily by Delta. Delta amended the proposed rule change on May 7, 1997, and May 29, 1997. 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

Delta proposes to combine its procedures (''Options Procedures'') for the clearance and settlement of options trades and its procedures (''Repo Procedures'') for the clearance and settlement of repurchase and reverse (''repo'') agreement transactions into one set of procedures (''Combined Procedures'') to be known as the Procedures for the Clearing of Securities and Financial Instrument Transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Delta 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. Delta has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statement.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Combined Procedures

The proposed rule change will effect various modifications to Delta's procedures relating to the clearance and settlement of options and repos.

a. *Definitions:* In addition to the defined terms discussed elsewhere in this notice, the Combined Procedures will contain the following defined terms which apply to transactions in both options and repos: closing transaction, contract, delivering participant, holder, long position, opening transaction, positions, purchasing participant, receiving participant, selling participant, settlement date, short position, system, trade date, transactions, underlying collateral, unit of trading, and variable terms.

''Contract'' will refer to both option contracts and repo contracts. ''Options contracts'' will be defined to include puts and calls issued by Delta to a purchasing participant and matching puts and calls purchased by Delta from a writing participant. ''Repo contracts'' will be defined to include repos and

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by Delta.

reverse repos entered into by Delta with participants. ''Holder'' will be defined to include the holder of an option or a repo contract.

The Options Procedures use the term ''underlying treasury securities'' to refer to the treasury securities underlying an option contract. The Repo Procedures use the term ''underlying collateral'' to refer to the treasury securities underlying a repo contract. The Combined Procedures will use the term ''underlying collateral'' for both options and repo transactions. ''Unit of trading'' will refer to underlying collateral in the principal amount of $1,000,000 for a single option contract or for a single repo contract.

''System'' will be defined in the Combined Procedures as the over-the-counter clearing system to facilitate clearance and settlement by participants of transactions in options on treasury securities and repos in treasury securities. ''Transactions'' will refer to all transactions settled and cleared through the system, which includes all options transactions and repo transactions cleared through the system. Consistent with this definition, the term ''opening transaction'' will include opening purchase and writing transactions in options and opening repo and reverse repo transactions, and the term ''closing transaction'' will include closing purchase and sale transactions in options and closing repo and reverse repo transactions. Similarly, ''delivering participant'' will include the participant to whom an exercise notice has been assigned on a matching call, the exercising participant on a put, the seller of the repo collateral on the on-date, or the party responsible for returning the repo collateral on the off-date. ''Receiving participant'' will include the exercising participant on a call, the participant to whom an exercise notice has been assigned on a matching put, the holder of the reverse repo on the on-date, and the holder of the repo on the off-date. ''Purchasing participant'' will include the purchaser of an option contract or the purchaser of the collateral on the on-date of a repo transaction. ''Selling participant'' will include the seller of an option contract or the seller of the collateral on the on-date of a repo transaction.

The Combined Procedures will use the term ''positions'' to refer to all options and repo positions of a participant. Consistent with this definition, the term ''long position'' will include the interest of a participant as the holder of one or more option contracts or reverse repos, and the term ''short position'' will include the aggregate obligations of a participant as a writer of one or more option contracts and the interest of the holder of one or more repos.

The Combined Procedures will use the term ''trade date'' to refer to the date on which an option contract was written, sold, or purchased or the date that a new repo contract was established. The Combined Procedures will use the term ''settlement date'' to refer to the first business day immediately following the day on which Delta receives matching trade reports with respect to options transactions and the business day upon which two participants agree to transfer underlying collateral versus payment with respect to repo transactions.

With respect to an option contract, ''variable terms'' will refer to the exercise price, expiration date, premium, and either the maturity date and coupon rate (if the underlying collateral are treasury bonds or notes) or the maturity week (if the underlying collateral are treasury bills). With respect to repo contracts, ''variable terms'' will refer to the repo rate, net money, rights of substitution, settlement date, maturity date, and coupon rate (if the underlying collateral are treasury notes or bonds).

b. *Exposure Limit and MPSE:* Delta currently sets exposure limits for each participant in the system on an aggregate basis for options and repo transactions that limit the amount of exposure such participant can have to Delta. In addition, the maximum potential system exposure (''MPSE'') of the system is measured on an aggregate basis for options and repo transactions. The Combined Procedures will clarify that calculations of exposure limit and MPSE are to be determined on an aggregate system-wide basis by providing for a single uniform definition of these terms and by providing in Section 204 of the Combined Procedures that each participant agrees to conduct all transactions cleared through the system within such participant's exposure limit. In the case of option contracts, a participant may have exposure on its short positions but does not have exposure on its long positions. In the case of repo contracts, a participant may have exposure on both its long positions and its short positions. This distinction will be reflected in the definitions of exposure limit and MPSE.

C. *Participant Default:* The proposal will add to the Combined Procedures the term ''participant default'' which will mean a payment default, delivery default, premium default, and margin default. The terms ''payment default'' and ''delivery default'' will be revised to include a payment or delivery default with respect to options or repo transactions. The effect of these changes and other conforming changes in the Combined Procedures will be to clarify that a default by a participant with respect to an options or a repo transaction may result in remedies, including suspension and liquidation, which are applicable to all transactions in a participant's account.

Under Delta's current procedures, a default by a participant with respect to an option contract would not constitute a default with respect to the repo contracts to which the participant is a party, and a default by a participant with respect to a repo contract would not constitute a default with respect to the option contracts to which the participant is a party. Under Section 212 of the Combined Procedures, a default by a participant in the performance of any obligations with respect to an option contract or a repo contract will constitute a default by the participant with respect to all transactions of the participant in the system, and Delta will be entitled, in such event, to set off any obligations of Delta in respect of any of the participant's transactions in the system against the participant's obligations to Delta.[3]

Consistent with the foregoing, Section 307 of the Combined Procedures, which will replace Section 307 of the Options Procedures and Section 2307 of the Repo Procedures, will provide that Delta will have a security interest in all

[3] The changes to Section 212 proposed by the Combined Procedures are intended to broaden Delta's right of setoff in the event of a participant default. However, the Combined Procedures are not intended to affect Delta's operational netting.

In general, Delta clears option transactions on a delivery versus payment basis (Sections 2901 (b) and (c)). However, pursuant to Section 2805, to the extent that a participant is both a delivering and receiving participant for option contracts of the same type (*i.e.*, put or call), covering the same issue and unit of trading of Treasury securities and having the same exercise price and settlement date, the settlement (*i.e.*, payment and delivery) obligations of the participant with respect to such option contracts will be netted.

Similarly, Delta clears repo contracts on a delivery versus payment basis (Section 3103 (b) and (c) with respect to on-date settlement and Section 3604 (b) and (c) with respect to off-date settlement). However, pursuant to Sections 3401 and 3402, if a participant has a repo and reverse repo with the same underlying collateral and the same on-date or off-date, as applicable, the participant's payment and delivery obligations with respect to such agreements will be netted. This means that if a participant is required to deliver $3 million par amount of a specified security on the off-date of a reverse repo and to receive on that same date $2 million par amount of the same security on the off-date of a repo, these obligations will be netted and a net delivery of $1 million par amount (the ''net par amount'') will be made by the participant. Payment obligations for such transactions will also be netted. The definition of net par amount will be amended to provide greater clarity consistent with the foregoing description.

money and securities of a participant as security for payment of any liability of such participant to Delta arising from participation in the system. For example, Delta will have a security interest in margin deposited for repo transactions which will be security for payment of a liability resulting from a default by a participant on an option or a repo contract.

Upon the occurrence of a participant default, Delta may liquidate a participant's account through a liquidating settlement account established for such participant. The term ''liquidating settlement account'' will be defined in the Combined Procedures as the account established for the orderly liquidation of a suspended participant's positions. Because ''positions'' will be defined to include positions in both options and repo contracts, the Combined Procedures will clarify that Delta will effect any liquidation of a participant through one settlement account rather than through separate accounts for liquidation of options and repo positions.

d. *Multiple Brokers:* On June 30, 1997, the Commission approved proposed changes to Delta's Options Procedures to provide for the introduction of multiple brokers to the clearance system for options transactions.[4] Under the Combined Procedures, the provisions of Article XX of the Options Procedures (''Authorize Brokers'') will be incorporated into the Combined Procedures as Article 12 and thus made applicable to both options and repo transactions.[5] In addition, other changes made by such filing will be incorporated into Article 23 of the Combined Procedures with respect to trade reporting for options transactions, and such changes will be incorporated for trade reporting of repo transactions by comparable amendments to Article 30 of the Combined Procedures. Other changes made by the filing, such as the definitions of ''authorized broker'' and ''authorized broker trade report,'' will be incorporated in the Combined Procedures and thus will be made applicable to options and repo transactions.

e. *Margin:* The Combined Procedures will combine in Article 22 of the procedures the margin provisions currently set forth in Article VI of the Options Procedures and Article XXVI of the Repo Procedures. Prior to 8:00 a.m. of each business day, participants receive a ''daily margin report'' showing the net positive or negative exposure on their aggregate positions as of the end of the prior business day. This net positive or negative exposure takes into account a participant's options positions and term repo positions; margin for a participant's positions in overnight repos is calculated separately.[6] The amendments are not intended to change existing participant margin requirements. By combining Articles VI and XXVI, the Combined Procedures will clarify that a participant is required to deposit margin based upon its aggregate net exposure on its options positions and its positions in term repos.

''Settlement time'' is defined in the Options Procedures as 11:00 a.m. New York time or the earliest time practicable following the opening of the Federal Reserve wire on the settlement day. Section 602 of the Options Procedures requires the deposit of margin other than intraday additional margin at or before the settlement time on each business day. Section 2602.1 of the Repo Procedures provides for the deposit of margin other than supplemental or intraday additional margin at or before 11:00 a.m. The Combined Procedures will conform the Options and Repo Procedures by providing in Section 2204, which is applicable to options and repo positions, that margin deficits shown on the daily margin report must be deposited at or before the later of 11:00 a.m. or the earliest time practicable following the opening of the Federal Reserve System.

Section 2202 of the Combined Procedures (the equivalent to Section 601.1 of the Options Procedures and 2601.1 of the Repo Procedures) will incorporate for options transactions the recently approved rule change[7] under the Repo Procedures permitting participants to deposit treasury notes and treasury bonds as margin and incorporating the schedule of applicable haircuts found in Rule 15c3–1(c)(2)(vi)(A)*(1)* under the Act. Consistent with this change, the defined term ''cash margin'' will be changed to ''margin'' in certain sections of the Combined Procedures.

Section 602 of the Options Procedures currently provides that deposits of additional margin in respect of margin deficits shown on the daily margin report are not required if the amount to be deposited by the participant is $5,000 or less. The Repo Procedures in Section 2602.1 currently provide that deposits are not required if such amount is $50,000 or less. Consistent with the current Repo Procedures, section 2204 of the Combined Procedures will provide that deposits are not required if the margin deficit shown on the daily margin report is $50,000 or less. However, as discussed above, the daily margin report will aggregate options positions and positions in term repo agreements.

f. *Business Day*: The Combined Procedures will conform the definition of business day for options and repo transactions. As currently written, the Repo Procedures define business day to exclude ''a Saturday, Sunday, or a day on which banking institutions in the City of New York are authorized by law to close,'' while the Options Procedures also exclude ''any day on which government securities dealers in the City of New York are not open for business.'' The Combined Procedures will conform the definition of this term in the Repo Procedures to the definition in the Options Procedures.

g. *Sanctions for Late Trade Reports:* Section 3301 of the Repo Procedures provides that the sanction for filing a late trade report in an amount not to exceed $500. In contrast, the Options Procedures in Section 1301 provide for sanctions of $100 for the first violation, $200 for any second violation occurring within three months of the first violation, and $300 for any subsequent violation occurring within three months of a prior violation. The Combined Procedures will retain the graduated fee schedule of Section 1301 and will apply that schedule to late trade reports involving repos.

h. *Central Bank Wire System; Federal Reserve System:* The Repo Procedures in various places use the terms ''central bank funds'' and ''central bank wire system'' in place of the terms ''Federal Reserve System'' and ''Fed Funds'' which are used in the Options Procedures. The use of these terms was intended to cover the situation where Delta had received authorization to clear trades to be effected by participants through central banks other than the Federal Reserve. Because Delta has not yet applied for nor received any such authorization, Delta proposes in the Combined Procedures to replace the

[4] Securities Exchange Act Release No. 38796 (June 30, 1997), 62 FR 37326 [File No. SR–DCC–97–02] (order approving proposed rule change).

[5] Such provisions establish qualification requirements for brokers, including compliance with Rule 17a–23 under the Act, maintenance of books and records, and necessary operational capacity.

[6] Securities Exchange Act Release No. 38471 (April 2, 1997), 62 FR 17257 [File No. SR–DCC–96–12] (order approving proposed rule change).

[7] Securities Exchange Act Release No. 37639 (September 4, 1996), 61 FR 48186 [File No. SR–DCC–96–09] (order granting approval of proposed rule change relating to acceptable forms of collateral).

terms ''central bank funds'' and ''central bank wire system'' with the terms ''Fed Funds'' and ''Federal Reserve System.'' For purposes of consistency, the Combined Procedures will amend Delta's existing procedures by using the term ''Federal Reserve System'' in various sections in place of the term ''Federal Wire System'' and the term ''Fed Funds'' in various sections in place of the term ''Federal Reserve Funds.''

i. *Suspension or Termination of Operations:* The Repo Procedures provide that the suspension or termination of the operation of the system will not affect the terms of any existing repo agreement. The Options Procedures provide that the suspension or termination of the system will not affect the terms of any existing option contract absent the consent of the participant which is party to such contract. The Combined Procedures will adopt the language set forth in the Options Procedures which will be made applicable to option and repo contracts. Delta does not believe that this constitutes a material change because the parties could agree to modify a contract under either provision.

2. Timing of Margin Collection and Monetization of Net Positive Exposure

The Options Procedures currently provide that a participant may borrow from Delta on an overnight basis up to 35% of the participant's net positive exposure on its options positions, adjusted for ''performance margin.'' [8] Under the Combined Procedures, a participant will be able to borrow from Delta on an overnight basis up to 35% of the participant's net positive exposure on its options positions and positions in term repos.

Each morning at approximately 8:00 a.m. of each business day, Delta sends to each participant a daily margin report which includes a statement of the participant's net positive or negative exposure as of the close of the prior business day.[9] Delta requires that any participant with a negative exposure deposit with Delta any required margin by 11:00 a.m. of the morning on which the report is sent. Under proposed Section 2212, if the daily margin report shows that the participant has a net positive exposure after adjustment for performance margin, the participant may request on or before 11:00 a.m. of the morning on which the report is sent that Delta lend to it on an overnight basis cash or treasury securities to the extent available to Delta with a value of not more than 35% of the participant's net positive exposure after adjustment for performance margin. In order to make such overnight loans, Delta will generally transmit securities by 3:00 p.m. that day or will transmit funds by 5:00 p.m. that day.

Participants may wish to borrow against their net positive exposure in order to reduce their exposure to Delta, to obtain working capital, or for other purposes. Delta does not believe that permitting such borrowing exposes the clearing system to any material additional risk because participants borrowing against their net positive exposure remain over-collateralized with Delta to the extent of 65% of their net positive exposure with Delta after adjusting for performance margin.

3. Waiver of Suspension

Delta proposes that the waiver of suspension provisions of Section 401 be revised to provide that suspension may be deferred not more than two hours in the event of a margin, premium, or payment default and for such period as Delta determines appropriate in the event of a delivery default if Delta determines that the participant required to make delivery has been unable to obtain the security required to be delivered after good faith effort and that such failure to delivery is not the result of a change in the participant's financial condition. The proposed change will not allow deferral of suspension beyond the two hour period in the case of a margin, premium, or payment default, which all involve the failure to make payment. In the case of a delivery default, however, Delta believes that there may be situations where the failure to deliver is unrelated to the participant's financial condition but instead results from the scarcity of the security required to be delivered.

4. Annual List of Participants

Section 213 of the Combined Procedures will provide that Delta will on an annual basis send a list of current participants in the system to all participants. Section 213 will make this requirement, currently applicable for repo participants, applicable for both options and repo participants. This is in addition to the existing requirement that participants be notified upon the admission or withdrawal of a participant.

5. Audited Report of Internal Accounting Controls

Delta's existing procedures provide that each participant is required to deliver to Delta within forty-five days after the end of its fiscal year an audited report of its financial condition and its internal accounting controls prepared in accordance with generally accepted accounting principles. Certain participants have indicated that an audited report of ''internal accounting controls'' is not a standard requirement. Delta proposes in Section 206 of the Combined Procedures to eliminate the requirement that participants deliver audited reports of their internal accounting controls. Participants will continue to be obligated to deliver to Delta annual audited financial statements.

6. Allocation of Duties Between Delta and the Clearing Bank

Delta has determined to undertake various duties related to operation of the clearing system instead of delegating those duties to the clearing bank. The Combined Procedures will identify where the change in responsibilities affects participants. Under the proposed procedures, Delta, rather than the clearing bank, will assume the authority and obligation to receive, compare, and transmit trade reports and other reports (Articles 23 and 30); to accept trades for clearance (Sections 2303 and 3003); to provide system software (Section 303); to calculate and maintain margin (Article 22); to transmit, receive, and assign exercise notices and to accept exercise notices for clearance (Article 28); and to reconcile differences with participants (Sections 2303 and 3003).

7. Miscellaneous Changes

Section 2403 of the current Repo Procedures provides that Delta will accept a transaction only if it is designated as delivery versus payment. The Combined Procedures will clarify in Section 3003 that delivery versus payment is not required in the event that positions in repo contracts are netted pursuant to Section 3401 or 3402 of the Combined Procedures (currently Sections 2901 and 2902 of the Repo Procedures).

Section 304 of the Combined Procedures will provide that inspection by Delta of participants' records will be at such time as may be reasonably requested by Delta and that the scope of such inspections will be limited to matters related to the procedures, the participant's transactions in the system, and other matters related to Delta's business. Sections 209(b) and 2209(b) of

[8] Performance margin represents an estimate of the net shortfall from the liquidation of a participant's positions at the close of the next business day.

[9] This discussion excludes overnight repos which are not included within proposed Section 2212.

Delta's existing Options and Repo Procedures provide that as a condition to participating in the system, a participant must agree to permit inspection of its books and records. The Combined Procedures will provide that a participant agrees to permit inspection subject to Section 304. This means that a participant only will be required to permit inspections which relate to the Combined Procedures, the participant's transactions in the system, and other matters related to Delta's business.

The Repo Procedures currently use the terms ''repo'' and ''repurchase agreement'' interchangeably. The Combined Procedures will provide for more uniform use of these terms. The term ''repurchase agreement'' will be used in the following defined terms: repurchase agreement, reverse repurchase agreement, matching repurchase agreement, matching reverse repurchase agreement, term repurchase and reverse repurchase agreements, and overnight repurchase and reverse repurchase agreements. The term ''repo'' will be used in the following defined terms: repo transaction, opening repo transaction, closing repo transaction, repo contract, repo position, repo interest, and repo rate.

In the definition of ''closing price,'' the reference to the New York Fed publishing quotations will be revised to include any other similar reputable pricing source. This is in anticipation of Delta's understanding that the New York Fed will cease publishing such quotations. Delta intends to use a pricing source such as Muller Data, Telerate, Reuters, or Bloomberg which is widely known and accepted by brokers and dealers in treasury securities. Delta will notify the Division of Market Regulation prior to designating a new pricing source.

The definitions of ''letter of credit'' and ''surety bond'' will be revised to conform to one another. Redundant language in Section 2303 of the existing Repo Procedures (Section 303 of the Combined Procedures) will be deleted. The definitions of ''daily margin report'' and ''daily position activity report'' will be amended to more accurately reflect the titles and contents of such reports.

Delta's current Options and Repo Procedures contain various references to custodian bank and margin accounts for investment companies, but the use of such terms is not consistent. However, at present, there are no registered investment companies which have applied to become participants in the clearing system. Delta is not seeking authority currently to admit registered investment companies as participants in the system. The Combined Procedures will revise the existing Options and Repo Procedures by deleting all references to registered investment company, margin account, and custodian bank.

The Combined Procedures will add a definition of ''correspondent bank'' which is a term used but not defined by the Options and Repo Procedures. ''Correspondent bank'' will refer to a bank designated by a participant pursuant to Section 302 of the Combined Procedures for receipt and delivery of money and securities. The Combined Procedures will make other definitional, conforming, cross-referencing, spelling, and grammatical changes which do not constitute material amendments to Delta's procedures, including changing article headings from roman numerals to arabic numbers.

8. Benefit to Participants

The Combined Procedures will benefit participants because a participant's exposure for option and term repo transactions and the margin required to be deposited and maintained by the participant will be based upon a single calculation.[10] For example, if a participant has a negative exposure of $3 million as a result of option transactions entered into by the participant in the clearing system and a positive exposure of $1 million as a result of term repo transactions entered into by the participant in the clearing system, the participant's margin requirements will be determined based upon a net short position of $2 million rather than $3 million.

Delta believes the proposed rule changes are consistent with the requirements of Act and the rules and regulations thereunder applicable to Delta and in particular with Section 17A(b)(3)(F) of the Act which requires that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement or securities transactions, to safeguard funds and securities in Delta's possession and control, and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. Delta believes that the combining of the Options and Repo Procedures will permit wider utilization of the clearing system by participants.

[10] The discussion in this paragraph relates to option and term repo transactions. Exposures with respect to overnight repos are subject to a separate margin requirement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Delta does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 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 Delta 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 Delta. All submissions should refer to the file number SR–DCC–97–04 and should be submitted by September 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

[11] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23261 Filed 9–2–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38969; File No. SR–NASD–97–23]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Registration Category, Study Outline and Specification for Series 72 Examination, Government Securities Representative

August 25, 1997.

On April 11, 1997, the NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to create a new category of representative registration, the Government Securities Representative (Series 72), and to conform the registration requirements of the existing Registered Options Representative (Series 42) category to take into consideration this new category.[2] Notice of the proposed rule change, together with the substance of the proposal, was published in the **Federal Register.**[3] No comment letters were received. This order approves the proposed rule change.

I. Background

The Government Securities Act of 1986 (''1986 Act''), an amendment to the Act, required sole government securities broker-dealers to register with the SEC for the first time. The 1986 Act also granted the NASD authority to require associated persons of such firms to register with the NASD. However, the 1986 Act did not allow the NASD to apply its qualification examination standards to associated persons of government securities broker-dealers. Since January 1989, such associated persons have been required to register as Government Securities Representatives or Government Securities Principals, but have not been required to pass a qualification examination. Under a 1993 amendment to the Act, the NASD was given authority to apply its qualification standards to Government Securities Representatives and Government Securities Principals.

The proposed rule change will establish an examination qualification requirement for government securities representatives. A person may qualify to sell government securities by passing the existing Series 7 examination or the new Series 72 examination. The proposed rule change replaces current Rule 1112, which was adopted in 1989.

NASD Regulation has determined to permit persons who have been registered with the NASD as a government securities representative for two years prior to the effective date of the rule will not have to take the examination unless they are subject to a statutory disqualification as defined in Section 3(a)(39) of the Act or in the last years have been subject to a suspension or fine of $5,000 or more imposed by a securities or commodities regulator.

Currently, individuals who sell OTC options on government securities are not required to pass a qualification examination. The proposed rule change also will amend Rule 1032(d) for Registered Options Representatives to establish registration and qualification requirements for such individuals, and to add the Series 72 Examination to the list of the those examinations which prequalify an individual to take the Limited Representative—Options (Series 42) Examination. A person selling OTC options on government securities would be required to pass the new Series 72 examination and the existing Series 42 examination.

The Series 72 examination will consist of one hundred (100) questions. Candidates will have three hours to complete the examination. The passing score for the examination will be 70%. The NASD will not begin using the examination until September of 1997.

II. Discussion

The Commission believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) and 15A(g)(3) of the Act in that the NASD is required to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD develops and administers examinations to establish that persons associated with NASD members have attained specified levels of competence and knowledge.

Pursuant to this statutory obligation, NASD Regulation administers examinations developed by NASD Regulation and other self-regulatory organizations Section 15A(g)(3) of the Act to prescribe standards of training, experience and competence for persons associated with NASD members.

The proposed rule change is consistent with the format of the other NASD limited registration categories. This proposed rule change will change the language of Rule 1032(d) Registered Option Representative so that it is similar to the language used in the other registration categories in Rule 1032.

This provision is consistent with previous practice in permitting persons who have achieved a certain level of experience in a segment of the securities industry to be ''grandfathered'' if a new qualification examination is adopted for that particular industry segment.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–97–23, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23259 Filed 9–2–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38975; File No. SR–NASD–97–59]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Short Sale Rule

August 26, 1997.

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 August 14, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. § 78s(b)(1) (1994).

[2] On July 1, the NASD submitted a technical amendment. Technical amendments do not need to be published in the Federal Register. Letter from Craig L. Landauer, Associate General Counsel, NASD, to Karl J. Varner, Esq., SEC, dated July 1, 1997.

[3] Securities Exchange Act Release No. 38566 (May 1, 1997), 62 FR 25683 (May 9, 1997).

[4] 17 CFR 200.30–3(a)(12)(1997).

[1] 15 U.S.C. § 78s(b)(1)(1994).

[2] 17 CFR 240.19b-4(1997).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Rule IM–3350 to provide that a ''legal'' short sale must be effected at a price equal to or greater than the offer price when the inside spread is less than 1/16. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

IM–3350 Short Sale Rule

(a) No Change.

(b)(1) Rule 3350 requires that no member shall effect a short sale for the account of a customer or for its own account in a Nasdaq National Market security at or below the current best (inside) bid when the current best (inside) bid as displayed by The Nasdaq Stock Market is below the preceding best (inside) bid in the security. The Association has determined that in order to effect a ''legal'' short sale when the current best bid is lower than the preceding best bid the short sale must be executed at a price of at least 1/16 point above the current inside bid *when the current inside spread is 1/16 point or greater.* The last sale report for such a trade would, therefore, be above the inside bid by at least 1/16 of a point. *If the current spread is less than 1/16 of a point, however, the short sale must be executed at a price equal to or greater than the current inside offer price.*

(2) Moreover, the Association believes that requiring short sales to be a minimum increment of 1/16 point above the bid *when the current spread is 1/16 or greater and equal to or greater than the offer when the current spread is less than 1/16* ensures that transactions are not effected at prices inconsistent with the underlying purpose of the Rule. *It would be inconsistent with Rule 3350 for a member or customer to cause the inside spread for an issue to narrow when the current best bid is lower than the preceding best bid (e.g., lowering its offer to create an inside spread less than 1/16) for the purpose of facilitating the execution of a short sale at a price less than 1/16 above the inside bid.*

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections A, B and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The NASD's short sale rule [3] prohibits member firms from effecting short sales [4] at or below the current bid as disseminated by Nasdaq whenever that bid is lower than the previous inside bid.[5] The rule currently provides that a short sale is a ''legal'' short sale in a ''down'' bid situation if it is effected at a price at least 1/16 above the inside bid (''Minimum Increment Rule''). The Minimum Increment Rule was implemented to ensure that short sales were not effected at prices so close to the inside bid during down markets that the short sales were inconsistent with the underlying purposes of the short sale rule (*i.e.* to prohibit market destabilizing and abusive short sales in declining markets).

Now that all Nasdaq stocks can potentially trade with a 1/16 spread or less, due to, among other things, the new SEC Order Handling Rules, and in light of the movement toward smaller minimum quotation variations generally, consideration was given to modifying the Minimum Increment Rule for stocks with an inside spread less than 1/16.

Accordingly, the NASD is proposing an amendment to the Minimum Increment Rule to provide that a ''legal'' short sale must be effected at a price equal to or greater than the offer price when the inside spread is less than 1/16. There would be no change to the current definition for stocks with a spread of 1/16 or greater. For example, if the inside market for ABCD is 10 1/14–10 5/16, a legal short sale in a down market would have to be effected at a price to or greater than 10 5/16 (*i.e.*, 1/16 above the current inside bid). However, if the inside market is 5 1/32–5 2/32, a legal short sale in a down market could be effected at a price equal to the inside offer 5 2/32.

In addition, to help ensure that market participants do not adjust their quotations to circumvent the short sale rule, the NASD is proposing an amendment to the Minimum Increment Rule to provide that a market maker or customer could not bring about or cause the inside spread for a stock to narrow in a declining market (*e.g.*, lowering its offer to create an inside spread less than 1/16) for the purpose of facilitating the execution of a short sale at a price less than 1/16 above the inside bid.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act.[6] Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Given the existence of the short sale rule, the proposed rule change is necessary to preserve the short sale rule's underlying purpose and effect when the inside spread is less than 1/16.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[3] The short sale rule was originally adopted in June of 1994 for Nasdaq National Market securities on a pilot basis with a termination date of March 5, 1996. Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) [File No. SR–NASD–92–12]. The pilot was subsequently extended through October 1, 1997. Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) [File No. SR–NASD–96–41]; *See also* Securities Exchange Act Release No. 36171 (August 30, 1995), 60 FR 46651 (September 7, 1995) [File No. SR–NASD–95–35]; Securities Exchange Act Release No. 37492 (July 29, 1996), 61 FR 40693 (August 5, 1996) [File No. SR–NASD–96–30]; Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) [File No. SR–NASD–96–41]. On August 8, 1997, the NASD submitted a proposed rule change (SR–NASD–97–58) to the Commission to implement the short sale rule on a permanent basis.

[4] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale, members must adhere to the definition of a ''short sale'' contained in Securities Exchange Act Rule 3b–3, 17 CFR 240.3b–3, which rule is incorporated into Nasdaq's short sale rule as NASD Rule 3350(k)(1).

[5] Nasdaq calculates the inside bid or best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis), and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow and ''down bid'' is denoted by a red ''down'' arrow. Accordingly, absent an exemption from the rule, a member cannot effect a short sale at or below the inside bid for a security in its proprietary account or a customer's account if there is a red arrow next to the security's symbol on the screen.

[6] 15 U.S.C. § 78*o*(b)(6) (1994).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the NASD's principal offices. All submissions should refer to File No. SR–NASD–97–59 and should be submitted by September 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

[FR Doc. 97–23342 Filed 9–2–97; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12) (1997).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38979; File No. SR–NASD–97–58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Requesting Permanent Approval of the NASD's Short Sale Rule

August 26, 1997.

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 August 11, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to implement its short sale rule (''Rule'') on a permanent basis. The text of the proposed rule change is as follows. Additions are italicized; deletions are bracketed.

* * * * *

NASD Rule 3350

* * * * *

(k)(3)[(A) Until February 1, 1996, the term *qualified market maker* shall mean a registered Nasdaq market maker that has maintained, without interruption, quotations in the subject security for the preceding 20 business days. Notwithstanding the 20-day period specified in this subsection, after an offering in a stock has been publicly announced, a registration statement has been filed, or a merger or acquisition involving two issues has been announced, no market maker may register in the stock as a qualified market maker unless it meets the requirements set forth below:

(i) For secondary offerings, the offering has become effective and the market maker has been registered in and maintained quotations without interruption in the subject security for 40 calendar days;

(ii) For initial public offerings, the market maker may register in the offering and immediately become a qualified market maker; provided however, that if the market maker withdraws on an unexcused basis from the security within the first 20 days of the offering, it shall not be designated as a qualified market maker on any subsequent initial public offerings for the next 10 business days;

(iii) After a merger or acquisition involving an exchange of stock has been publicly announced and not yet consummated or terminated, a market maker may immediately register in either or both of the two affected securities as a qualified market maker pursuant to the same-day registration procedures in Rule 4611; provided, however, that if the market maker withdraws on an unexcused basis from any stock in which it has registered pursuant to this subsection within 20 days of so registering, it shall not be designated as a qualified market maker pursuant to this subparagraph (3) for any subsequent merger or acquisition announced within three months subsequent to such unexcused withdrawal.

(B) for purposes of this subparagraph (3), a market maker will be deemed to have maintained quotations without interruption if the market maker is registered in the security and has continued publication of quotations in the security through the Nasdaq on a continuous basis; provided however, that if a market maker is granted an excused withdrawal pursuant to the requirements of Rule 4619, the 20 business day standard will be considered uninterrupted and will be calculated without regard to the period of the excused withdrawal. Beginning February 1, 1996, t]*T*he term *qualified market maker* shall mean a registered Nasdaq market maker that meets the criteria for a Primary Nasdaq Market Maker as set forth in Rule 4612.

[(l) This section shall be in effect until October 1, 1997.]

II Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections A, B and C below, of the most significant parts of such statements.

[1] 15 U.S.C. § 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Background and Description of the NASD's Short Sale Rule

On June 29, 1994, the SEC approved the rule applicable to short sales [3] in Nasdaq National Market (''NNM'') securities on an eighteen-month pilot basis through March 5, 1996.[4] The Rule prohibits member firms from effecting short sales at or below the current inside bid as disseminated by Nasdaq whenever that bid is lower than the previous inside bid.[5] The Rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m., Eastern Time).

i. Market Maker Exemption

In order to ensure that market maker activities that provide liquidity and continuity to the market are not adversely constrained when the Rule is invoked, the Rule provides an exemption to ''qualified'' Nasdaq market makers. Even if a market maker is able to avail itself of the qualified market maker exemption, it can only utilize the exemption from the Rule for transactions that are made in connection with bona fide market making activity. If a market maker does not satisfy the requirements for a qualified market maker, it can remain a market maker in the Nasdaq system, although it can not take advantage of the exemption from the Rule.

Since the rule has been in effect, there have been three methods used to determine whether a market maker is eligible for the market maker exemption. Specifically, from September 4, 1994 through February 1, 1996, Nasdaq market makers who maintained a quotation in a particular NNM security for 20 consecutive business days without interruption were exempt from the Rule for short sales in that security, provided the short sales were made in connection with bona fide market making activity (the ''20-day'' test). From February 1, 1996 until the February 14, 1997, the ''20-day'' test was replaced with a four-part quantitative test known as the Nasdaq Primary Market Maker (''PMM'') Standards.[6] On February 14, 1997, the PMM standards were waived for all NNM securities due to the effects of the SEC's Order Handling Rules and corresponding NASD rule change and system modifications on the operation of the four quantitative standards.[7] For example, among other affects, the requirement that market makers display customer limit orders adversely effected the ability of market makers to satisfy the ''102% Average Spread Standard.'' Nasdaq is presently in the process of formatting revised PMM standards that focus principally on whether a market maker is a ''net'' provider of liquidity.

While all registered market makers are presently eligible for the market maker exemption, in the event that Nasdaq implements revised PMM standards, the ability of a member firm to achieve and maintain PMM status in 80 percent of the NNM issues in which it is registered can also have the following corollary effects, as was the case when the PMM standards were in effect from February 1, 1996 through February 14, 1997.

a. Existing NNM Securities: if a member firm is a PMM in 80 percent or more of the securities in which it has registered, the firm may immediately become a PMM (*i.e.*, qualified market maker) in a NNM security by registering and entering quotations in that issue. If the member firm is not a PMM in at least 80 percent of its stocks, it may become a PMM in that stock if it registers in the stock as a regular Nasdaq market maker and satisfies the PMM qualification standards for the next review period.

b. Initial Public Offerings (''IPOs''): if a member firm has obtained PMM status in 80 percent or more of the stocks in which it has registered, the firm may immediately become a PMM in an IPO by registering and entering quotations in the issue. However, if the firm: (1) Withdraws from the IPO on an unexcused basis any time during the calendar month in which the IPO commenced trading on Nasdaq or (2) fails to meet the PMM standards for the month in which the IPO commenced trading on Nasdaq,[8] then the firm is precluded from becoming a PMM in any other IPO for ten business days following the unexcused withdrawal or failure to meet the PMM standards (''10-day rule'').[9]

c. Merger and Acquisition Situations: after a merger or acquisition is announced, a market maker that is a PMM in one stock may immediately become a PMM in the other stock by registering and entering quotations in that issue.

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[3] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale members must adhere to the definition of a ''short sale'' contained in Rule 3b–3 of the Act, which rule is incorporated into Nasdaq's Rule by NASD Rule 3350(k)(1).

[4] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) [File No. SR–NASD–92–12] (''Short Sale Rule Approval Order''). The termination date for the pilot program for the Rule was subsequently extended through October 1, 1997. Specifically, the termination date was extended twice due to delays in the implementation of the NASD's Primary Market Maker Standards. Securities Exchange Act Release No. 36532 (November 30, 1995), 60 FR 62519 (December 6, 1995) [File No. SR–NASD–95–58]; *see also* Securities Exchange Act Release No. 36171 (August 30, 1995), 60 FR 46651 (September 7, 1995) [File No. SR–NASD–95–35]. The most recent extension of the pilot program through October 1, 1997, was approved by the SEC to afford the NASD a better opportunity to examine the effectiveness of the Rule and the impact of the market maker exemption from the Rule. Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) [File No. SR–NASD–96–41]. In this connection, in order to enhance its ability to examine the impacts of the market maker exemption, the NASD received SEC approval of its proposal to require market makers to mark their ACT reports to denote when they have relied on the market maker exemption. Securities Exchange Act Release No. 38240 (February 5, 1997), 62 FR 6290 (February 11, 1997) [File No. SR–NASD–96–52].

[5] Nasdaq calculates the inside bid or best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis) and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow and a ''down bid'' is denoted by a red ''down'' arrow. To effect a ''legal'' short sale on a down bid, the short sale must be executed at a price at least a 1/16th of a point above the current inside bid. Conversely, if the security's symbol has a green up arrow next to it, members can effect short sales in the security without any restrictions.

[6] Under the PMM Standards, a market maker was required to satisfy at least two of the following four criteria each month to be eligible for an exemption from the Rule: (1) The market maker must be at the best bid or best offer as shown on Nasdaq no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its ''proportionate'' volume in the stock. If a PMM did not satisfy the threshold standards after a particular review period, the market maker lost its designation as a PMM (i.e. the ''P'' next to its market maker identification was removed). Market makers could requalify for designation as a PMM by satisfying the threshold standards in the next review period.

[7] Securities Exchange Act Release No. 38294 (February 14, 1997), 62 FR 8289 (February 24, 1997) [File No. SR–NASD–97–07].

[8] On June 20, 1996, the NASD submitted a rule filing to the SEC that clarified the applicable PMM review period for IPOs listed during the last five business days of a month. Securities Exchange Act Release No. 37426 (July 11, 1996), 61 FR 37521 [File SR–NASD–96–25].

[9] The PMM rule also has provisions applicable to secondary offerings. Specifically, unless a market maker is registered in a security prior to the time a secondary offering in that stock has been publicly announced or a registration statement has been filed, it cannot become a PMM in the stock unless: (1) The secondary offering has become effective and the market maker has satisfied the PMM standards between the time the market maker registered in the security and the time the offering became effective or (2) the market maker has satisfied the PMM standards for 40 calendar days. Managers and co-managers of secondary offerings can register and immediately become a PMM in an issue prior to the effective date of the secondary offering, however.

ii. Options Market Maker Exemption

In an effort to not constrain the legitimate hedging needs of options market makers, the Rule also contains a limited exception for standardized options market makers. Specifically, under the Rule, an NASD member may execute a short sale for the account of an equity option market maker or an index option market maker that would otherwise be in contravention of the Rule as long as: (1) The short sale is an ''exempt hedge transaction'';[10] and (2) the options market maker is registered with a ''qualified options exchange'' [11] as a ''qualified options market maker'' [12] in a stock options class overlying a NNM security or in an options class overlying a ''qualified stock index.'' [13]

iii. Warrant Market Maker Exemption

The Rule also contains an exemption for warrant market makers similar to the one available for options market makers. To be eligible for the exemption, a warrant market maker must be registered as a market maker in the warrant and the short sale must be an ''exempt hedge transaction'' [14] that results in a fully hedged position. However, any short sale by a warrant market maker unrelated to normal warrant market maker activity, such as index arbitrage or risk arbitrage that in either case is independent of a warrant market maker's market making functions, is not considered an ''exempt hedge transaction.''

iv. Exemptions Comparable to Those Contained in Rule 10a–1 Under The Act

The Rule also incorporates seven exemptions contained in Rule 10a–1 under the Act [15] (''Rule 10a–1'') that are relevant to trading on Nasdaq. Specifically the Rule exempts:

- Sales by a broker-dealer for an account in which it has no interest and that is marked long;
- Any sale by a market maker to offset odd-lot orders of customers;
- Any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such securities as soon as possible without undo inconvenience or expense;
- Sales by a member to liquidate a long position which is less than a round lot, provided the sale does not change the member's position by more than one unit of trading (100 shares);
- Short sales effected by a person in a special arbitrage account;[16]
- Short sales effected by a person in a special international arbitrage account;[17] and
- Short sales by an underwriter or any member of the distribution syndicate in connection with the over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities rights pursuant to Rule 10b–18 under the Act or a standby underwriting commitment.

The Rules also provides that a member not currently registered as a Nasdaq market maker in a security that has acquired the security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of the Rule notwithstanding that such member may not have a net long position in such security, if and to the extent that such member's short position in such security is subject to one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities. In addition, the NASD has recognized that SEC staff interpretations to Rule 10a–1 dealing with liquidation of index arbitrage positions [18] and an ''international equalizing exemption'' [19] are equally applicable to the NASD's Rule.

v. Interpretations of the NASD's Short Sale Rule

In conjunction with the adoption of the Rule, the NASD also issued three Interpretations by the NASD Board of Governors dealing with the Rule. Interpretation A to the Rule clarifies some of the factors that will be taken into consideration when reviewing market making activity that may not be deemed to be bona fide market making activity and, therefore, not exempt from the Rule's application.[20] Interpretation

[10] For equity option market makers, an ''exempt hedge transaction'' is defined to be a short sale in a NNM security that was effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in a transaction(s) contemporaneous with the short sale, provided that when establishing the short position the options market maker receives, or is eligible to receive, good faith margin pursuant to Section 220.12 of Regulation T under the Act. For index option market makers, an ''exempt hedge transaction'' is defined to be a short sale in a NNM security that was effected to hedge, and in fact serves to hedge, an existing offsetting stock index options position or an offsetting stock index options position that was created in a transaction(s) contemporaneous with the short sale, provided that: (1) The security sold short must be a component security of the index underlying such index option; (2) the index underlying such offsetting index options position is a ''qualified stock index''; and (3) the dollar value of all exempt short sales effected to hedge the offsetting stock index options position(s) does not exceed the aggregate current index value of the offsetting options position(s).

[11] A ''qualified options exchange'' is defined to be a national securities exchange that has received SEC approval of its rules and procedures governing: (1) The designation of options market makers as qualified options market makers; (2) the surveillance of its market makers' utilization of the exemption; and (3) authorization of the NASD to withdraw, suspend, or modify the designation of a qualified options market maker in the event that the options exchange determines that the qualified options market maker has failed to comply with the terms of the exemption and the exchange believes that such action is warranted in light of the substantial, willful, or continuing nature of the violation. All national securities exchanges that trade standardized options are ''qualified options exchanges.''

[12] An options market maker is a ''qualified options market maker'' if it has been appointed as such by a qualified options exchange.

[13] A ''qualified stock index'' is defined to be a stock index that includes one or more NNM securities, provided that more than 10% of the weight of the index is accounted for by NNM securities. In addition, qualified stock indexes are reviewed as of the end of each calendar quarter, and an index would cease to qualify if the value of the index represented by one or more NNM securities was less than 8 percent at the end of any subsequent calendar quarter.

[14] An ''exempt hedge transaction'' is a short sale in a NNM security that was effected to hedge, and in fact serves to hedge, an existing offsetting warrant position that was created in a transaction contemporaneous with the short sale.

[15] 17 CFR 240.10a–1 (1997).

[16] In order to fall within this exemption, the person effecting the short sale must then own another security by virtue of which the person is, or presently will be entitled to acquire an equivalent number of securities of the same class of securities sold short, provided the short sale, or the purchase which such sale offsets is effected for the bona fide purpose of profiting from a current difference between the price of the security sold short and the security owned, and such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any such class of securities of the issuer.

[17] In order to fall within this exemption, the short sale must be effected for the bona fide purpose of profiting from a current difference between the price of such security on a securities market not within or subject to the jurisdiction of the United States and a securities market subject to the jurisdiction of the United States, provided the person at the time of such sale knows or, by virtue of information currently received, has reasonable grounds to believe that an offering enabling a person to cover such sale is then available to the person in such foreign securities market and intends to accept such offer immediately.

[18] In 1986, the SEC took a ''no action'' position that allows broker-dealers to sell short on a down tick while liquidating index arbitrage positions under certain conditions. This no-action position was clarified in a later SEC Release and the SEC has proposed to amend Rule 10a–1 to incorporate this interpretation. Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 24415 (June 9, 1992) [File No. S7–13–92]

[19] Specifically, the NASD has interpreted its Rule to provide that any person can sell a foreign security, or a depositary share or depositary receipt relating to such a security, on a down bid at the opening, provided the inside bid is equal to or above the last reported sale price (adjusted for current exchange rates and ADR multiples) of the security in the principal foreign market for that security.

[20] Specifically, Interpretation A provides that bona fide market making activity does not include activity that is unrelated to market making functions, such as index arbitrage and risk arbitrage that is independent from a member's market making functions. Similarly, the Interpretation states that bona fide market making would exclude activity

Continued

B defines a ''legal'' short sale on a down bid as one that is executed at a price of at least a 1/16 of a point above the current inside bid.[21] Finally, Interpretation C clarifies some of the circumstances under which a member would be deemed to be in violation of the Rule.[22]

2. Proposal To Adopt the Short Sale Rule on a Permanent Basis

When the Commission approved the Rule on a temporary basis, it made specific findings that the Rule was consistent with Sections 11A, 15A(b)(6), 15A(b)(9), and 15A(b)(11) of the Act. Specifically, the Commission stated that, ''recognizing the potential for problems associated with short selling, the changing expectations of Nasdaq market participants and the competitive disparity between the exchange markets and the OTC market, the Commission believes that regulation of short selling of Nasdaq National Market securities is consistent with the Act.''[23] In addition, the Commission stated that it ''believes that the NASD's short sale bid-test, including the market maker exemption, is a reasonable approach to short sale regulation of Nasdaq National Market securities and reflects the realities of its market structure.''[24]

Nevertheless, in light of the Commission's concerns with adverse comments made about the Rule and the Commission's own concerns with the structure and impact of the Rule,[25] the Commission determined to approve the Rule on a temporary basis to afford the NASD and the SEC an opportunity to study the effects of the Rule and its exemptions. In particular, before considering any NASD proposal to extend, modify, permanently implement or terminate the Rule, the Commission requested that the NASD examine: (1) The effects of the Rule on the amount of short selling; (2) the length of time that the Rule is in effect (*i.e.*, the duration of down bid situations); (3) the amount of non-market maker short selling permitted under the Rule; (4) the extent of short selling by market makers exempt from the Rule; (5) whether there have been any incidents of perceived ''abusive short selling''; (6) the effects of the Rule on spreads and volatility; (7) whether the behavior of bid prices has been significantly altered by the Rule; and (8) the effect of permitting short selling based on a minimum increment of 1/16.

Accordingly, in response to the Commission's request and concerns, the NASD's Economic Research Department has prepared two studies on the economic impact of the Rule that addresses these issues.[26]

i. July 1996 Short Sale Study

The first study prepared in July 1996 examined market activity both before and after implementation of the Rule and found that the Rule has had its intended effect of diminishing short selling at the bid in declining markets, while still allowing short sales to occur at prices slightly above the bid in down bid situations.[27] Specifically, among other things, the July 1996 Short Sale Study found that:

- The Rule appears to dramatically reduce the amount of the short selling on down-bids, without having the undesirable effect of driving away all non-exempt short sales on down bids;
- Stocks with large down-bid percentages (*i.e.*, the average percentage of time during the trading day that the Rule is invoked) are not associated with economically-large reductions in market quality, as measured by relative displayed spreads, percent bid range, and trading activity;
- For stocks with large monthly increases in short interest, implementation of the Rule has been associated with lower bid price volatility and narrower dollar spreads;
- The Rule does not appear to have reduced overall sales at the bid by non-exempt sellers (long and short sales combined). Thus, because short sales at the bid on down bids by non-exempt short sellers are prohibited,[28] the results illustrate that short sales at the bid have been replaced by long sales at the bid during down-bids for these securities;
- Apparent ''unnatural'' bid price movement occurred extremely infrequently (0.6 percent or fewer of all bid changes evaluated in the study), indicating that market makers are not attempting to move bids to invoke or deactivate the Rule;
- On a stock-by-stock basis, the percentage of volume accounted for by short sales increases as the stock experiences larger price declines as opposed to price increases or no price changes, suggesting that speculative short selling is more apt to occur when stock prices are falling; and
- Exempt short sales generally are executed above the bid, indicating that market makers are not abusing the exemption. Specifically, in a down-bid environment, 7.5 percent of exempt short sales are executed at or below the bid, while the comparable figure during an up-bid environment is 8.7 percent.

Interviews conducted in conjunction with the July 1996 Short Sale Study also indicate that the Rule has been effective in promoting the integrity of the Nasdaq

that is related to speculative selling strategies of the member or investment decisions of the firm and is disproportionate to the usual market making patterns or practices of the member in that security. In addition, the Interpretation provides guidance with respect to what constitutes bona fide market making in the context of a merger or acquisition situation.

[21] In light of Nasdaq's move to minimum quote increments of a 1/16 for Nasdaq stocks priced above $10 on June 2, 1997, Nasdaq has filed a proposed rule change (SR–NASD–97–59) with the Commission to modify the ''legal'' definition of a short sale. In sum, the proposed rule change provides that a ''legal'' short sale must be effected at the offer side of the market when the inside spread for a security is less than a 1/16. In other words, if the inside spread is 1/16 or greater, there will be no change to the current definition of a legal short sale. For stocks with a spread less than a 1/16, however, a legal short sale must be effected at a price at or above the inside offer.

[22] Specifically, the Interpretation contains the following non-exhaustive list of activities that would be considered to be manipulative acts and violations of the rule: (a) In instances where the current best bid is below the preceding best bid, if a market maker alone at the inside best bid were to lower its bid and then raise it to create an ''up bid'' for the purpose of facilitating a short sale; (b) if a market maker with a long stock position were to raise its bid above the inside bid and then lower it to create a ''down bid'' for the purpose of precluding market participants from selling short; (c) if a market maker agrees to an arrangement proposed by a member or a customer whereby the market maker raises its bid in the Nasdaq system in order to effect a short sale for the other party and is protected against any loss on the trade or on any other executions effected at its new bid price; and (d) if a market maker entered into an arrangement with a member or a customer whereby it used its exemption from the rule to sell short at the bid at successively lower prices, accumulating a short position, and subsequently offset those sales through a transaction at a prearrange price, for the purpose of avoiding compliance with the rule, and with the understanding that the market maker would be guaranteed by the member of customer against losses on the trades.

[23] Short Sale Rule Approval Order, *supra* note 4, at 34891.

[24] *Id.* at 34892.

[25] When the NASD's Rule was first considered by the Commission, the SEC received 397 comment letters on the proposal, with 275 comments opposed to the Rule and 122 comments in favor of the Rule. Those comment letters opposed to the Rule argued that: (1) The NASD had failed to provide sufficient evidence of the need for the Rule or demonstrate the appropriateness of the Rule based on a ''bid'' test instead of ''tick'' test; (2) the PMM standards will have negative effects on both market makers and the Nasdaq market; and (3) the Rule is inconsistent with the requirements of the Act.

[26] Both of the studies prepared by the NASD's Economic Research Department have been submitted to the SEC under separate letter and are part of this filing.

[27] The Economic Impact of the Nasdaq Short Sale Rule, NASD Economic Research Department (July 23, 1996) (''July 1996 Short Sale Study'').

[28] Specifically, the July 1996 Short Sale Study found that only 2.8 percent of short sales by non-exempt short sellers occur at or below the inside bid in down-bid situations. Because the Rule prohibits short sales at the bid on down bids, this figure should theoretically be zero. Reasons why this figure is 2.8 percent include, among others, improper alignment of trades and their corresponding inside quotes, potential reporting errors and violations of the rule.

market. Specifically, most market participants interviewed stated that the Rule has had the effect of slowing down the ''piling on'' of short sales in a declining market, thereby contributing to greater market stability. At the same time, market participants indicated that the Rule does not unduly constrain them from effecting short sales in a declining market, although they say it does take them longer to execute short sales in a falling market. Most market participants interviewed also stated that the exemptions from the Rule are warranted and have not been abused. In particular, most market participants interviewed reiterated the importance of retaining the market maker exemption and stated that there is no need to change the PMM standards. Similarly, the American Stock Exchange and the Chicago Board Options Exchange, the two largest standardized options markets in the United States, both stated that the options market maker exemption has performed well and that the exchanges have not detected any abuses of the exemption by their members. In sum, the NASD believes that the market participant interviews corroborate and provide further support for the empirical findings made in the quantitative portion of the July 1996 Short Sale Study. Namely, that the Rule has been effective in accomplishing what the NASD intended the Rule to accomplish (*i.e.*, reducing speculative short selling at the bid in declining markets) without causing unnecessary disruptions elsewhere in the marketplace.

ii. August 1997 Short Sale Study

In August 1997, the NASD's Economic Research Department prepared another study on the economic impact of the Rule that reaffirmed the findings of the July 1996 Short Sale Study.[29] In addition, because market makers have been required to denote when they have effected exempt short sales or short sales on their ACT reports since April 14, 1997, the August 1997 Short Sale Study also provides a more detailed and precise analysis of the extent to which market makers have utilized the market maker exemption and the market impact of such exempt short sales. Specifically, with respect to the economic impact of the Rule, the August 1997 Short Sale Study utilized a variety of regression models to evaluate whether implementation of the rule has had any economically significant impact on four measures of market quality—quoted spreads, effective spreads, volatility, and aggregate quoted depth at the inside market. In sum, consistent with the July 1996 Short Sale Study, the results of the regressions demonstrate that implementation of the Rule has not been associated with any economically significant adverse market effects.

The August 1997 Short Sale Study also sets forth a variety of statistics that clearly illustrate that market makers are providers of immediate liquidity that has a stabilizing effect on the market and that market makers, in general, have used the exemption in a manner that is consistent with and in furtherance of providing immediate liquidity to the marketplace. For example, to show that market makers are net providers of liquidity, the August 1997 Short Sale Study found that 52% of market maker volume was accounted for by purchases at the bid and sales at the offer; whereas only 16.7% of market maker volume was accounted for by sales at the bid and purchases at the offer. In contrast, the August 1997 Short Sale Study found that 49.4% of share volume by non-market makers was accounted for by sales at the bid and purchases at the offer, whereas only 18.2% of non-market maker volume was accounted for by purchases at the bid or sales at the offer. Moreover, the August 1997 Short Sale Study found that a wide majority of market maker volume was executed in a market stabilizing manner (*i.e.*, purchases during declining markets and sales during rising markets).

Given that these statistics sufficiently demonstrate that market makers are net providers of immediate and stabilizing liquidity to the marketplace, the August 1997 Short Sale Study then examined whether the market maker exemption was being used in a manner consistent with such stabilizing trading activity. In this connection, the August 1997 Short Sale Study found that:

- Only 1.27% of market maker share volume was effected in reliance on the market maker exemption;
- In those instances where market makers were selling short at prices less than a 1/16 above the inside bid during down markets, the market makers were also engaging in contemporaneous purchase transactions. In fact, during those periods when the market maker exemption was being heavily utilized, the August 1997 Short Sale Study found that the percentage of market maker volume accounted for by exempt short sales was less than the percentage of market maker volume accounted for by stabilizing purchases prior, during, and after peak utilization of the exemption. Thus, as was postulated by the NASD when it proposed the market maker exemption, the August 1997 Short Sale Study shows that market makers have exhibited trading behavior consistent with the notion that the exemption is used as a risk management vehicle to liquidate their long positions amassed during declining markets because of market makers' liquidity enhancing purchases a the bid, not a means to engage in abusive short selling practices that exacerbate downward price movements; and
- Because the exemption was predominantly used during periods when market makers were also engaging in stabilizing purchase transactions, the regression analysis also found that the use of the exemption was in fact associated with slight, positive price movements.

In sum, the August 1997 Short Sale Study found that market makers have used the exemption in a manner consistent with the notion that the exemption serves to enhance their ability to supply immediate, stabilizing liquidity during declining market conditions.

Thus, the NASD believes experience with the Rule since its implementation in September 1994, warrants permanent approval of the Rule and reaffirms the statutory findings made by the Commission when it approved the Rule on a temporary basis. Specifically, the NASD believes experience with the Rule illustrates and substantiates the benefits to investors and to the integrity of Nasdaq that the NASD believed would result from the rule. Namely, that, with the Rule in place, purchasers of NNM securities have greater assurance that they can liquidate their positions in a declining market without predatory short sellers exacerbating downward pressure on stocks and reducing overall liquidity. In sum, the NASD continues to believe that the Rule strikes a reasonable balance between the needs to prevent abusive short selling and reduce the exposure of the Nasdaq market to manipulative and excessive intra-day volatility, on the one hand, and the need to not distort the pricing efficiency and liquidity provided by appropriate short selling activity on the other.

Based on experience with the Rule, the NASD also believes the Rule should be permanently approved in its present form. Specifically, given the geographically dispersed nature of Nasdaq's competing dealer market structure, the NASD continues to believe that it is appropriate for the Rule

[29] The Nasdaq Stock Market Short Sale Rule: Analysis of Market Quality Effects and The Market Maker Exemption, NASD Economic Research Department (August 7, 1997)(''August 1997 Short Sale Study''). As noted above, this Study and the July 1996 Short Sale Study were provided to the SEC under separate letter and are part of this rule filing.

to be based on a ''bid'' test [30] instead of a ''tick'' test,[31] as is the case with Rule 10a–1. When the Rule was first considered by the Commission in 1994, the SEC and commentators expressed concern that structuring the Rule as a ''bid'' test instead of a ''tick'' test could result in the Rule being in effect for longer periods of time in comparison to a ''tick'' test. The SEC also expressed concern that market makers could control the amount of short selling by simply adjusting their bids. Based on the findings of the July 1996 Short Sale Study, however, the NASD believes these concerns are not valid. First, while the July 1996 Short Sale Study clearly found that the Rule is having its intended effect of inhibiting the execution of non-exempt short sales at the bid in a declining market, the July 1996 Short Sale Study also found that market participants are nevertheless readily able to effect short sales at prices slightly above ''down'' bids.[32] Similarly, several market participants interviewed in conjunction with the preparation of the July 1996 Short Sale Study stated that the Rule has not adversely affected their ability to effect short sales, just that it takes them longer to effect such short sales. Second, the July 1996 Short Sale Study's finding that apparent ''unnatural'' quote movements have occurred very infrequently indicates that market makers are not adjusting their quotes to facilitate or constrain short selling activity.[33] Accordingly, the NASD continues to believe that structuring the Rule as a ''bid'' test rather than a ''tick'' test is appropriate given Nasdaq's competing dealer market structure. Moreover, the NASD notes that the SEC's Limit Order Display Rule has substantially increased the ability of non-exempt short sellers to receive executions at prices at least 1/16 of a point above the inside bid in down bid situations, thereby minimizing the impact of the Rule on legitimate short selling activity.[34]

In addition, based on the findings contained in the August 1997 Short Sale Study that use of the market maker exemption has been associated with slight, positive price movements and that market makers are most often relying on the exemption during declining markets when they are engaging in stabilizing purchase transactions, the NASD believes that the market maker exemption should be retained. Without the exemption, the NASD believes market makers will be less able to manage their risk and provide immediate liquidity to the marketplace during declining markets, the very time when liquidity is perhaps most needed to preserve the integrity of the Nasdaq market. The NASD also notes that the July 1996 Short Sale Study found that the amount of exempt short selling occurring at or below the bid is virtually the same in both down-bid and up-bid situations and that market makers do not appear to be adjusting their quotes to constrain or facilitate short selling. Accordingly, the NASD continues to believe that an exemption from the rule for bona fide market making activity by market makers who provide liquidity and continuity to the market is essential for the maintenance of fair and orderly markets on Nasdaq.[35]

The NASD also notes that retention of the Rule has significant competitive implications. Indeed, in the Short Sale Rule Approval Order, the Commission stated that it ''recognizes that without a short sale rule for Nasdaq, the NASD is competitively disadvantaged. The exchange markets can and do attract issuers and investors with the claim that their markets protect against potential short selling abuse.'' [36] Given that experience with the Rule over the past two years illustrates that the Rule provides investors and the marketplace with protections against predatory short selling comparable to Rule 10a–1, the NASD believes the competitive disadvantages highlighted by the Commission would become severe if the Rule were not permanently approved. In particular, without permanent approval of the Rule, Nasdaq could potentially lose issuers to other marketplaces simply because those markets have a short sale rule in place, which is very similar to the NASD's Rule. Moreover, aside from these serious competitive concerns, the NASD believes it should be allowed to continue to implement its Rule that affords investors the same protections against abusive short selling activity when trading NNM securities that investors receive when trading exchange-listed securities by virtue of Rule 10a–1.

In this connection, even if the Commission were to conclude that the Rule has had no impact on market quality, the NASD believes the Commission's approval of New York Stock Exchange (''NYSE'') Rule 80A [37] illustrates that the Commission would still have a sufficient basis to approve the Rule on a permanent basis. When NYSE Rule 80A was proposed, the Commission received considerable adverse comment to the effect that there was no causal relationship between index arbitrage and market volatility and that activation of the Rule during turbulent market conditions could have disastrous effects on related options and futures markets and actually exacerbate market volatility. Despite these comments, the Commission approved the proposal on a one-year pilot basis noting that ''the NYSE proposal represents a modest step, proposed on a pilot basis, to attempt to address the issue of market volatility.'' [38] After the one year pilot, the NYSE prepared a report that, in the SEC's words, found that ''the standard measures of NYSE market quality appear largely unaffected by Rule 80A.'' Specifically, the NYSE Report indicated that: (1) Quotes on the NYSE did not widen after the 50 DJIA point trigger was reached; and (2) the imposition of Rule 80A did not have any negative effect on price continuity and depth in the market.[39] In addition, in approving Rule 80A on a permanent basis, the SEC noted that the rule ''represents a modest but useful step by the NYSE to attempt to address the issues of market volatility,'' [40] that the rule '' has not been disruptive to the marketplace'',[41] and that there was a ''lack of evidence of any harmful effects of Rule 80A.'' [42] In sum, the SEC discussion of the statutory basis for

[30] The NASD's Rule is commonly referred to as a ''bid'' test because it is activated based upon movements in the inside bid on Nasdaq.

[31] Rule 10a–1 is commonly referred to as a ''tick'' test because it is activated based on movements in the last sale prices of securities.

[32] *See* July 1996 Short Sale Study, *supra* note 27, at 15–20.

[33] *See id.* at 20–21.

[34] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) [File No. S7–30–95].

[35] The NASD also continues to believe that it is appropriate and consistent with the Act for the Rule to exempt certain qualified market makers while Rule 10a–1 does not provide an exemption for exchange specialists other than the limited exemption continued in Rule 10a–1(e)(6) for specialists on regional exchanges. Specifically, the NASD believes the following differences between the dealer and auction markets warrant the retention of the market maker exemption in the Rule: (1) Exchange specialists have a monopoly over the securities in which they trade; (2)) dealers generally do not have an informational advantage over other dealers; and (3) dealers do not have the ability to close their markets because of sudden volatility or an order imbalance.

[36] Short Sale Rule Approval Order, *supra* note 4, at 34891.

[37] Rule 80A provides that, when the Dow Jones Industrial Average declines or advances by 50 points or more, all index arbitrage orders to sell or buy must be executed in market stabilizing manner.

[38] Securities Exchange Act Release No. 28282 (July 30, 1990), 55 FR 31468, 31472 (August 2, 1990)(order approving File Nos. SR–NYSE–90–5 and 90–11).

[39] Securities Exchange Act Release No. 29854 (October 24, 1991), 56 FR 55963 (October 30, 19991)(order approving file SR–NYSE–91–21)(''Rule 80A Approval Order'').

[40] *Id.* at 55967.

[41] *Id.*

[42] *Id.* at 55967–68.

approval of NYSE Rule 80A focused in large part on the fact that Rule 80A did not have any adverse effects on market quality on the NYSE and that, as a result, the NYSE should be given the latitude to take reasonable steps to address excessive volatility in its marketplace. Accordingly, the NASD believes the SEC should afford the NASD the same regulatory flexibility that it afforded the NYSE and permit the NASD to permanently implement a short sale rule reasonably designed to enhance the quality of Nasdaq and minimize the effects of abusive short selling practices.

The NASD believes the proposed rule change is consistent with sections 15A(b)(6),[43] 15A(b)(9),[44] 15A(b)(11),[45] and 11A of the Act.[46] Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Specifically, the NASD believes the proposal is consistent with Section 15A(b)(6) of the Act because the proposal is premised on the same anti-manipulation and investor protection concerns that underlie the SEC's own short sale rule, Rule 10a–1. In particular, as with Rule 10a–1, the proposal promotes just and equitable principles of trade by permitting long sellers access to market prices at any time, while constraining the execution of potentially abusive and manipulative short sales at or below the bid in a declining market. In addition, as with Rule 10a–1, the proposal removes impediments to a free and open market for long sellers and helps to assure liquidity at bid prices that might otherwise be usurped by short sellers. Lastly, because the immediate beneficiaries of the proposal are shareholders of NNM companies, the proposal is designed to protect investors and the public interest. At the same time, given that the proposal does not constrain short sales in a raising market or prohibit the execution of short sales in a declining market above bid prices, the NASD believes the proposal does not diminish the important pricing efficiency and liquidity benefits that legitimate short selling activity provides.

Section 15A(b)(9) provides that the Association's rules may not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. While the proposal does impose compliance burdens on market participants and conditions on the execution of short sales in a declining market, the NASD believes these burdens and restrictions are necessary in furtherance of the protection of investors and the integrity of the Nasdaq market. The NASD believes its proposal is consistent with the Act and that any burdens or competition resulting from the proposal do not outweigh the overall benefits to investors that the proposal provides by implementing a short sale rule that is designed; (1) To protect investors and issuers from predatory short selling practices; (2) to reduce the exposure of Nasdaq to manipulation and extreme intra-day volatility; and (3) to afford investors in Nasdaq securities the same protections against abusive short selling that investors in exchange-listed securities presently receive.

Section 15A(b)(11) empowers the NASD to adopt rules governing the form and content of quotations relating to securities in the Nasdaq market. Such rules must be designed to produce fair and informative quotations, prevent fictitious and misleading quotations and promote orderly procedures for collecting and distributing quotations. The NASD believes the proposal prevents misleading quotations and promotes more orderly quotation movements, particularly in a declining market by minimizing the extreme intra-day price volatility associated with abusive short selling activity.

The NASD also believes that the proposal is consistent with the significant national market system objectives contained in Section 11A of the Act. Specifically, Section 11A(a)(1)(C)[47] provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure, among other things, (i) the economically efficient execution of securities transactions; (ii) fair competition among brokers and dealers; and (iii) the practicality of brokers executing investors orders in the best market. The NASD believes all of these objectives will be advanced by minimizing the destabilizing influences of abusive short selling activity. Similarly, Section 11A(c)(1)(F)[48] assures the equal regulation of all markets for qualified securities and all exchange members, brokers, and dealers effecting transactions in such securities. The NASD believes its proposal is consistent with Section 11A(c)(1)(F) because approval of the proposal would result in equivalent short sale regulation in the exchange and Nasdaq markets.

In addition, when the SEC proposed new Rule 105 of Regulation M (''Rule 105''), a rule that liberalizes regulatory requirements formerly contained in Rule 10b–21 under the Act (''Rule 10b–21'') governing short sales in connection with a secondary offering, the Commission specifically cited the NASD's adoption of a short sale rule as a factor contributing to the Commission's reassessment of whether Rule 10b–21 should be liberalized. Specifically, the SEC stated:

> Since the adoption of Rule 10b–21, several additional regulatory measures have been implemented that may lessen the effects of short selling in connection with an offering. These initiatives, which include permitting passive market making during offerings of Nasdaq securities and implementing a short sale rule for the Nasdaq market, may reduce the need for Rule 105.'' (Footnote omitted).[49]

On December 20 1997, the SEC adopted its proposed change to Rule 10b–21 in the form of Rule 105.[50] In its release adopting Rule 105, the Commission's analysis does not indicate that the Commission revised its initial belief that implementation of the NASD's Rule, among other factors, lessened the regulatory justification for some of the provisions of former Rule 10b–21.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, without a short sale rule for the Nasdaq market, Nasdaq would be adversely affected in its ability to compete for listings with exchange markets and investors on Nasdaq will not be afforded the same protections against abusive short selling as investors on exchange markets. Accordingly, Nasdaq believes approval of the Rule is necessary to ensure that Nasdaq and investors on Nasdaq are not subject to an impermissible burden on competitors.

[43] 15 U.S.C. § 78*o*–3(b)(6) (1994).

[44] 15 U.S.C. § 78*o*–3(b)(9) (1994).

[45] 15 U.S.C. § 78*o*–3(b)(11) (1994).

[46] 15 U.S.C. § 78k–1 (1994).

[47] 15 U.S.C. § 78k–1(a)(1)(C) (1994).

[48] 15 U.S.C. § 78k–1(c)(1)(F) (1994).

[49] Securities Exchange Act Release No. 37094 (April 11, 1996), International Series Release No. 965, 61 FR 17108, 17126 (April 18, 1996) [File No. S7–11–96].

[50] Securities Exchange Act Release No. 38067 (December 20, 1997), International Series Release No. 1039, 62 FR 520 (January 3, 1997) [File No. S7–11–96].

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date Of Effectiveness Of The Proposed Rule Change And Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation Of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the NASD's principal offices. All submissions should refer to File No. SR–NASD–97–58 and should be submitted by September 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[51]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23343 Filed 9–2–97; 8:45 am]

BILLING CODE 8010–01–M

[51] 17 CFR 200.30–3(a)(12) (1997).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38973; File No. SR–PCX–97–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Addition of Martin Luther King, Jr.'s Birthday as an Exchange Holiday and the Renaming of the Decoration Day Holiday to Memorial Day

August 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 20, 1997, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend Exchange Rule 4.3 to include Martin Luther King, Jr.'s Birthday among those holidays on which it is closed for business. The Exchange also seeks to amend Exchange Rule 4.3 to change the name of the holiday currently recognized as Decoration Day to its better known name of Memorial Day.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange 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 Exchange 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 Exchange 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 this proposed rule change is to modify the Exchange's practice with respect to Exchange holidays to include Martin Luther King, Jr.'s Birthday among those holidays on which the Exchange is not open for business. In addition, the proposed rule change will modify the existing rule to include Memorial Day among the list of holidays, instead of its less commonly used name of Decoration Day.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to promote just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19b(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Section, 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 the Exchange. All submissions should refer to the File No. SR–PCX–97–34 and should be submitted by September 24, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23260 Filed 9–2–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2979]

State of Ohio

Hocking County and the contiguous Counties of Athens, Fairfield, Perry, Pickaway, Ross, and Vinton in the State of Ohio constitute a disaster area as a result of damages caused by severe thunderstorms and flash flooding which occurred August 16 through 18, 1997. Applications for loans for physical damages may be filed until the close of business on October 24, 1997 and for economic injury until the close of business on May 26, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

For Physical Damage:

HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE—8.000%

HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE—4.000%

BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE—8.000%

BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE—4.000%

OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE—7.250%

For Economic Injury:

BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE—4.000%

The number assigned to this disaster for physical damage is 297906 and for economic injury the number is 958100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 25, 1997.

John T. Spotila,

Acting Administrator.

[FR Doc. 97–23345 Filed 9–2–97; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2962]

State of Texas; Amendment #2

In accordance with a notice from the Federal Emergency Management Agency dated August 21, 1997, the above-numbered Declaration is hereby amended to include Goliad County, Texas as a disaster area due to damages caused by severe thunderstorms and flooding beginning on June 21, 1997 and continuing through July 15, 1997.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in the State of Texas may be filed until the specified date at the previously designated location: Bee, DeWitt, Karnes, Refugio, and Victoria.

All other information remains the same, i.e., the deadline for filing applications for physical damage is September 5, 1997 and for economic injury the termination date is April 7, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 22, 1997.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–23344 Filed 9–2–97; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Information Technology Agreement; Comment Request

AGENCY: Office of the United States Trade Representative.

Trade Policy Staff Committee; Public Comments for Multilateral Negotiations in the World Trade Organization (WTO) on Review and Expansion of the Information Technology Agreement (ITA) or ''ITA II'' and Global Economic Commerce (GEC).

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is requesting written public comments with respect to the implementation and expansion of the Information Technology Agreement, in particular: (1) Discrepancies between current tariff nomenclature and emerging technology which may affect the expected market access benefits to the United States of the ITA; (2) additional information technology products which it would be in the interests of the United States to include in the ITA; (3) expansion of the ITA to ensure a tariff-free environment for information products and services transmitted via the Internet; (4) non-tariff barriers affecting trade in ITA products; and (5) possible acceleration of ITA duty reductions previously agreed. Comments received will be considered by the Executive Branch in formulating U.S. positions and objectives for further development of the ITA, in particular the procedures for consultations and review of product coverage provided for by participants to the ITA on March 26, 1997. They will be also be considered by the Executive Branch in developing U.S. positions and objectives for implementing the President's ''Framework for Global Electronic Commerce'' of July 1, 1997.

DATES: Public comments are due by noon, September 30, 1997.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: John Ellis, Office of WTO and Multilateral Affairs, USTR, (202–395–6843); Barbara Chattin, Director for Tariff Negotiations, USTR, (202–395–5097); or Matt Rohde, Director for Customs Affairs, USTR, (202–395–3063).

SUPPLEMENTARY INFORMATION: The Chairman of the TPSC invites written comments from the public on issues to be addressed in the course of

[1] 17 CFR 200.30–3(a)(12).

negotiations on review and expansion of the ITA. Any amendments to the ITA resulting from these negotiations will be subject to approval by all of the 42 current ITA participants (Australia, Canada, Costa Rica, Czech Republic, El Salvador, Estonia, European Communities (on behalf of 15 Member States), Hong Kong, Iceland, India, Indonesia, Israel, Japan, Korea, Macau, Malaysia, New Zealand, Norway, the Philippines, Poland, Romania, Singapore, Slovak Republic, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey and the United States). It is expected that other participants to the ITA will be conducting similar consultations with their private sectors.

BACKGROUND: During the Uruguay Round of multilateral trade negotiations, the United States sought, but did not achieve, the reciprocal elimination by WTO members of tariffs on information technology products. With the encouragement and support of a broad coalition of major U.S. information technology manufacturers, the Administration continued to pursue this objective after the conclusion of the Uruguay Round. In December 1996, United States and 36 other countries and separate customs territories reached agreement to eliminate tariffs on a wide range of information technology products. The resulting agreement covers computers and computer equipment, semiconductors and integrated circuits, computer software products, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments. The Information Technology Agreement (ITA), the recently concluded WTO agreement on basic telecommunications services, and other trade initiatives are all elements of the ''Framework for Global Electronic Commerce'' issued by President Clinton and Vice President Gore on July 1, 1997. The Administration's goal is to establish a seamless global electronic marketplace free from tariff and other market access barriers (such as those created by standards-related activities). The Framework report can be downloaded from the Internet, at http//:www.iitf.nist.gov/electronic__commerce.htm.

The ITA is being implemented under the auspices of the WTO. The WTO estimates that products covered by the ITA are worth approximately $500 billion in 1995 global trade. Industry sources estimate that U.S. exports account for approximately one-fifth of this total. Detailed information on the ITA, including the December 1996 Ministerial Declaration on Trade in Information Technology Products and its ''product coverage'' annex and the March 1997 decision which also includes detailed information on the ITA review can be found on the Internet at http://www.wto.org/wto/goods/infotech.htm.

On June 30, 1997, under the authority provided in Section 111(b) of the Uruguay Round Agreements Act, the President proclaimed the reduction and eventual elimination, no later than the year 2000, of duties on products covered by the ITA. As required by the agreement, the United States implemented the initial ITA duty reductions on July 1, 1997. Likewise, other ITA participants will continue to reduce their tariffs on the covered products in stages, achieving complete tariff elimination for most products by the year 2000. The ITA, the recently concluded WTO agreement on basic telecommunications services, and other trade initiatives are all elements of the Administration's framework for establishing a seamless global electronic marketplace.

At the March 26, 1997 meeting at the WTO in Geneva, ITA participants agreed on a timetable for the first round of ''ITA-II'' negotiations. Beginning in October 1997, there will be a three month ''open season,'' in which participants will identify their priorities for this process. Multilateral negotiations will begin in January 1998, with a view to reaching agreement on any amendments or modifications to the ITA by July 1998 and to implementing those changes on January 1, 1999.

Working with appropriate industry associations, the interagency TPSC committee led by USTR is in the process of preparing negotiating positions for these consultations. Interested U.S. parties are invited to submit comments, by noon, September 30, 1997, on the following: (1) Discrepancies between current tariff nomenclature and emerging technology which may affect the expected market access benefits to the United States of the ITA; (2) additional information technology products which it would be in the interests of the United States to include in the ITA; (3) expansion of the ITA to ensure a tariff-free environment for information products and services transmitted via the Internet; (4) non-tariff barriers imposed by other ITA participants which may hinder expected market access benefits to U.S. exporters on products covered by the ITA; and (5) possible acceleration of ITA duty reductions previously agreed. We are requesting this advice pursuant to 19 U.S.C. 2155.

All comments will be consistent in developing U.S. positions and objectives for ITA-II negotiations, and for implementing the President's ''Framework for Global Electronic Commerce.'' Information on products or practices subject to these negotiations should include, whenever appropriate, the import or export tariff classification number for the product concerned.

Persons submitting written comments should provide a statement, in twenty copies, by noon, September 30, 1997, to Gloria Blue, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 503, 600 17th Street, NW., Washington, D.C. 20508. Non-confidential information received will be available for public inspection by appointment in the USTR Reading Room, Room 101, Monday through Friday, 9:30 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb on 202–395-6186. Business confidential information will be subject to the requirements of 15 CFR § 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97–23368 Filed 9–2–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Process: Clark County, Nevada

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that the previously noticed environmental process for the Northern and Western Las Vegas Beltway, Clark County, Nevada (57 FR 37863 dated August 20, 1992), is being terminated and withdrawn.

FOR FURTHER INFORMATION CONTACT: John T. Price, Division Administrator, Federal Highway Administration, Nevada Division, 705 N. Plaza St., Suite 220, Carson City, NV 89701, Telephone: 702–687–5320.

SUPPLEMENTARY INFORMATION: On August 20, 1992, the FWHA issued a notice of intent in the **Federal Register** to advise that a Tier 1 environmental impact

statement (EIS) would be prepared for the above project. This Tier 1 EIS was approved on June 7, 1996, and a Record of Decision (ROD) was issued by FHWA on August 5, 1996. Subsequent to initiation of the Tier 1 EIS, Clark County committed to obtaining all rights-of-way and constructing an interim facility with local funds. The 20-year design facility was originally expected to be at least partially Federally funded. Recently, Clark County concluded that no Federal-aid Highway funds will be required. Since the use of Federal-aid Highway funds for the project are no longer anticipated, their is no major Federal action warranting FHWA's involvement in the environmental process.

Therefore, at the request of Clark County, Nevada, the previously noticed environmental process is hereby terminated and withdrawn. FHWA will not prepare a Tier 2 environmental document.

(Catalog of Federal Domestic Assistance Programs Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 27, 1997.

Alan J. Friesen,

Assistant Division Administrator, Federal Highway Administration, Carson City, Nevada.

[FR Doc. 97–23347 Filed 9–2–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

VIA Rail Canada, Incorporated (Waiver Petition Docket Number RSGM–97–4)

VIA Rail Canada, Incorporated (VIA) seeks a temporary waiver of compliance with the Safety Glazing Standards, 49 CFR Part 223.9(c), which requires FRA certified glazing in all windows of passenger cars, for fifteen passenger coaches rebuilt in 1997. VIA states that the contractor who rebuilt the cars failed to equip the cars with FRA certified glazing. VIA plans to use the coaches to operate a special train on September 21, 1997, between Toronto, Ontario, and Buffalo, New York, for Canadian Buffalo Bills fans. A second trip is planned for November 1997. VIA is working with the contractor to replace the windows with FRA certified glazing and requests the waiver to ensure the equipment is available. VIA states that the fifteen coaches have standard VIA safety glazing in all locations and are equipped with four emergency egress windows per coach, not FRA certified.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RSGM–97–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. Any protest to the special train movement of September 21, 1997, must be filed prior to September 15, 1997. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on August 28, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 97–23312 Filed 9–2–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 97–2866]

Notice of Request for the Extension of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: Environmental Assessments.

DATES: Comments must be submitted before November 3, 1997.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, Pub. L. 401, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 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: *Environmental Assessments*—Mr. Joseph Ossi, Office of Planning, (202) 366–1613.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Environmental Assessments *(OMB Number: 2132–0011).*

Background: The National Environmental Policy Act (NEPA) of 1960, as amended, and its implementing regulations, require that all Federal agencies consider and document the social, economic, and environmental impacts of proposed Federal actions. For FTA, approvals of grants to State

and local public agencies and authorities for the construction of transit facilities and for other transit activities are Federal actions subject to this NEPA requirement. A method used by FTA for the consideration and documentation of impacts is the Environmental Assessment. The Environmental Assessment evaluates alternatives to the proposed project and describes the probable adverse effects of the proposed project and the alternatives considered, including land use impacts, traffic impacts, noise, residential and business displacements, impacts on parks, wetlands, and historic sites, and other possible impacts. The Environmental Assessment is conducted by the grant applicant, in cooperation with FTA. It allows FTA and the grant applicant, prior to a decision to proceed with the grant, in the case of FTA, or with the project itself, in the case of the transit authority seeking FTA grants funds, to assess the environmental consequences of proposed transit projects and alternative, less costly or less harmful methods for achieving project objectives. The Environmental Assessment also provides opportunities for public involvement and coordination with other interested government agencies. When it is completed, it includes a detailed description of the project alternative for which the grant funds will be provided, a description that includes any measures that have been incorporated into the project to reduce environmental harm and adverse impacts on the surrounding community.

Respondents: State and local government agencies and authorities seeking FTA grants.

Estimated Annual Burden on Respondents: An average of 120 hours for each Environmental Assessment. There are an average of 60 such assessments per year.

Estimated Total Annual Burden: 7,200 hours.

Frequency: Annual.

Issued: August 28, 1997.

Gordon J. Linton,

Administrator.

[FR Doc. 97–23313 Filed 9–2–97; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 97–2865]

Notice of Request for the Extension of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: Americans with Disabilities Act.

DATES: Comments must be submitted before November 3, 1997.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, Pub. L. 401, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 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: *Americans with Disabilities Act*—Mr. Arthur Andrew Lopez, Director, Office of Civil Rights, (202) 366–4018.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Americans with Disabilities Act *(OMB Number: 2132–0555).*

Background: On July 26, 1990, the President signed into law civil rights legislation entitled, ''The Americans with Disabilities Act of 1990'' (ADA) (Pub. L. 101–336). It contains sweeping changes for individuals with disabilities in every major area of American life. One key area of the legislation addresses transportation services provided by public and private entities. Some of the requirements under the ADA are: (1) No transportation entity shall discriminate against an individual with a disability in connection with the provision of transportation service; (2) All new vehicles purchased by public and private entities after August 25, 1990, must be readily accessible to and usable by persons with disabilities, including individuals who use wheelchairs; (3) Public entities that provide fixed route transit must provide complementary paratransit service for persons with disabilities, who are unable to use the fixed route system, that is comparable to the level of service provided to individuals without disabilities; and (4) Transit authorities who are able to substantiate that compliance with all service criteria of the paratransit provisions would cause undue financial burden, may request a temporary time extension in implementing ADA complementary paratransit service.

On September 6, 1991, DOT issued a final rule implementing the transportation provisions of ADA (Title 49 CFR Parts 27, 37 and 38), which includes the requirements for complementary paratransit service by public entities operating a fixed route system and the provision of nondiscriminatory accessible transportation service. The regulation sets forth the changes needed to fulfill the Congressional mandate to substantially improve access to mass transit service for persons with disabilities. Effective January 26, 1997, paratransit plans are no longer required. However, if FTA reasonably believes that an entity may not be complying with all service criteria, FTA may require an annual update to the entity's plan. In addition, all other ADA compliance requirements must still be satisfied. The information collected provides FTA with a basis for monitoring compliance. The public entities, including recipients of FTA funds, are required to provide information during triennial reviews, complaint investigations, resolutions of complaints, and compliance reviews.

Respondents: State and local government, business or other for-profit institutions, non-profit institutions, and small business organizations.

Estimated Annual Burden on Respondents: 100 hours for each of the 750 respondents.

Estimated Total Annual Burden: 75,000 hours.

Frequency: Annual.

Issued: August 28, 1997.

Gordon J. Linton,

Administrator.

[FR Doc. 97–23314 Filed 9–2–97; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33443]

RailAmerica, Inc.—Continuance in Control Exemption—St. Croix Valley Railroad Company

RailAmerica, Inc. (RailAmerica) has filed a notice of exemption to continue in control of the St. Croix Valley Railroad Company (SCV), upon SCV's becoming a Class III railroad.

The transaction was expected to be consummated on or after the August 21, 1997 effective date of the exemption.

This transaction is related to STB Finance Docket No. 33442, *St. Croix Valley Railroad Company—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein SCV seeks to acquire and operate certain rail lines from The Burlington Northern and Santa Fe Railway Company.

RailAmerica directly controls 11 common carrier Class III railroads operating in 9 states: the Cascade and Columbia River Railroad Company; the Delaware Valley Railway Company, Inc.; the Evansville Terminal Company, Inc.; the Gettysburg Railway; the Huron & Eastern Railway Company, Inc.; the Minnesota Northern Railroad, Inc.; the Otter Tail Valley Railroad Company; the Saginaw Valley Railway Company, Inc; the West Texas & Lubbock Railroad Company, Inc.; the Dakota Rail, Inc.; and the South Central Tennessee Railroad Company.

RailAmerica states that: (i) The rail lines to be operated by SCV do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect SCV with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33443, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Gary Laakso, Esq., RailAmerica, Inc., 301 Yamato Road, Suite 1190, Boca Raton, FL 33431.

Decided: August 26, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–23349 Filed 9–2–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33442]

St. Croix Valley Railroad Company—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

St. Croix Valley Railroad Company (SCV), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF) and to operate approximately 33.3 miles of rail line between Hinckley, MN, milepost 74.0, and North Branch, MN, milepost 40.7, and 11.1 miles of rail line between Brook Park, MN, milepost 58.0, and Mora, MN, milepost 46.9. In addition, SCV will acquire incidental overhead trackage rights to operate between Hinckley, MN, milepost 74.0, and Brook Park, MN, milepost 58.0, and over BNSF's yard tracks in its Hinckley yard.

The transaction was expected to be consummated on or after the August 21, 1997 effective date of the exemption.

This transaction is related to STB Finance Docket No. 33443, *RailAmerica, Inc.—Continuance in Control Exemption—St. Croix Valley Railroad Company*, wherein RailAmerica, Inc. has concurrently filed a verified notice to continue in control of SCV upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33442, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Gary Laakso, Esq., 301 Yamato Road, Suite 1190, Boca Raton, FL 33431.

Decided: August 26, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–23350 Filed 9–2–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

U.S. Customs Service

[T.D. 97–74]

Bonds; Approval to Use Authorized Facsimile Signatures and Seal

The use of facsimile signatures and seal on Customs bonds by the following corporate surety has been approved effective this date:

Intercargo Insurance Company

Authorized facsimile signature on file for:

Stanley A. Galanski

The corporate surety has provided the Customs Service with copies of the signatures to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seal. This approval is without prejudice to the surety's right to affix signatures and seal manually.

Dated: August 27, 1997.

Jerry Laderberg,

Chief, Entry Procedures and Carriers Branch.

[FR Doc. 97–23256 Filed 9–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Renewal of the Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: The Generalized System of Preferences (GSP) is a renewable preferential trade program that allows the eligible products of designated developing countries to directly enter the United States free of duty. The GSP program expired on May 31, 1997, but has been renewed, effective August 5, 1997, with retroactive effect to June 1, 1997, by a provision in the Budget Reconciliation Tax Act of 1997. This document provides notice to importers that Customs will begin processing refunds on all duties paid, with interest from the date the duties were deposited, on GSP-eligible merchandise that was entered on June 1, 1997, through August 4, 1997, and that Customs will accept claims for GSP duty-free treatment for merchandise entered, or withdrawn from a warehouse, for consumption on or after August 5, 1997, through June 30, 1998, the provisions current legislative sunset date.

DATES: Customs will begin the processing of refunds on duties paid—with interest as set forth in this document—August 29, 1997.

FOR FURTHER INFORMATION CONTACT: For general operational questions:

Formal entries—John Pierce, 202–927–1249

Informal entries—Thomas Wygant, 202–927–1167

Mail entries—Dan Norman, 202–927–0542

Passenger claims—Robert Jacksta, 202–927–1311

For specific questions relating to the Automated Commercial System: Eric Blank, Office of Information and Technology, 202–927–0441.

SUPPLEMENTARY INFORMATION:

Background

Section 501 of the Trade Act of 1974 (the 1974 Act), as amended (19 U.S.C. 2461), authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary countries for specific time periods. Pursuant to 19 U.S.C. 2465(a), as amended by the GSP Renewal Act of 1996 (Pub. L. 104–188, 110 Stat. 1775, at Stat. 1917), duty-free treatment under the GSP program expired on May 31, 1997.

On August 5, 1997, the President signed the Budget Reconciliation Tax Bill of 1997 (the 1997 Act, tentatively scheduled to be published as Pub. L. 105–34, 111 Stat. 788); section 981 pertains to the extension of duty-free treatment and the retroactive application for certain liquidations and reliquidations under the GSP (the 1997 Act, *op. cit.*). Section 981 makes provision to apply GSP duty-free treatment to eligible articles from designated beneficiary countries that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1997, through June 30, 1998, and, for those entries made after May 31, 1997 through August 4, 1997, to which duty-free treatment would have applied, to refund any duty paid with respect to such entry, provided that a request for liquidation or reliquidation is filed with Customs by February 4, 1998, *i.e.*, within 180 days after the date of the 1997 Act's enactment, that contains sufficient information to enable Customs to locate the entry or to reconstruct the entry if it cannot be located.

Recognizing the impact that retroactive renewal and consequent numerous reliquidations will have on both importers and Customs, Customs developed a mechanism to facilitate refunds (*see*, **Federal Register** Notice of June 4, 1997, 62 FR 30672) that will begin processing refunds August 29, 1997. Customs expects the processing of refunds to take from four to eight weeks for certain, formal Automated Broker Interface (ABI) entries.

Duty-Free Entry Summaries

Effective August 5, 1997, filers again will be entitled to file GSP eligible entry summaries without the payment of estimated duties.

Refunds With Interest

A. Formal Entries

Customs will liquidate or reliquidate all affected entry summaries and refund any duties deposited for items denominated on the GSP line. Field locations shall not issue GSP refunds except as instructed to do so by Customs Headquarters.

If an ABI entry summary was or will be filed with payment of estimated duties using the Special Program Indicator (SPI) for the GSP (the letter ''A'') as a prefix to the tariff number, no further action by the filer is required; filings with the SPI ''A'' will be treated as conforming requests for refunds.

Non-ABI filers who either did or did not request a refund by using the SPI ''A'' must request a refund in writing from the Port Director at the port of entry by February 4, 1998. The letter may cover either single entry summaries or all entry summaries filed by an individual filer at a single port. To expedite refunds, Customs recommends the following information be included in each letter:

1. A statement requesting a refund, as provided by section 981 of the Budget Reconciliation Tax Act 1997;

2. An enumeration of the entry numbers and line items for which refunds are requested; and

3. The amount requested to be refunded for each line item and the total amount owed for all entry summaries.

Interest on duties deposited will be paid, pursuant to section 505 of the Tariff Act of 1930, as amended (19 U.S.C. 1505), based on the quarterly Internal Revenue Service interest rates used to calculate interest on refunds of Customs duties as follows:

June 1, 1997–June 30, 1997—8%

July 1, 1997–July 31, 1997—8%

August 1, 1997–August 4, 1997—8%

B. Informal Entries

Refunds with interest on informal entries filed via ABI on a Customs Form 7501 with the SPI ''A'' will be processed in accordance with the procedures discussed above.

C. Mail Entries

The addressees must request a refund of GSP duties and return it, along with a copy of the CF 3419A, to the appropriate International Mail Branch (address listed on bottom right hand corner of CF 3419A). It is essential that a copy of the CF 3419A be included, as this will be the only means of identifying whether GSP products have been entered and estimated duties and fees have been paid.

D. Baggage Declarations and Non-ABI Informals

If travelers/importers wrote a statement directly on their Customs declarations (CF 6059B) or informal entries (CF 363 or CF 7501) requesting a refund, no further action by the traveler/importer will be required; the statement will be treated as a conforming request for refunds. Failure to request a refund in this manner does not preclude a traveler/importer from otherwise making a timely request in writing, as described above for non-ABI filers.

Dated: August 27, 1997.

Robert Trotter,

Assistant Commissioner, Field Operations.

[FR Doc. 97–23257 Filed 9–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of Program Test: Simplification of In-Transit Truck Shipments Between Canada and the U.S.

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces a joint U.S. Customs and Revenue Canada Customs plan to conduct a pilot test of simplified procedures regulating the in-transit movement of truck shipments transiting Canada and the United States. The simplified procedures reduce the number of processing steps or stops required of a carrier transiting either Canada or the United States from four to two. This notice also invites public comments concerning any aspect of the planned pilot test program.

EFFECTIVE DATES: The test of this pilot program will commence no earlier than October 8, 1997, and will run for approximately six months, with evaluations of the program occurring periodically. Comments must be received on or before October 2, 1997.

ADDRESSES: Written comments regarding this notice should be addressed to Walter Lechowski, East Great Lakes Customs Management Center, Floor 3, Building 10, 4455 Genesee Street, Buffalo, New York 14225–1928.

FOR FURTHER INFORMATION CONTACT:

For U.S. Customs issues: Walter Lechowski, (716) 626–0400, ext. 203.

For Revenue Canada Customs issues: Bryan Daly, (613) 954–7081.

SUPPLEMENTARY INFORMATION:

Background

With a long history of working together, Canada and the United States have much in common. The Customs Services in each country operate more and more in a similar fashion because they are faced with many of the same problems and challenges associated with the rapidly changing business and economic environment. Trade between Canada and the United States is a billion dollar a day proposition. Tourism provides millions of jobs for Canadians and Americans. More than 100 million travellers cross our common border each year. This environment brings with it the threat of guns, smuggling, drugs, and crime. Conversely, our citizens and customers are therefore demanding better service and protection at less cost.

In response to these demands, on February 24, 1995, at a Summit in Ottawa, Canada, President Clinton and Canadian Prime Minister Chretien announced agreement on a Canada/United States Accord on our Shared Border for enhancing the management of the U.S.-Canada border. See, 31 Weekly Comp. Pres. Doc. 305. The Shared Border Accord sets out common objectives and specific initiatives to promote trade, tourism, and travel between the two countries by reducing barriers for legitimate importers, exporters, and travelers, while strengthening enforcement capabilities to stop the flow of illegal movement of goods and reducing costs for both governments and users. One of the common objectives of the Shared Border Accord is to promote international trade by adopting the best practices of each country to permit commercial goods and legitimate travellers to flow easily between both countries.

To aid in the development of this objective, Revenue Canada Customs and U.S. Customs jointly propose a change to the current procedures concerning the reporting and control of truck shipments transiting Canada between ports in the U.S. and truck shipments transiting the U.S. between ports in Canada. The present United States regulations applicable to in-transit truck traffic between our two countries are set forth as subpart E of part 123 of the Customs Regulations (19 CFR part 123, subpart E) and require such traffic to report to a Customs facility a minimum of four times: once in crossing the border bound for the other country; twice while in the other country, *i.e.*, once when arriving and once when departing; and once again when reentering the country of destination. The procedural change proposed in this document for this type of international traffic will eliminate the first and third check stops. Accordingly, the reporting requirements contained at §§ 123.41 (b) and (c)(2) of the Customs Regulations, concerning truck shipments transiting Canada, and 123.42 (b) and (d) of the Customs Regulations, concerning truck shipments transiting the U.S., will be suspended during this pilot test procedure. This test procedure will apply along the entire border area between Canada and the U.S. and will not otherwise affect the procedures relating to other forms of shipments, such as those relating to transportation and exportation shipments. Significant financial and safety related benefits for commercial highway carriers and bridge operators are anticipated; carriers should enjoy a reduction in travel time; and bridge operators should enjoy less truck congestion at outbound lanes, and greater driver safety since truck drivers will no longer need to cross active traffic lanes to reach Customs offices from outbound lanes. Compliance examinations conducted by both Customs Services will enhance enforcement, and provide a basis for formulating threat assessments.

The implementation date for a test of these new procedures is October 8, 1997. Upon implementation, both Customs Services will begin an evaluation period of at least six months to ensure the effectiveness of the program and to identify any short falls. If the program is successful, both Customs Services will begin the process to change current regulations to make the new procedure permanent.

For programs designed to evaluate the effectiveness of new technology or operations procedures regarding the processing of passengers, vessels, or merchandise, § 101.9(a) of the Customs Regulations (19 CFR 101.9(a)), implements the general testing procedures. This test is established pursuant to that regulation.

The Present In-Transit Procedure

Stop #1 (exiting the first country)—A commercial carrier transiting either Canada or the U.S. is required to stop at the domestic port of departure to have its movement authorized by having the in-transit manifest stamped.

Stop #2 (arriving in the other country)—Upon arriving in the other country, the commercial carrier is required to stop so that foreign Customs can further process the movement; the manifest is stamped again and the top copy is retained by foreign Customs; an inventory is created to control the merchandise while in the country.

Stop #3 (exiting the country transited)—Upon exiting the country transited, the commercial carrier is required to stop again so that foreign Customs can cancel the manifest; foreign Customs retains the second (blue) copy of the manifest.

Stop #4 (re-entering the first country)—Upon re-entry into the first country, the commercial carrier is required to stop again so that domestic Customs can further process the manifest to facilitate entry of the merchandise; domestic Customs retains the third (green) copy of the manifest; the driver is given the fourth (pink) copy of the manifest.

For example, in a trip from Michigan to New York that transits Canada, the driver for a commercial carrier must stop at U.S. Customs in Port Huron, Michigan, to have the manifest stamped

to authorize this movement. Then, upon arrival in Sarnia, Ontario, Canada, the driver must stop again so that Canadian Customs can process the manifest by stamping and removing the top (white) copy. The driver then proceeds through Ontario to the port of exit at Queenston, Ontario. At Queenston, the driver must stop again so that Canadian Customs can further process the manifest by retaining the second (blue) copy. The driver then proceeds to Lewiston, New York, and stops again so that U.S. Customs can finalize the process by retaining the third (green) copy. The fourth (pink) copy of the manifest is returned to the driver. This process works the same way when commercial carriers in Canada transit the U.S. for return to Canada.

The Proposed In-Transit Procedure

Old stop #1 no longer required—Commercial carriers transiting either Canada or the U.S. will no longer be required to stop at the domestic port of departure to initiate the in-transit movement. Drivers will proceed directly to the other country.

New stop #1 (arriving in the other country)—Arriving in the other country, the driver stops so that foreign Customs will review the manifest for accuracy and verify that the merchandise does qualify for this movement. The foreign Customs will confirm the residency of the driver and, if all is in order, stamp the manifest, noting seal numbers where applicable.

Old stop #3 no longer required—Drivers will now proceed to the port of entry for the first country for re-entry.

New stop #2 (re-entering the first country)—Upon re-entry into the first country, the driver will stop so that domestic Customs can complete the processing of the manifest; the second (blue) copy of the manifest will be returned to the other country's Customs. The Customs Service of the first country retains the third (green) copy of the manifest, and the driver is given the fourth (pink) copy of the manifest.

Thus, in the example above, the driver departs the U.S. at Port Huron, Michigan. Arriving at Sarnia, Ontario, Canada, the driver stops and Canadian Customs initiates the process, noting seal numbers where applicable, stamping and retaining the top (white) copy of the manifest. The driver then proceeds through Ontario to the U.S. port at Lewiston, New York. There, the driver stops and U.S. Customs finalizes the process, stamps the manifest and retains the second (blue) and third (green) copies; the fourth (pink) copy of the manifest is returned to the driver. U.S. Customs will return the second (blue) copy of the manifest to Customs in Canada, following local agreement on transmittal procedures. This process will work the same way when commercial carriers in Canada transit the U.S. for return to Canada. During the test, U.S. Customs may continue to use the Customs Form 7512(C) (CF 7512(C)—Destination) as a source for the ''Transit Manifest No.'' for carriers transitting the United States.

Regulatory Provisions Affected

During the In-Transit truck shipment test, the normal departure reporting requirements of subpart E of part 123 of the Customs Regulations (19 CFR part 123, subpart E) will be suspended. These reporting requirements are contained at § 123.41 (b) and (c)(2) of the Customs Regulations, which concerns truck shipments transiting Canada, and § 123.42 (b) and (d) of the Customs Regulations, which concerns truck shipments transiting the U.S.

Enforcement Provisions

The transportation of restricted or prohibited merchandise is not permitted during the pilot test, and participants will be subject to civil and criminal penalties and sanctions for any violations of U.S. Customs laws.

Both Customs agencies will be conducting statistically valid compliance examinations on in-transit carriers, and both Customs agencies will be formulating risk assessments using the Compliance Measurement results.

Comments and Evaluation of Test

Customs will review all public comments received concerning any aspect of the test program or procedures, and finalize procedures in light of those comments. Approximately 120 days after conclusion of the test, evaluations of the test will be conducted and final results will be made available to the public upon request.

Dated: August 22, 1997.

Robert S. Trotter,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 97–23255 Filed 9–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education, Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on September 18 and September 19, 1997. The meeting will take place at the Department of Veterans Affairs (VA) Central Office, Room 630, 810 Vermont Avenue, NW, Washington, DC, from 8:30 a.m. to 4:30 p.m. on Thursday, September 18, 1997, and from 8:30 a.m. to 1 p.m. on Friday, September 19. The purpose of the Committee is to assist in the evaluation of existing programs and services and recommend needed new programs and services. Thursday morning the Committee will be briefed on the Government Improvement and Results Act and will meet with a representative of the Education Business Process Reengineering team. In the afternoon, the Committee will meet Executive Director of the Commission on Servicemembers and Veterans Transition Assistance. Friday morning the Committee will discuss pertinent issues and make recommendations to the Secretary-Designate.

The meeting will be open to the public. Those wishing to attend should contact Ms. June Schaeffer, Assistant Director, Education Policy and Program Administration (phone 202–273–7187), prior to September 10, 1997.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 9 a.m., Friday, September 19, 1997.

Dated: August 25, 1997.

By direction of the Secretary-Designate.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–23264 Filed 9–2–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 170

Wednesday, September 3, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5873-8]

Final Decision to Grant Chemical Waste Management, Inc. a Modification of an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 Regarding Injection of Hazardous Wastes

Correction

Notice document 97–21275 was inadvertently published in the Rules and Regulations section of the issue of August 12, 1997, beginning on page 43109. It should have appeared in the Notices section.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS 1653-94]

RIN 1115-AC72

Foreign Employers Seeking to Employ Temporary Alien Workers in the H, O, and P Nonimmigrant Classifications

Correction

In rule document 97–9814 beginning on page 18508, in the issue of Wednesday April 16, 1997, make the following correction:

§ 274a.12 [Corrected]

On page 18514, in the first column, the section heading should read as follows:

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

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 338

RIN 3206-AH85

Qualification Requirements (General)

Correction

In rule document 97–22005 appearing on page 44535 in the issue of Friday, August 22, 1997, make the following correction:

On page 44535, in the second column, in the first line of the first paragraph, ''will'' should read ''will not''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08-97-028]

RIN 2115-AE46

Special Local Regulation; Clifton River Days, Tennessee River Mile 158 to 160, Clifton, Tennessee

Correction

In rule document 97–22137 appearing on page 44412 in the issue of Thursday, August 21, 1997, make the following correction:

§ 100.35-T08-028 [Corrected]

On page 44412, in the second column, the section heading should read as follows:

§ 100.35-T08-028 Tennessee River, Clifton, Tennessee.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 97-69]

RIN 1515-AB79

Use of Containers Designated as Instruments of International Traffic in Point-to-Point Local Traffic

Correction

In rule document 97–20648 beginning on page 42209 in the issue of Wednesday, August 6, 1997, make the following corrections:

§ 10.41a [Corrected]

1. On page 42211, in the third column, in § 10.41a(f)(1), in the second line, remove the number ''12''.

2. On page 42212, in the first column, in § 10.41a(g)(1), in the ninth line, remove ''which'' and insert ''that it''.

BILLING CODE 1505-01-D

Federal Register

Wednesday
September 3, 1997

Part II

Department of Labor
Pension and Welfare Benefits Administration

Department of the Treasury
Internal Revenue Service

Pension Benefit Guaranty Corporation

Proposed Revision of Annual Information Return/Reports; Notice

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PENSION BENEFIT GUARANTY CORPORATION

Proposed Revision of Annual Information Return/Reports

AGENCIES: Department of Labor, Department of the Treasury, Pension Benefit Guaranty Corporation.

ACTION: Notice of proposed forms revisions.

SUMMARY: This document contains a proposal by the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation (the Agencies) to streamline and simplify the annual return/report forms (the Form 5500 Series) filed for employee pension, welfare and fringe benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986, as amended (the Code).

Dates, Written Comments and Public Hearing: The Agencies invite interested persons to submit written comments regarding the revised forms. Written comments (preferably 4 copies) should be submitted to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5669, 200 Constitution Ave., NW, Washington, DC 20210, Attention: Proposed Forms Revisions. Written comments on the revised forms must be received by the Department of Labor on or before November 3, 1997, and should include a reference to the relevant form, question, and related instruction.

A joint public hearing on the proposed revised forms will be held on November 17 and (if necessary) November 18, 1997, beginning at 10:00 a.m., in the Auditorium, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC. Any interested person who wishes to present oral testimony at the hearing should submit on or before November 3, 1997 a written request to be heard, including a statement of the topics to be discussed. The request should be submitted to the Office of Regulations and Interpretations at the address above: Attention: Form 5500 Revisions Hearing. An agenda indicating the order of presentation of oral comments will be prepared. In the absence of special circumstances, each commentator will be allotted 10 minutes for his or her presentation. Information about the agenda may be obtained on or after November 3, 1997 by contacting George M. Holmes, Jr., Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8515. Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed. All submissions will be open to public inspection in the Public Disclosure Room, Pension and Welfare Benefits Administration, Room N–5638, 200 Constitution Ave., NW, Washington, DC 20210.

The Agencies intend that, if adopted, the revised forms will be effective for plan years beginning on or after January 1, 1998.

FOR FURTHER INFORMATION CONTACT: George M. Holmes, Jr., Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8515, for questions relating to the proposed Form 5500 as well as Schedules A, C, D, G, FIN and FIN-SP. James Flannery, Internal Revenue Service, (202) 622–6214, for questions relating to Schedules B, E, F, P, PEN, Q, and SSA. James J. Bloch, Pension Benefit Guaranty Corporation, (202) 326–4080 (x3530), for questions relating to line 10 of Schedule PEN as well as questions regarding information requirements under Title IV of ERISA. For further information on any item not mentioned above, contact Mr. Holmes. The telephone numbers referenced above are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under part 1 of Title I of ERISA, Title IV of ERISA, and the Code, as amended, administrators of pension and welfare benefit plans (collectively employee benefit plans) subject to those provisions are required to file return/reports annually concerning, among other things, the financial condition and operations of the plans. Employers sponsoring certain fringe benefit plans and other plans of deferred compensation that are not subject to Title I of ERISA are also required under the Code to file certain information annually with the IRS. These annual reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and the related regulations.

The existing Form 5500 Series includes the Form 5500 Annual Return/Report of Employee Benefit Plan (with 100 or more participants), Form 5500–C Return/Report of Employee Benefit Plan (with fewer than 100 participants), Form 5500–R Registration Statement of Employee Benefit Plan (with fewer than 100 participants), and the statements and schedules required to accompany the forms. Currently, plans with fewer than 100 participants file the longer Form 5500–C at least every third year, and the shorter Form 5500–R registration statement in the two intervening years. The Form 5500–EZ Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan is specifically excluded from consideration in this publication.

In an effort to simplify and streamline the annual return/report and to reduce the reporting burden on filers, the agencies have developed one Form 5500 for use by both ''large plan'' filers (plans that previously filed the Form 5500) and ''small plan'' filers (plans that previously were eligible to file the Form 5500–C/R). The new form is intended to:

- Reduce the total amount of information required to be reported for many plans by eliminating information that is not useful to accomplish enforcement, research, or other statutorily mandated missions;
- Provide plans using simple tax qualification structures and financial operations with correspondingly streamlined annual reporting requirements;
- Allow large and small pension plan filers to report information on coverage requirements for qualified plans in accordance with the three-year testing cycle permitted under Rev. Proc. 93–42, 1993–2 C.B. 540;
- Target reporting requirements so that welfare plans generally complete fewer items than pension plans, and small plans complete fewer items than large plans;
- Establish the Form 5500 as the standardized reporting format for all so-called ''direct filing entities''—common/collective trusts, pooled separate accounts, master trusts, 103–12 investment entities, and group insurance arrangements;
- Eliminate redundant items and improve questions that historically produced frequent technical filing errors; and
- Reduce government and filer costs associated with filing, receiving and processing annual reports, speed government processing, and enable plans and their service providers to establish more streamlined record keeping and filing support systems.

The proposal eliminates the Form 5500–C/R, but maintains limited financial reporting similar to the Form

5500–R for small plans. Further, plans that are currently exempt from filing a return/report (such as certain small unfunded/insured welfare plans and certain SEPs) or that are eligible for limited reporting options (such as certain Code section 403(b) plans) will continue to be eligible for that annual reporting relief.

The proposal restructures the Form 5500 along the lines of tax returns familiar to individual and corporate taxpayers—a simple one-page main form with basic information necessary to identify the plan for which the report is filed along with a checklist to indicate the schedules being filed applicable to the filer's specific type of plan. For most plans, the basic identifying information does not change from year to year and pre-printing this information should ease reporting burdens and reduce filing errors. The Agencies are evaluating the feasibility of pre-printing the basic identifying information on the Form 5500 after the first full filing-year cycle under the new computer scannable forms discussed below. The structure of the proposed form should also aid filers by allowing them to assemble and file a report that is ''customized'' to their type of plan. The Agencies are also publishing as part of this proposal revised filing instructions that are intended to be easier to use, including a quick reference chart with guidelines on which schedules must be filed for each type of Form 5500 filer (large and small pension plans, large and small welfare plans, Direct Filing Entities and fringe benefit plans).

Taking into consideration the Agencies' enforcement, research and policy needs, as well as the Department of Labor's participant/public disclosure obligations, the Agencies believe this restructuring, and the other revisions of the Form 5500 discussed below, will reduce the burdens and costs attributable to compliance with the annual reporting requirements.

Although this publication concerns proposed revisions of the Form 5500 Series, the Agencies believe meaningful burden hour and cost reductions can be achieved only through integrated implementation of changes to the government's system to process the forms. Accordingly, the Department of Labor is preparing a Request for Proposal (RFP) for a contractor to develop and implement a new system to simplify and expedite the receipt and processing of the Form 5500 Series. The new system is to rely on electronic filing with optical scanning technology and optical character recognition to computerize the paper forms. Under the new system, the paper forms will have to be reformatted to be computer scannable. While the reformatting will affect the appearance and length of the form, the actual number of data elements will not be affected. The new system is also to be developed in a way that should substantially increase the percentage of plans filing their Form 5500 via electronic filing as a more efficient alternative to even scannable forms. A mock-up of a scannable Form 5500 is being published with the printed versions of the proposal. The scannable mock-up, however, does not necessarily reflect the way the final scannable forms will look. The final appearance will depend on the scanning technology selected for use in the new form processing system. Details on the processing system will be available as the RFP is finalized.

Overview of Forms Revisions

To assist interested parties in reviewing the revised forms, an overview of the Agencies' proposed changes to the Form 5500 Series is set forth below.

As noted above, by eliminating certain questions and developing new schedules, the Form 5500 itself has been revised into a short one-page form that serves both as a simple registration statement and as a ''packing list'' for attaching relevant schedules. The proposed Form 5500 constitutes eight basic questions that identify: (i) The type of annual report being filed, (ii) the plan on whose behalf it is being filed, and (iii) what schedules and how many of each are being filed as attachments to the Form 5500.

Under the proposal, there is a total of thirteen schedules—five pension schedules, seven financial schedules, and one fringe benefit schedule:

Pension Schedules: Schedule B (Actuarial Information), Schedule E (ESOP Information), Schedule PEN (Pension Plan Information), Schedule Q (Qualified Pension Plan Coverage Information), and Schedule SSA (Separated Vested Participant Information);

Financial Schedules: Schedule A (Insurance Information); Schedule C (Service Provider Information); Schedule D (Direct Filing Entity/ Participating Plan Information); Schedule FIN (Financial Information); Schedule FIN-SP (Financial Information—Small Plan); Schedule G (Financial Transactions) and Schedule P (Trust Fiduciary Information).

Fringe Benefit Schedule: Schedule F (Fringe Benefit Plan Information).

Below is a description of the five new schedules being established as part of this proposal (Schedules D, FIN, FIN-SP, PEN, and Q), the three existing schedules being revised (Schedules A, C, and G), and a statement of the reasons why the Agencies are proposing to leave the remaining five schedules (Schedules B, E, F, P, and SSA) unchanged.

1. Schedule A (Insurance Information)

Schedule A must be attached to the Form 5500 if any pension or welfare benefits under the plan (whether small or large) are provided by, or if the plan has any investment contracts with, an insurance company or other similar organization. Although most of the Schedule A data collection has been retained substantially unchanged, several significant revisions are being proposed which are designed to collect better information about insurance products, including conforming the Schedule A to recent accounting industry changes on ''current value'' financial reporting of investment-type contracts with insurance companies, and requiring: (i) Information on a plan year as opposed to insurance contract year basis; (ii) better identification of the type of insurance contracts and type of insured benefits being reported; and (iii) insurer's EIN (employer identification number) and NAIC (National Association of Insurance Commissioners) code.

2. Schedule C (Service Provider Information)

Schedule C must be attached to the Form 5500 filed by large plans if any person who rendered services to the plan received directly or indirectly $5,000 or more in compensation from the plan during the plan year. The proposal limits the schedule to the 40 top paid service providers at or above the $5,000 threshold. Further, the proposal also eliminates the separate requirement to file a Schedule C to identify annually plan trustees and limits the current requirement to file a Schedule C to explain service provider terminations to accountants and enrolled actuaries. Small plans would continue to be exempt from the Schedule C.

3. Schedule D (Direct Filing Entity/ Participating Plan Schedule)

The Schedule D is a new standardized form for filing information on relationships between plans and master trust investment accounts (MTIAs), common/collective trusts (CCTs), insurance company pooled separate accounts (PSAs), investment entities covered under 29 CFR 2520.103–12 (103–12 IEs), and group insurance arrangements (GIAs), collectively known as ''Direct Filing Entities'' or

''DFEs.'' Currently, if a group insurance arrangement files a Form 5500 on behalf of the participating plans under the Department of Labor regulation at 29 CFR 2520.104–43, the individual plans participating in the GIA are exempt from filing a Form 5500 or 5500–C/R. Plans currently participating in the other DFEs (MTIAs, 103–12 IEs, CCTs and PSAs) generally must file a Form 5500 or 5500–C/R; however, if the DFE files certain financial information directly on behalf of the administrators of all participating plans, the plans are allowed to limit the information in their separate Form 5500 or Form 5500–C/R because the DFE's filing is considered part of each participating plan's annual report. These DFE reporting rules were developed in an effort to simplify the annual reporting requirements for the participating plans. The absence of a standardized reporting format for DFE filings, however, makes it impossible for the Department to correlate and effectively use the data regarding approximately $1 trillion in plan assets reported by plans and DFEs. Accordingly, the proposal establishes the new Form 5500 as the standardized annual reporting format for all DFEs.

Under the proposal, MTIAs and 103–12 IEs would be required to complete: (1) Applicable items on the streamlined Form 5500; (2) a Schedule A for each insurance contract held by the DFE; (3) a Schedule C to list DFE service providers receiving compensation from the DFE; (4) one or more Schedules D to list all participating plans at any time during the year and all CCTs, PSAs or 103–12 IEs that the MTIA or 103–12 IE invested in during the year; (5) a Schedule FIN financial statement; (6) one or more Schedules G listing certain financial transactions; and (7) for 103–12 investment entities, a report of an independent qualified public accountant. Large plans that invest in MTIAs and 103–12 IEs would continue to report the value of their interests in these entities on one line in the plan's Schedule FIN as of the beginning and end of the plan year and as a single entry for net investment gain/loss.

Under the proposal, as under the current Form 5500 Series, CCTs and PSAs could elect to file information as a DFE. If a CCT or PSA elects to file, they would be required to complete (1) applicable items on the streamlined Form 5500; (2) one or more Schedules D to list all participating plans at any time during the year and all CCTs, PSAs, or 103–12IEs that the CCT or PSA invested in during the year; and (3) a Schedule FIN financial statement. Large plans investing in a CCT or PSA that files as a DFE would report the value of their interests in these entities on one line in the plan's Schedule FIN as of the beginning and end of the plan year and as a single entry for their net investment gain/loss during the year. If the CCT or PSA does not file a Form 5500 as a DFE, employee benefit plans would have to break out their percentage interest in the underlying assets of the CCT or PSA and report the dollar value in the appropriate categories in the Schedule FIN statement of assets and liabilities (and would still report the net investment gain/loss as a single entry on the Schedule FIN income and expense statement).

Both large and small plans would have to file a Schedule D listing the MTIAs, 103–12 IEs, CCTs and PSAs in which they participated, and would be required to list CCTs and PSAs regardless of whether the CCT or PSA filed as a DFE. Reports of small plans filing the Schedule FIN–SP are not expected to be otherwise significantly affected by these changes.

GIAs that file a Form 5500 (including applicable schedules and attachments) on behalf of their participating plans under the Department of Labor regulation at 29 CFR 2520.104–43, would be required to file a Schedule D listing the participating plans.

The Department is specifically soliciting comments from interested parties on how these DFE changes can be implemented in a manner that minimizes the impact on plan administrators and DFEs, including suggestions about the use of electronic filing options and delayed effective dates. The Department will also be publishing a separate Notice of Proposed Rulemaking on regulatory amendments needed to accommodate the DFE changes.

4. Schedules FIN (Financial Information)/ FIN–SP (Financial Information—Small Plan)

The proposal essentially incorporates the financial statements from the current Form 5500 (lines 31 and 32) as part of a new Schedule FIN (''Financial Information''). For small plan filers, the proposal includes a new Schedule FIN–SP (''Financial Information—Small Plan'') that maintains simplified financial statements similar to the current Form 5500–R and adds a limited number of specific investment categories that must be separately reported. The proposal also incorporates into the Schedules FIN and FIN–SP ''yes/no and amount'' questions focused on key compliance issues/enforcement areas involving investments, financial transactions, and handling of plan assets. The Schedule FIN also includes revised versions of the current Form 5500 questions on the accountant's opinion and report. Current regulatory exemptions, simplified reporting, and alternative methods of compliance for annual financial reporting by certain welfare and pension plans are expected to remain unchanged.[1] Since the proposal eliminates various questions from the current Form 5500 Series that dealt with Title I compliance, the Department of Labor also developed an ERISA compliance quick checklist to help plan administrators and other fiduciaries comply with Title I requirements. The checklist is to be in the Form 5500 instruction package, but its use is to be voluntary, and it would not be filed with the Form 5500.

5. Schedule G (Financial Transactions)

Use of the Schedule G would be mandatory for the schedules now required by lines 27b, 27c, 27e, and 27f of the current Form 5500. The proposed Schedule G would have to be attached to the Form 5500 of a large plan, MTIA or 103–12 IE to report loans or fixed income obligations in default or determined to be uncollectible as of the close of the reporting year (Part I of Schedule G), leases in default or classified as uncollectible during the plan year (Part II of Schedule G), and to report nonexempt prohibited transactions (Part III of Schedule G). Large plans can aggregate participant loans in default as one item on Part I of the plan's Schedule G when certain requirements are met, including each loan being fully secured by the participant's account balance in the plan. Small plans are not required to file a Schedule G.

The proposal eliminates from the Form 5500 the schedules of assets held for investment purposes (line 27a of the current Form 5500) and the schedule of reportable (5%) transactions (line 27d of the current Form 5500). The requirement to report this information is eliminated, but the records needed to generate the information on the current schedule of reportable transactions and schedules of assets would have to be maintained, and administrators of large plans would have to prepare and disclose that information, on request, to participants and other authorized parties under sections 104(b)(2) and

[1] For example, there is no change in the waiver of the independent qualified public accountant requirements in 29 CFR 2520.104–41 and 2520.104–46, or the small plan exemptions from the Schedule C (service provider information), the schedules of loans, leases or fixed income obligations in default and nonexempt transactions (revised Schedule G).

104(b)(4) of ERISA.[2] To satisfy that disclosure obligation, however, transactions effected at the affirmative direction of participants in defined contribution plans could be excluded from the definition of ''transaction'' for the schedule of reportable transactions, and no ''historical cost'' entry would be needed for such transactions on the schedules of assets. The disclosure would have to be presented in an understandable and non-misleading format. Because the schedules of assets and reportable transactions would not be part of the plan's annual report, the accountant's opinion required under ERISA 103(a)(3)(A) would not have to cover that information, but the underlying books and records of the plan would continue to be subject to the audit requirement.[3] The Department of Labor will publish a Notice of Proposed Rulemaking on regulatory amendments necessary to accommodate these changes.

6. Schedule PEN (Pension Plan Information)

The Schedule PEN is a new schedule that is required to be filed by both tax qualified and nonqualified pension benefit plans that are required to file Form 5500, other than annuity arrangements and custodial accounts under Code section 403(b)(1) and 403(b)(7), and individual retirement accounts/annuities under section 408. The purpose of Schedule PEN is to report certain information on participant coverage, plan distributions and funding, and the adoption of amendments increasing the value of benefits in a defined benefit pension plan. As part of a publication describing various voluntary compliance programs administered by the Employee Plans function, the IRS is also developing a compliance checklist to help pension plan sponsors and administrators comply with the tax qualification requirements of the Code and Title II of ERISA.

7. Schedule Q (Qualified Pension Plan Coverage Information)

The Schedule Q is a new schedule for reporting qualified plan coverage information for qualified pension plans, including plans maintained by employers that operate QSLOBs, and for employers participating in multiple-employer plans. For a plan that is tested under the three-year testing cycle rule in Rev. Proc. 93–42, Schedule Q must be filed for the first year in the plan's testing year cycle. Schedule Q need not be filed for the subsequent years in the cycle if the employer is permitted to rely on the earlier year's testing. If the employer does not or cannot use the three-year testing rule in Rev. Proc. 93–42, Schedule Q must be filed annually. The adoption of this new schedule eliminates the separate Form 5500–C/R filing requirement that now applies to employers participating in plans that currently file Form 5500 as a ''multiple-employer plan (other).'' This schedule replaces separate statements currently required regarding the coverage of plans that must be disaggregated under section 1.410(b)–7 of the Income Tax Regulations.

8. Other Schedules

The Schedule B (Actuarial Information) and Schedule SSA (Separated Participants With Deferred Vested Benefits) were not revised because both were recently revised and it did not appear productive to propose further revisions at this time. The Schedule F (Fringe Benefit Plan Information) also was not revised because Code section 6039D mandates collection of the information reported on that schedule. Lastly, the Schedule E (ESOP Annual Information) was not revised because it is filed only by ESOPs and the IRS was not aware of substantial interest in changing the schedule. The Agencies welcome suggestions for making these schedules simpler. It is anticipated that the final version of these schedules will be revised at a minimum to reflect changes in law and other appropriate updates.

9. Quick Reference Chart

The Agencies developed a quick reference chart for the Form 5500 instructions that indexes the schedules required from each major class of filer. That chart is reproduced below:

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[2] Participants and beneficiaries would be entitled to request, and receive automatically, the schedules of assets and schedule of reportable transactions that relate to the ''latest'' annual report of the plan. Other disclosure rights and obligations may arise based on facts and circumstances, in addition to those specified in ERISA section 104(b).

[3] The general statutory provisions and fiduciary duties regarding maintenance of plan records would also continue to apply to participant directed transactions.

QUICK REFERENCE CHART OF FORM 5500 SCHEDULES AND ATTACHMENTS

This chart is intended to provide only general guidance -- please refer to the specific Form 5500 instructions for complete information on filing requirements (e.g., *Pension & Welfare Plans Excluded From Filing* and *Lines and Schedules To Complete*).

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE	Fringe Benefit Plan
Schedule A (Insurance Information)	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if MTIA, 103-12 IE or GIA has insurance contracts.	Not required.
Schedule B (Actuarial Information)	Must complete if defined benefit plan and subject to minimum funding standards	Must complete if defined benefit plan and subject to minimum funding standards	Not required.	Not required.	Not required.	Not required.
Schedule C (Service Provider Information)	Must complete if service provider paid $5,000 or more and/or an accountant or actuary was terminated.	Not required.	Must complete if service provider paid $5,000 or more and/or an accountant or actuary was terminated.	Not required.	MTIAs, GIAs and 103-12 IEs must complete Part I if service provider paid $5,000 or more. GIAs and 103-12 IEs must complete Part II if an accountant was terminated.	Not required.

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE	Fringe Benefit Plan
Schedule D (DFE/Participating Plan Information)	Must complete if plan participates in DFE, CCT and/or PSA.	Must complete if plan participates in DFE, CCT and/or PSA.	Must complete if plan participates in DFE, CCT and/or PSA.	Must complete if plan participates in DFE, CCT and/or PSA.	Must complete.	Not required.
Schedule E (ESOP Information)	Must complete if ESOP.	Must complete if ESOP.	Not required.	Not required.	Not required.	Not required.
Schedule F (Fringe Benefit Plan Information)	Not required.	Not required.	Not required.	Not required.	Not required.	Must complete.
Schedule FIN (Large Plan and DFE Financial Information)	Must complete.	Not required.	Must complete.	Not required.	Must complete.	Not required.
Schedule FIN-SP (Small Plan Financial Information)	Not required.	Must complete.	Not required.	Must complete	Not required.	Not required.
Schedule G (Financial Schedules)	Must complete if Schedule FIN, lines 4b, 4c, or 4d are "Yes."	Not required.	Must complete if Schedule FIN, lines 4b, 4c, or 4d are "Yes."	Not required.	Must complete if Schedule FIN, lines 4b, 4c, or 4d for a GIA, MTIA or103-12 IE are "Yes."	Not required.
Schedule P (Annual Return of Fiduciary)	Voluntary	Voluntary	Not required.	Not required.	Not required.	Not required.
Schedule PEN (Pension Plan Information)	Must complete.	Must complete.	Not required.	Not required.	Not required.	Not required.
Schedule Q (Qualified Pension Plan Information)	Must complete if qualified plan.	Must complete if qualified plan.	Not required.	Not required.	Not required.	Not required.
Schedule SSA (Statement Identifying Separated Participants With Deferred Vested Benefits)	Must complete if plan had separated participants with deferred vested benefits to report.	Must complete if plan had separated participants with deferred vested benefits to report.	Not required.	Not required.	Not required.	Not required.
Accountant's Report	Must attach.	Not required.	Must attach.	Not required.	Must attach for a GIA or 103-12 IE.	Not required.

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10. Miscellaneous Changes

Various other changes were made as part of the substantial restructuring of the Form 5500 Series being proposed. Several of the more significant miscellaneous changes include: (1) Expanded utilization of codes to report plan features information on pension and welfare benefit plans; (2) elimination of the CUSIP (Committee on Uniform Securities Identification Procedures) issuer number; (3) simplification of requirements on reporting the total number of plan participants and participant subgroups; (4) deletion of LM numbers (file numbers on Labor Organization Annual Report Forms); and (5) addition of a line for the name, EIN, and classification code of a ''Preparer.''

Other Supplementary Information:

Regulations Relating to the Proposed Forms

For purposes of Title I of ERISA, the filing of a completed Form 5500 (including required statements, schedules, and independent qualified public accountant report) generally constitutes compliance with the limited exemption and alternative method of compliance in 29 CFR 2520.103–1(b). The Department intends to propose amendments to 2520.103–1 and other annual reporting regulations to accommodate the form changes proposed herein. The Department will discuss the findings required under sections 104(a)(3) and 110 relating to the use of the Form 5500, as revised, as an alternative method of compliance and limited exemption from the reporting and disclosure requirements of part 1 of Title I of ERISA as part of that rulemaking. The forms, schedules, and instructions proposed in this notice will not become effective as an alternative method of compliance and limited exemption from the reporting and disclosure requirements of Part 1 of Title I of ERISA until such regulations are issued in final form.

Paperwork Reduction Act

The Agencies, as part of their continuing efforts to reduce paperwork and respondent burden, invite the general public and Federal agencies to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data are provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, the Agencies are soliciting comments concerning the proposed revision of the Form 5500 Series, pursuant to Part 1 of Title 1 and Title IV of ERISA and the Internal Revenue Code.

DATES: Written comments must be submitted on or before November 3, 1997 to be assured of consideration.

ADDRESSES: Interested parties are invited to submit written comments regarding the Form 5500 Series annual reporting requirements of any or all of the Agencies. Send comments to Mr. Gerald B. Lindrew, U.S. Department of Labor, PWBA/OPR, Room N–5647, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone 202–219–4782 (this is not a toll-free number). All comments will be shared among the Agencies.

SUPPLEMENTARY PAPERWORK REDUCTION ACT INFORMATION:

I. Background:

The Agencies have undertaken a revision of the Form 5500 Series in an effort to streamline and simplify this annual report.

II. Current Actions

The Agencies have developed a single streamlined Form 5500 for use by both large and small plan filers. The Forms 5500–C and 5500–R have been eliminated; in general, small plans will submit information similar to the current 5500–C/R data collections.

Type of Review: Revision of a currently approved collection.

Agencies: Pension and Welfare Benefits Administration (OMB No. 1210–0016); Internal Revenue Service (OMB No. 1545–0710); Pension Benefit Guaranty Corporation (OMB No. 1212–0026).

Title: Form 5500 Series.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Form Number: DOL/IRS/PBGC Form 5500 and Schedules.

Total Respondents: The total number of annual Form 5500 filers is approximately 901,400. Of that total, only 801,934 filings are for employee benefit plans subject to the Department of Labor's jurisdiction under Title I of ERISA. The remaining 99,466 are made to comply with IRS requirements for fringe benefit plans under Code section 6039D, pension plans maintained outside the United States, and One-Participant (Owners and Their Spouses) Retirement Plans. Accordingly, the Labor Department's total respondents is 801,934 and the IRS's is 901,400.

Total Responses: See ''*Total Respondents*'' Above.

Frequency of Response: Annually.

Estimated Time per Response, Estimated Burden Hours, Total Annual Burden: See below for each Agency.

Calculation of Burden: PWBA and IRS burden estimates are based on different estimation methodologies (see below). The total burden estimate ranges from 1.71 million burden hours (using the PWBA methodology) to 8.46 million burden hours (using the IRS methodology) for preparing the Form 5500 Series (including schedules) and sending it to the government.

Both the IRS and the PWBA methodologies exclude certain activities from the calculation of ''burden.'' If the activity is performed for any reason other than compliance with the federal tax administration system (in the case of the IRS method) or the Title I annual reporting requirements (in the case of the PWBA method), it was not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities, and income and expenses for the purposes of operating the business or entity. In addition, the activity is only counted as a burden once if performed for both tax and Title I purposes. These recordkeeping activities were not included in the calculation of burden because prudent business or financial entities normally have that information available for reasons other than federal tax or Title I annual reporting. Only time for gathering and processing information associated with the tax/annual reporting systems, and learning about the law, was included.

Three major differences exist between the IRS and PWBA methodologies. First, the IRS uses a methodology developed for estimating the paperwork burden imposed on individual and business taxpayers as a result of the federal tax return system to calculate burdens associated with the Form 5500 information return. The details and time estimates of PWBA's methodology were developed specifically for the Form 5500 Series. Second, the IRS includes burden figures for learning about statutory tax reporting requirements and certain tax-related recordkeeping (e.g., depreciation accounting) in its estimate. PWBA has concluded plan administrators' obligations to keep financial records necessary to complete the Department of Labor portions of the Form 5500 result from usual and customary management practices for any financial entity, not as a result of ERISA annual reporting requirements.

The Department of Labor solicits comments on whether or not any recordkeeping beyond that which is usual and customary is necessary to complete the Department of Labor portions of the Form 5500. PWBA has also designed the instruction package for the Form 5500 so that filers generally will be able to complete the Labor Department portions of the Form 5500 by reading the instructions without needing to refer to the statute or regulations. The Labor Department solicits comments on whether the Form 5500 instructions are generally sufficient to enable filers to complete the Labor Department portions of the Form 5500 without needing to refer to the statute or regulations. PWBA, therefore, has included a burden for reading the instructions in its PRA calculations, and finds there is no recordkeeping burden attributable to the Form 5500 Series. Third, PWBA does not include burdens for completing the Schedule E (ESOP Annual Information); Schedule F (Fringe Benefit Plan Annual Information) and Schedule P (Annual Return of Fiduciary of Employee Benefit Trust) because these are exclusively IRS schedules. The different methodologies and the IRS inclusion of burden for learning about the law, tax recordkeeping, and Schedules E, F and P, result in the Agencies having different total burden estimates. Presented below is a chart showing the total burden of the streamlined Form 5500 Series (including schedules) using the PWBA and IRS methodologies.

DOL AND IRS ESTIMATES OF TOTAL ANNUAL BURDEN HOURS

Agency	Preparing/Filing the Form 5500 Series (including reading instructions)	Learning The Law Necessary To Complete The Form 5500 Series	Recordkeeping Necessary to Complete the Form 5500 Series	Total Annual Burden Hours
IRS	8,458,478	6,544,940	33,682,567	[1] 48,686,004
DOL	[2] 1,706,550	Legal rules are described in the Form 5500 instructions so filers do not need to refer to statute or regulations to complete DOL portions of the Form 5500.	Financial records needed to complete DOL portions of Form 5500 are kept as usual and customary business practice not solely to complete the Form 5500.	[2] 1,706,550

[1] This does not equal the total of the other three IRS columns due to rounding.
[2] This does not include IRS Schedules E, F and P.

There is no separate PBGC entry on the chart because, as explained below, its share of the paperwork burden is very small relative to that of IRS and DOL.

Paperwork and Respondent Burden

So that interested parties may better understand the burden associated with this information collection, the Agencies are presenting information on how they estimate burden. These burden estimates vary according to the Agencies' respective statutory authorities to collect information via questions in the Form 5500 Series, the information collections for which they are responsible, the methodologies they use, and the categories of burden they measure. Based on the Agencies' burden estimates, and taking into account differences in statutory responsibility and methodology, the proposed revision to the Form 5500 Series is estimated to reduce total burden by 12 to 13.6 percent annually over the 10-year life of the form.

Department of Labor

Burden Estimation Methodology: The DOL uses a matrix involving a series of mathematical calculations to estimate burdens associated with preparing, sending and learning about the Form 5500 Series report. Burden hour calculations are determined by identifying groups of plans within the universe of filers that have similar reporting requirements and grouping them into categories based on those annual reporting requirements. Under the current estimating scheme, the universe is divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans. Each of these major plan types is then further subdivided into multiemployer and single-employer plans, and within multiemployer and single-employer plans into self-insured plans, fully insured plans, and split-funded plans. Since the filing requirements differ substantially for smaller and larger plans, the plan types are further divided by plan size. For smaller plans (those with fewer than 100 participants) the multiemployer/single-employer distinction is not retained because there are so few small multiemployer plans. Thus, for larger plans, calculations are prepared for fifteen different plan types, and for smaller plans, calculations are prepared for nine different plan types.

In addition to separating plans by type and size, to make the burden hour calculations manageable and more meaningful, individual questions on the form are grouped by the type of information requested. The grouping of items include the following categories: (1) Instructions and plan identification information; (2) plan operation information; (3) financial/fiduciary information; (4) plan qualification and tax information; (5) minimum funding questions; (6) plan assets with financial schedules (including Schedules C and G); (7) Schedule A; (8) Schedule B; and (9) Schedule SSA.

Each group of related items is reviewed and an estimate of the time needed to complete that group is developed. When items in a category are required by more than one Agency, the estimated time required by each type of plan filing is allocated among the Agencies for that particular category of items. This allocation is based on whether only a single item in a group is required by more than one agency or whether several or all of the items are required by more than one agency. Since filers must read not only the instruction to particular categories but also general instructions pertaining to the general filing requirements for small and large plans, a burden is assessed for the instructions on the particular group and as a whole. This burden is included within the plan identification category.

This methodology is designed to approximate the burden actually imposed on filers. Thus, a plan's reporting burden is defined in terms of the specific items and schedules it must comply with and will depend on its size, funding method and investment structures. On the average, it is estimated that the total completion time of the proposed Form 5500 Series in its

first year will range from 1.12 hours per plan for the simplest Form 5500 report to 4.55 hours per plan for the most complex Form 5500 filing. For example, the annual report for a large fully insured welfare plan not subject to Internal Revenue Code section 6039D would consist of only a few questions on Form 5500 and a Schedule A (Insurance Information). The requirement that this plan provide very limited information on the Form 5500 would be reflected in the estimates of reporting burden time. By contrast, a large defined benefit pension plan intended to be tax qualified and utilizing a trust fund and investing in insurance contracts would submit an annual report completing almost all the line items of the Form 5500, plus Schedules A (Insurance Information), Schedule B (Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/ Participating Plan Information), Schedule FIN (Financial Statements), Schedule PEN (Pension Plan Information), Schedule Q (Qualified Pension Plan Information), and the independent accountant's report. The Department's methodology attempts to capture, through its categorization, these different reporting burdens, while remaining general and manageable enough to provide meaningful estimates of the characteristics of the reporting scheme which lead to significant differences in the burdens placed on different types of filers. As noted above, PWBA has not attributed a recordkeeping burden to the Form 5500 in its Paperwork Reduction Act analysis because it has concluded that plan administrators' obligations to keep financial records necessary to complete the Department of Labor portions of the Form 5500 result from usual and customary management practices for any financial entity, not as result of ERISA annual reporting requirements.

Under the forms revisions the reduction in the Department of Labor burden for the 1998 reporting year results from (1) adjustments (changes in the Paperwork Reduction Act regarding calculation of burden hours vs. costs and changes in assumptions used in prior year calculations) and (2) program changes (revised information reporting requirements). On the basis of the above methodology, approximately 1,706,550 (in its initial year) and 1,329,471 (in subsequent years) total hours will be needed to complete all information items on the annual reports required by all three Agencies and the Social Security Administration. Of this total, 752,555 (initial year) and 566,462 (subsequent years) burden hours have been allocated to DOL.

Estimated Time per Response, Estimated Burden Hours, Total Annual Burden (per DOL methodology and based on 801,934 respondents.):

[Figures are in hours, unless otherwise specified]

	Year 1	Year 2	Year 3
Time per response range (completion of entire form)[1]	1.12–4.55	.55–4.55	.55–4.55
Time per response range (completion of DOL portion of form)	.67–1.88	.39–1.88	.39–1.88
Total burden hours[1]	1,706,550	1,329,471	1,329,471
Total DOL burden hours	752,555	566,462	566,462
Total burden hour cost range (millions)[1 2]	$90.4–99.0	$82.9–89.5	$82.9–89.5
Total DOL burden hour cost range (millions)	$29.0–32.8	$25.3–28.1	$25.3–28.1

[1] This does not include IRS Schedules E, F and P.
[2] This includes the start-up costs associated with upgrading automated systems to accommodate the new Form. These costs have been distributed pro-rata over the expected ''life'' of the new Form, 10 years.

Estimated Share of Total Form 5500 Series Preparation Burden: 44 percent (initial year) and 43 percent in subsequent years.

Estimated Reduction in Burden Due to Streamlining Project: 12 percent annually over the estimated 10-year life of the Form; this figures includes an increase in burden in the first year due to start-up costs and system changes to adjust to the new form.

Department of the Treasury

Burden Estimation Methodology: IRS's estimates of business taxpayer burden are calculated using a series of mathematical models that were developed from regression analysis of survey data on the amount of time that partnerships, corporations, and their paid tax preparers spend performing activities that are necessary to meet tax filing requirements. These activities, which correspond to the Paperwork Reduction Act's definition of burden (44 U.S.C. 3502(2)), are: (1) Recordkeeping, (2) learning about tax law, (3) preparing tax forms, and (4) copying, assembling, and sending tax forms to IRS. A burden equation for each activity takes into account basic characteristics of tax forms and instructions, form and line usage by taxpayers, and characteristics of the taxpayer populations using the forms. Certain activities, however, have been excluded from the definition of burden. If the activity is performed for any reason other than compliance with the federal tax administration system, it is not counted as part of the tax paperwork burden. For example, most businesses maintain detailed accounts of income and expenses, and profit and loss, for the purpose of operating the business. These recordkeeping activities were not included in the definition of burden, despite the fact that there are some businesses, particularly those which do not borrow funds from banks, that prepare this type of information only to meet business tax requirements. Prudent businesses normally have that information available for reasons other than federal taxes. Only the time for gathering and processing information associated solely with the tax system, such as depreciation accounting and the review of tax returns prepared by professional tax advisors, was included.

The data used to construct the burden models for business taxpayers were obtained from a survey of 4,000 corporations and partnerships and their paid tax preparers. These businesses were sent a questionnaire that requested information on how much time they spent performing activities that they undertook for the express purpose of meeting their tax filing requirements. Multiple linear regression analysis was used to identify variables that correlated with time spent on taxes. Through careful model specification, more than 100 variables that were likely to have a causal relation with time spent were tested. Some of the predictor variables in the final burden models include (for a given form): (1) The total number of

annual taxpayer responses filed, (2) the fraction of taxpayers using paid preparers, (3) the total number of line items on the form, (4) the total number of references to the Internal Revenue Code and regulations appearing on the form and its instructions, and (5) the total number of attachments requested that are IRS forms. The accuracy of the burden estimates that result from the models reflect the quality of survey data obtained from taxpayers. While every effort was made to obtain valid burden information from a representative sample of taxpayers, the accuracy of the data depended on their ability and conscientiousness in reporting accurately their tax activity times.

The business burden models predict by type of activity (i.e., recordkeeping, learning, obtaining materials, locating/using a preparer, preparing, sending) and by preparer (paid vs. self) the average business taxpayer paperwork burden to file a given form. The total burden for all business taxpayers filing the form is obtained by summing the burden over all activities, which results in the total burden for each taxpayer, and then multiplying by the total number of taxpayer responses submitted during the tax year. It should be emphasized that the taxpayer burden models predict the average paperwork burden borne by the population that file a given form. For any form, the distribution of time burden across the filing population may vary considerably. For example, the size of the business completing the form or the complexity of its tax situation will have a direct bearing on the amount of time spent. This is especially true for the Form 5500 burden estimates, since large plans will complete different portions of the schedules for Form 5500 and will therefore have a different paperwork burden than small plans. The burden models necessarily represent a substantial simplification of a very complex situation involving the interaction of the tax system and diverse income and revenue generating tax entities.

Estimated Time per Response, Estimated Burden Hours, Total Annual Burden (per IRS methodology and based on 901,400 respondents):

The time needed to complete and file the forms listed below reflects the combined requirements of the IRS, Department of Labor, Pension Benefit Guaranty Corporation, and the Social Security Administration as calculated by the IRS using the IRS methodology. These times will vary depending on individual circumstances. The estimated average times are:

	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form	Total time per response	Total annual burden hours
Form 5500	11 hr 14 min	5 hr 26 min	6 hr 47 min	16 min	23 hr 43 min	21,381,208
Sch A	17 hr 56 min		17 min		18 hr 14 min	4,521,787
Sch B Part 1	30 hr 37 min	3 hr 16 min	3 hr 55 min		37 hr 48 min	3,402,000
Sch B Part 2	16 hr 1 min	1 hr 23 min	1 hr 43 min		19 hr 7 min	57,360
Schedule C	4 hr 47 min		5 min		4 hr 52 min	486,000
Schedule D	2 hr 23 min		2 min		2 hr 26 min	10,935
Sch E (Non-leveraged).	1 hr 12 min	12 min	13 min		1 hr 37 min	8,100
Schedule E (Leveraged).	10 hr 2 min	1 hr 41 min	1 hr 56 min		13 hr 39 min	27,320
Schedule F	2 hr 52 min	24 min	28 min		3 hr 44 min	208,880
Schedule G	9 hr 49 min	24 min	34 min		10 hr 47 min	6,993
Schedule P	1 hr 55 min	30 min	33 min		2 hr 58 min	2,095,680
Sch PEN I	2 hr 52 min		3 min		2 hr 55 min	627,800
Sch PEN II	9 hr 34 min		9 min		9 hr 43 min	1,535,950
Sch Q	11 hr 43 min	3 hr 53 min	4 hr 14 min		19 hr 50 min	1,408,833
Sch FIN	32 hr 17 min	53 min	1 hr 28 min		34 hr 38 min	2,355,520
Sch FIN–SP	9 hr 5 min	42 min	53 min		10 hr 40 min	8,550,938
Sch SSA	5 hr 30 min	6 min	11 min		5 hr 47 min	2,000,700
Total						48,686,004

Estimated Share of Total Form 5500 Series Burden: 56%.

Estimated Reduction in Burden Due to Streamlining Project: 13.6%.

Pension Benefit Guaranty Corporation

Burden Estimation Methodology: PBGC's share of the Form 5500 paperwork burden is very small relative to that of IRS and DOL. The paperwork burden allocated to PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedule B, and item 10 on Schedule PEN.

PBGC follows DOL's methodology for computing estimates of its share of the Form 5500 paperwork burden. To estimate the PBGC-allocated burden associated with the general instructions and plan identification items, PBGC simply applies its applicable percentage to the burden estimates computed by DOL.

PBGC shares a portion of the burden associated with Schedule B with IRS. To estimate the PBGC-allocated burden associated with the shared items on Schedule B, PBGC modifies the burden estimates computed by IRS so that they conform to the DOL methodology, and simply applies its applicable percentage to the modified burden estimate.

Estimated Share of Total Form 5500 Series Burden: 18,600 hours and $2.6 million dollars per year.

Estimated Reduction in Burden Due to Streamlining Project: The PBGC's share of Form 5500 burden is higher than in previous years because the Agencies have increased PBGC's percentage of the overall burden to more accurately reflect PBGC's use of Form 5500 information. In particular, PBGC has been allocated a larger share of Schedule B burden than in the past because of PBGC's concern with plan funding. Thus, although some PBGC-related items have been eliminated from the streamlined Form 5500, PBGC's share of the Form 5500 burden is higher than when it was last reported in 1994.

Request for Comments

In addition to the specific questions throughout this notice, the Agencies are particularly interested in comments that:

- Evaluate whether the proposed collection of information is appropriate for the type of disclosure required of the respondents, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used (which appear above);

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

In addition, the Agencies are interested in comments that:

• Evaluate the Agencies' respective burden estimation methodologies;

• Assess the need for and accuracy of the IRS's and Department of Labor's respective estimates of recordkeeping and learning about the law burdens attributable to this filing requirement; and

• Estimate capital or start-up costs and costs of operation, maintenance, and purchase of services to comply with this filing requirement.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. All comments will become a matter of public record.

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, and 4065 of ERISA, and sections 6039D and 6058 of the Code, it is proposed that the Form 5500 Series Annual Return/Report Forms and the instructions thereto be revised as set forth below.

Signed at Washington, D.C. this 21st day of August, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

Evelyn A. Petschek,

Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

BILLING CODE 4510–29–P

Form **5500**
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6039D, 6047(e), 6057(b), and 6058(a) of the Internal Revenue Code (the Code).

▶ **Type or print all entries in accordance with the instructions to the Form 5500.**

OMB Nos.
19 9X
This Form is Open to Public Inspection.

Part I Annual Report Identification Information

For the calendar plan year 199X or fiscal plan year beginning , 199X and ending , 19

A This return/report is: **(1)** ☐ the first Form 5500; **(2)** ☐ an amended Form 5500; or **(3)** ☐ the final Form 5500.

B This return/report is for: **(1)** ☐ a multiemployer plan; **(2)** ☐ a single-employer plan (other than a multiple-employer plan);
(3) ☐ a multiple-employer plan; or **(4)** ☐ a DFE (specify) _____

C Check the box, if the plan is a collectively-bargained plan . . . . . ▶ ☐

D If you filed for an extension of time to file, check the box and attach a copy of the extension . . . . . ▶ ☐

Part II Basic Plan Information—enter all requested information.

1a Name of plan

1b Three-digit plan number (PN) ▶

1c Effective date of plan (mo., day, yr.)

2a Plan sponsor's name and address (employer, if for single-employer plan) (Address should include room or suite no.)

2b Employer Identification Number (EIN)

2c Sponsor's telephone number ( )

2d Business code (see instructions)

3a Plan administrator's name and address (If same as plan sponsor, enter "Same")

3b Administrator's EIN

3c Administrator's telephone number ( )

4 Number of participants covered under the plan as of the beginning **(a)** and end **(b)** of the plan year.

5 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report below:

Sponsor's name EIN PN

6 Benefits provided under the plan (check all applicable boxes and enter all applicable codes):

a ☐ Pension benefits _____

b ☐ Welfare benefits _____

c ☐ Fringe benefits

7a Plan funding arrangement (check all that apply):

(1) ☐ Insurance

(2) ☐ Section 412(i) insurance contracts

(3) ☐ Trust

(4) ☐ General assets of the sponsor

7b Plan benefit arrangement (check all that apply):

(1) ☐ Insurance

(2) ☐ Section 412(i) insurance contracts

(3) ☐ Trust

(4) ☐ General assets of the sponsor

8 Schedules attached (Check box and enter the number attached, as applicable. See instructions.):

Pension Schedules

☐ **PEN** (Pension Plan Information)
☐ ____ **Q** (Qualified Pension Plan Coverage Information)
☐ **B** (Actuarial Information)
☐ **E** (ESOP Annual Information)
☐ ____ **SSA** (Separated Vested Participant Information)

Fringe Benefit Schedule

☐ **F** (Fringe Benefit Plan Annual Information)

Financial Schedules

☐ **FIN** (Financial Information)
☐ **FIN-SP** (Financial Information—Small Plan)
☐ ____ **A** (Insurance Information)
☐ **C** (Service Provider Information)
☐ ____ **D** (DFE/Participating Plan Information)
☐ ____ **G** (Financial Transaction Schedules)
☐ ____ **P** (Trust Fiduciary Information)

Caution: *A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.*

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of plan administrator | Date | Typed or printed name of individual signing as plan administrator

Signature of employer/plan sponsor/DFE | Date | Typed or printed name of individual signing as employer, plan sponsor or DFE, as applicable

Preparer Information: Preparer's name and EIN | Classification Code

SCHEDULE A (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974.
▶ **File as an attachment to Form 5500.**
▶ Insurance companies are required to provide this information pursuant to ERISA section 103(a)(2).

OMB No.
199X
This Form Is Open to Public Inspection

For the calendar year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of plan | **B** Three-digit plan number ▶

C Plan sponsor's name as shown on line 2a of Form 5500 | **D** Employer Identification Number

Part I Summary of All Insurance Contracts Included in Parts II and III

Report all information on a plan year basis. Group all contracts in the same manner as in Parts II and III.

1 Coverage: (a) Name and address of insurance carrier	(b) EIN	(c) NAIC code	(d) Contract or identification number	(e) Approximate number of persons covered at end of plan year

2 Insurance fees and commissions paid to agents, brokers, and other persons:

(a) Contract or identification number	(b) Name and address of the agents, brokers or other persons to whom commissions or fees were paid	(c) Amount of commissions paid	(d) Fees paid		(e) Organization code
			Amount	Purpose	
Total					

Part II Investment and Annuity Contract Information

Provide information for each contract on a separate Part II. Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

▶ Contract or identification number ▶

3 Current value of plan assets in the general account as of the end of the plan year . . . . . .

4 Current value of plan's interest in separate accounts as of the end of the plan year . . . . . .

5 Contracts With Allocated Funds

a State the basis of premium rates ▶ .....

b Premiums paid to carrier during this plan year . . . . . .

c Premiums due for this plan year but unpaid at the end of the plan year . . . . . .

d If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount . . . . . .

Specify nature of costs ▶ .....

e Type of contract (i) ☐ individual policies (ii) ☐ group deferred annuity (iii) ☐ other ▶ .....

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan check here ▶ ☐

6 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract (1) ☐ deposit administration (2) ☐ immediate participation guarantee (3) ☐ guaranteed investment (4) ☐ other (specify) ▶

b Balance at the end of the previous plan year

c Additions: *(i)* Contributions deposited during the year

(ii) Dividends and credits

(iii) Interest credited during the year

(iv) Transferred from separate account

(v) Other (specify) ▶

(vi) Total additions

d Total of balance and additions (add **b** and **c**(vi))

e Deductions:

(i) Disbursed from fund to pay benefits or purchase annuities during year

(ii) Administration charge made by carrier

(iii) Transferred to separate account

(iv) Other (specify) ▶

(v) Total deductions

f Balance at the end of the plan year (subtract **e**(*v*) from **d**)

Part III Welfare Benefit Contract Information

Provide information for each contract on a separate Part III. If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organization(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

▶ Contract or identification number ▶

7 Benefit and contract type. Check all applicable boxes **a** ☐ Health (other than dental or vision) **b** ☐ Dental **c** ☐ Vision **d** ☐ Life Insurance **e** ☐ Temporary disability (accident and sickness) **f** ☐ Long-term disability **g** ☐ Supplemental unemployment **h** ☐ Prescription drug **i** ☐ Stop loss (large deductible) **j** ☐ HMO contract **k** ☐ PPO contract **l** ☐ Indemnity contract **m** ☐ Other (specify) ▶

8 Experience-rated contracts

a Premiums: *(i)* Amount received

(ii) Increase (decrease) in amount due but unpaid

(iii) Increase (decrease) in unearned premium reserve

(iv) Earned (*(i)* + *(ii)* − *(iii)*)

b Benefit charges: *(i)* Claims paid

(ii) Increase (decrease) in claim reserves

(iii) Incurred claims (add *(i)* and *(ii)*)

(iv) Claims charged

c Remainder of premium: *(i)* Retention charges (on an accrual basis)—

(A) Commissions

(B) Administrative service or other fees

(C) Other specific acquisition costs

(D) Other expenses

(E) Taxes

(F) Charges for risks or other contingencies

(G) Other retention charges

(H) Total retention

(ii) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)

d Status of policyholder reserves at end of year: *(i)* Amount held to provide benefits after retirement

(ii) Claim reserves

(iii) Other reserves

e Dividends or retroactive rate refunds due. (Do not include amount entered in **c**(*ii*).)

9 Nonexperience-rated contracts:

a Total premiums or subscription charges paid to carrier

b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, item 2 above, report amount

Specify nature of costs ▶

SCHEDULE B (Form 5500)

Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, except when attached to Form 5500-EZ and, in all cases, under section 6059(a) of the Internal Revenue Code, referred to as the Code.

► **Attach to Form 5500 or 5500-EZ if applicable.**
► **See separate instructions.**

OMB No.
19 9X

This Form is Open to Public Inspection (except when attached to Form 5500-EZ)

For calendar plan year 199X or fiscal plan year beginning , 199X, and ending , 19

► **If an item does not apply, enter "N/A."** ► **Round off amounts to nearest dollar.**

► **Caution:** *A penalty of $1,000 will be assessed for late filing of this report unless reasonable cause is established.*

A Name of employer/plan sponsor as shown on line 1a of Form 5500 or 5500-EZ	**B Employer identification number**
C Name of plan	**D** Three-digit plan number ►
E Type of plan: (1) ☐ Single employer (2) ☐ Multiemployer (3) ☐ Multiple employer	**F** ☐ 100 or fewer participants in prior plan year

Part I Basic Information (To be completed by all plans)

1a	Enter the actuarial valuation date: Month ..... Day ..... Year		
b	Assets:		
	(1) Current value of assets	b(1)	
	(2) Actuarial value of assets for funding standard account	b(2)	
c	*(1)* Accrued liability for plans using immediate gain methods	c(1)	
	(2) Information for plans using spread gain methods:		
	(a) Unfunded liability for methods with bases	c(2)(a)	
	(b) Accrued liability under entry age normal method	c(2)(b)	
	(c) Normal cost under entry age normal method	c(2)(c)	
d	Information on current liabilities of the plan:		
	(1) Amount excluded from current liability attributable to pre-participation service (see instructions)	d(1)	
	(2) "RPA '94" information:		
	(a) Current liability	d(2)(a)	
	(b) Expected increase in current liability due to benefits accruing during the plan year	d(2)(b)	
	(c) Current liability computed at highest allowable interest rate (see instructions)	d(2)(c)	
	(d) Expected release from "RPA '94" current liability for the plan year	d(2)(d)	
	(3) "OBRA '87" information:		
	(a) Current liability	d(3)(a)	
	(b) Expected increase in current liability due to benefits accruing during the plan year	d(3)(b)	
	(c) Expected release from "OBRA '87" current liability for the plan year	d(3)(c)	
	(4) Expected plan disbursements for the plan year	d(4)	

Statement by Enrolled Actuary (see instructions before signing):

To the best of my knowledge, the information supplied in this schedule and on the accompanying statements, if any, is complete and accurate, and in my opinion each assumption used in combination, represents my best estimate of anticipated experience under the plan. Furthermore, in the case of a plan other than a multiemployer plan, each assumption used (a) is reasonable (taking into account the experience of the plan and reasonable expectations) or (b) would, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption were reasonable. In the case of a multiemployer plan, the assumptions used, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations).

Signature of actuary — Date

Print or type name of actuary — **G** ☐☐ — ☐☐☐☐ Most recent enrollment number

Firm name — Telephone number (including area code)

Address of the firm

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions ☐

2 Operational information as of beginning of this plan year:

a Current value of the assets (see instructions) 2a

b "RPA '94" current liability:

	(1) No. of Persons	(2) Vested Benefits	(3) Total Benefits
(1) For retired participants and beneficiaries receiving payments.			
(2) For terminated vested participants.			
(3) For active participants.			
(4) Total.			

c If the percentage resulting from dividing line 2a by line 2b(4), column (3), is less than 70%, enter such percentage . . . . . 2c . %

3 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Month-Day-Year	(b) Amount paid by employer	(c) Amount paid by employees	(a) Month-Day-Year	(b) Amount paid by employer	(c) Amount paid by employees
			3 Totals ▶	(b)	(c)

4 Quarterly contributions and liquidity shortfall(s):

a Plans other than multiemployer plans, enter funded current liability percentage for preceding year (see instructions) . . . . . 4a . %

b If line 4a is less than 100%, see instructions, and complete the following table as applicable:

Liquidity shortfall as of end of Quarter of this plan year			
(1) 1st	(2) 2nd	(3) 3rd	(4) 4th

5 Actuarial cost method used as the basis for this plan year's funding standard account computation:

a ☐ Attained age normal b ☐ Entry age normal c ☐ Accrued benefit (unit credit)

d ☐ Aggregate e ☐ Frozen initial liability f ☐ Individual level premium

g ☐ Individual aggregate h ☐ Other (specify) ▶ .....

i Has a change been made in funding method for this plan year? . . . . . ☐ Yes ☐ No

j If line i is "Yes," was the change made pursuant to Revenue Procedure 95-51? . . . . . ☐ Yes ☐ No

k If line i is "Yes," and line j is "No" enter the date of the ruling letter (individual or class) approving the change in funding method . . . . . Month Day Year

6 Checklist of certain actuarial assumptions:

a Interest rates for:

(1) "RPA '94" current liability . . . . . a(1) . %

(2) "OBRA '87" current liability . . . . . a(2) . %

b Weighted average retirement age 6b

		Pre-retirement	Post-retirement
c Rates specified in insurance or annuity contracts	6c	☐ Yes ☐ No	☐ Yes ☐ No
d Mortality table code for valuation purposes:			
(1) Males	d(1)		
(2) Females	d(2)		
e Valuation liability interest rate	6e	. %	. %
f Expense loading	6f	. %	. %
		Male	Female
g Annual withdrawal rates:			
(1) Age 25	g(1)	. %	. %
(2) Age 40	g(2)	. %	. %
(3) Age 55	g(3)	. %	. %
h Salary scale	6h	. %	. %

i Estimated investment return on actuarial value of assets for the year ending on the valuation date 6i . %

7 New amortization bases established in the current plan year:

(1) Type of Base	(2) Initial Balance	(3) Amortization Charge/Credit

8 Miscellaneous information:

a If a waiver of a funding deficiency or an extension of an amortization period has been approved for this plan year, enter the date of the ruling letter granting the approval . . . . . Month ..... Day ..... Year .....

b If one or more alternative methods or rules (as listed in the instructions) were used for this plan year, enter the appropriate code in accordance with the instructions ▶ .....

c Is the plan required to provide a Schedule of Active Participant Data? (see instructions) . . . . . ☐ Yes ☐ No
If "Yes," attach schedule.

9	Funding standard account statement for this plan year:			
	Charges to funding standard account:			
a	Prior year funding deficiency, if any		9a	
b	Employer's normal cost for plan year as of valuation date		9b	
c	Amortization charges as of valuation date:	Outstanding Balance		
	(1) All bases except funding waivers	▶ ($.....)	c(1)	
	(2) Funding waivers	▶ ($.....)	c(2)	
d	Interest as applicable on lines 9a, 9b, and 9c		9d	
e	Additional interest charge due to late quarterly contributions, if applicable.		9e	
f	Additional funding charge from Part II, line 12u, if applicable		9f	
g	Total charges. Add lines 9a through 9f.		9g	
	Credits to funding standard account:			
h	Prior year credit balance, if any		9h	
i	Employer contributions. Total from column (b) of line 3		9i	
		Outstanding Balance		
j	Amortization credits as of valuation date	▶ ($.....)	9j	
k	Interest as applicable to end of plan year on lines 9h, 9i, and 9j		9k	
l	Full funding limitation (FFL) and credits			
	(1) ERISA FFL (accrued liability FFL)	l(1)		
	(2) "OBRA '87" FFL (150% current liability FFL)	l(2)		
	(3) "RPA '94" override (90% current liability FFL)	l(3)		
	(4) FFL credit before reflecting "OBRA '87" FFL		l(4)	
	(5) Additional credit due to "OBRA '87" FFL		l(5)	
m	*(1)* Waived funding deficiency		m(1)	
	(2) Other credits.		m(2)	
n	Total credits. Add lines 9h through 9k, 9l(4), 9l(5), 9m(1), and 9m(2)		9n	
o	Credit balance: If line 9n is greater than line 9g, enter the difference		9o	
p	Funding deficiency: If line 9g is greater than line 9n, enter the difference		9p	
	Reconciliation account:			
q	Current year's accumulated reconciliation account:			
	(1) Due to additional funding charges as of the beginning of the plan year	q(1)		
	(2) Due to additional interest charges as of the beginning of the plan year	q(2)		
	(3) Due to waived funding deficiencies:			
	(a) Reconciliation outstanding balance as of valuation date . . .	q(3)(a)		
	(b) Reconciliation amount. Line 9c(2) balance minus line 9q(3)(a) .	q(3)(b)		
	(4) Total as of valuation date.	▶	q(4)	
10	Contribution necessary to avoid an accumulated funding deficiency. Enter the amount in line 9p or the amount required under the alternative funding standard account if applicable		10	

11 Has a change been made in the actuarial assumptions for the current plan year? If "Yes," see instructions. ☐ Yes ☐ No

Part II Additional Information for Certain Plans Other Than Multiemployer Plans

Please refer to **Who Must File** on page 1 of the instructions to determine if you must complete Part II.

12 Additional required funding charge (see instructions):

a Enter "Gateway %." Divide line 1b(2) by line 1d(2)(c) and multiply by 100.
If line 12a is at least 90%, go to line 12u and enter -0-.
If line 12a is less than 80%, go to line 12b.
If line 12a is at least 80% (but less than 90%), see instructions and, if applicable, enter the appropriate plan years and condition codes and go to line 12u and enter -0-. Otherwise, go to line 12b . . . . . 12a ___.___ %

Plan Year	Condition Code
199___	
199___	

b "RPA '94" current liability. Enter line 1d(2)(a) 12b
c Adjusted value of assets (see instructions) 12c
d Funded current liability percentage. Divide line 12c by 12b and multiply by 100 . . . . . 12d ___.___ %
e Unfunded current liability. Subtract line 12c from line 12b 12e
f Liability attributable to any unpredictable contingent event benefit 12f
g Outstanding balance of unfunded old liability 12g
h Unfunded new liability. Subtract the total of lines 12f and 12g from line 12e. Enter -0- if negative . 12h
i Unfunded new liability amount (___.___ % of line 12h) 12i
j Unfunded old liability amount. 12j
k Deficit reduction contribution. Add lines 12i, 12j, and 1d(2)(b) 12k
l Net charges in funding standard account used to offset the deficit reduction contribution. Enter a negative number if less than zero 12l
m Unpredictable contingent event amount:

(1) Benefits paid during year attributable to unpredictable contingent event	m(1)	
(2) Unfunded current liability percentage. Subtract the percentage on line 12d from 100%	m(2)	___.___ %
(3) Transition percentage	m(3)	50.00 %
(4) Enter the product of lines 12m(1), 12m(2), and 12m(3)	m(4)	
(5) Amortization of all unpredictable contingent event liabilities . .	m(5)	
(6) "RPA '94" additional amount (see instructions)	m(6)	

(7) Enter the greatest of lines 12m(4), 12m(5), or 12m(6) . . . . . m(7)

Preliminary Calculation

n Preliminary additional funding charge: Enter the excess of line 12k over line 12l (if any), plus line 12m(7), adjusted to end of year with interest 12n
o Contributions needed to increase current liability percentage to 100% (see instructions) . . . 12o
p Enter the lesser of line 12n or 12o. Also, enter the result on line 12t if the employer did not elect for 1995 to use the Optional rule under Code section 412(l)(3)(E) and does not elect for 1996 to use the Transition rule under Code section 412(l)(11) 12p

Final Calculation (complete line 12q, 12r, or 12s, as applicable, and lines 12t and 12u)

q If the employer elects to use the Transition rule for 1996, but did not elect for 1995 to use the Optional rule, complete line 14 and enter the lesser of line 12p or 14e here and on line 12t . 12q
r If the employer elected for 1995 to use the Optional rule, but does not elect for 1996 to use the Transition rule, complete line 13 and enter the greater of line 12p or 13q here and on line 12t . 12r
s If the employer elected for 1995 to use the Optional rule and elects to use the Transition rule for 1996, enter the lesser of (1) the greater of line 12p or 13q, **or** (2) line 14e. Also, enter on line 12t 12s
t Additional funding charge prior to adjustment 12t
u Adjusted additional funding charge. (___.0 % of line 12t). 12u

13	Additional funding charge under prior law (see instructions):			
a	"OBRA '87" current liability. Enter line 1d(3)(a)		**13a**	
b	Adjusted value of assets (see instructions)		**13b**	
c	Funded current liability percentage. Divide line 13b by line 13a and multiply by 100		**13c**	| |.| | | %
d	Unfunded current liability. Subtract line 13b from line 13a		**13d**	
e	Outstanding balance of unfunded old liability		**13e**	
f	Liability attributable to any unpredictable contingent event benefit		**13f**	
g	Unfunded new liability. Subtract the total of lines 13e and 13f from line 13d		**13g**	
h	Unfunded new liability amount (|_|_|.|_|_| % of line 13g)		**13h**	
i	Unfunded old liability amount		**13i**	
j	Deficit reduction contribution. Add lines 13h and 13i		**13j**	
k	Net amortization charge for certain bases		**13k**	
l	Unpredictable contingent event amount:			
	(1) Benefits paid during year attributable to unpredictable contingent event	**l(1)**		
	(2) Unfunded current liability percentage. Subtract the percentage on line 13c from 100%	**l(2)**	| |.| | %	
	(3) Transition percentage	**l(3)**	5 0 . 0 0 %	
	(4) Enter the product of lines 13l(1), 13l(2), and 13l(3)	**l(4)**		
	(5) Amortization of all unpredictable contingent event liabilities	**l(5)**		
	(6) Enter the greater of line 13l(4) or line 13l(5)		**l(6)**	
m	Additional funding charge (excess of line 13j over line 13k (if any), plus line 13l(6)		**13m**	
n	Assets needed to increase current liability percentage to 100% (line 13d)		**13n**	
o	Smaller of line 13m or line 13n		**13o**	
p	Interest adjustment		**13p**	
q	Additional funding charge. Add lines 13o and 13p		**13q**	
14	Transition rule:			
a	Initial funded current liability percentage. Enter the percentage from line 12d of the 1995 Schedule B here		**14a**	| |.| | %
b	Target percentage for transition rule (see instructions)		**14b**	| |.| | %
c	Target amount (see instructions)		**14c**	
d	Enter the amount from line 13q here (additional funding charge under prior law)		**14d**	
e	Additional funding charge under transition rule of Code section 412(l)(11): Enter the greater of line 14c or 14d		**14e**	

SCHEDULE C (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Service Provider Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974.

► **File as an attachment to Form 5500.**

OMB No.
19 9X
This Form is Open to Public Inspection

For the calendar year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of plan	B Three-digit plan number ►
C Plan sponsor's name as shown on line 2a of Form 5500	D Employer Identification Number

Part I Service Provider Information (see instructions)

1 Enter the total dollar amount of compensation paid by the plan to all persons, other than those listed below, who received compensation during the plan year or DFE year: 1

2 On line (1) below list the contract administrator, if any, as defined in the instructions. On lines (2) through (40), list service providers in descending order of the compensation they received for the services rendered during the plan year. List only the top 40. 103-12 IEs should enter N/A in columns (c) and (d).

(a) Name	(b) Employer identification number (see instructions)	(c) Official plan position	(d) Relationship to employer, employee organization, or person known to be a party-in-interest	(e) Gross salary or allowances paid by plan	(f) Fees and commissions paid by plan	(g) Nature of service code (see instructions)
(1)		Contract administrator				12
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
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(35)						
(36)						
(37)						
(38)						
(39)						
(40)						

Part II Termination Information on Accountants and Enrolled Actuaries (see instructions)

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(1) Explanation:

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(2) Explanation:

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(3) Explanation:

SCHEDULE D (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

DFE/Participating Plan Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

► **File as an attachment to Form 5500.**

OMB No.

19 9X

This Form Is Open to Public Inspection

For calendar plan year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of plan or DFE (including group insurance arrangement)

B Three-digit plan number ►

C Plan or DFE sponsor's name as shown on line 2a of Form 5500

D Employer identification number

E Page number

(a) Plan or DFE name	(b) Name of Plan or DFE Sponsor	(c) EIN/PN	(d)	(e) Interest in DFE, CCT or PSA at end of year (see instructions)

For Paperwork Reduction Act Notice, see the Instructions for Form 5500. Cat. No. 22774J **Schedule D (Form 5500) 199X**

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SCHEDULE E (Form 5500)

Department of the Treasury
Internal Revenue Service

ESOP Annual Information

Under Section 6047(e) of the Internal Revenue Code

► **File as an attachment to Form 5500 or 5500-EZ.**

OMB No.
19 9X

This Form is NOT Open to Public Inspection

For the calendar year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of plan

B Three-digit plan number ►

C Plan sponsor's name as shown on line 2a of Form 5500

D Employer identification number

		Yes	No
1a	Did the employee stock ownership plan (ESOP) have an outstanding securities acquisition loan within the meaning of Code section 133 during the plan year?		
b	Did the employer maintaining the ESOP pay dividends (deductible under section 404(k)) on the employer's stock held by the ESOP during the employer's tax year in which the plan year ends?		
	If both line **1a** and line **1b** are "No," DO NOT complete any other questions on this schedule. Attach the schedule to the Form 5500 or 5500-EZ you file for your ESOP plan.		
2	What is the total value of the ESOP assets? ►		
3	If the ESOP holds preferred stock, under what formula is the preferred stock convertible into common stock of the employer corporation? ►		
4	If unallocated employer securities were released from a loan suspense account, indicate below the methods used:		
a	☐ Principal and interest (Excise Tax Regulations section 54.4975-7(b)(8)(i));		
b	☐ Principal only (Excise Tax Regulations section 54.4975-7(b)(8)(ii));		
c	☐ Other (attach an explanation)		
5	Were unallocated securities or proceeds from the sale of unallocated securities used to repay any exempt loan (within the meaning of Code section 4975(d)(3))?		
	If "Yes," attach a description of the transaction.		
	If the ESOP or the employer corporation has one or more outstanding securities acquisition loans intended to satisfy Code section 133, complete lines **6** through **11,** otherwise skip to line **12.**		
6a	Was the ESOP loan part of a "back to back" loan? (See instructions for definition of "back to back" loan.)		
b	If line **6a** is "Yes," are the terms of the two loans substantially similar?		
c	Do the two loans have the same amortization schedule? If "No," attach an explanation of how the amortization schedules differ.		
7	Is the loan an immediate allocation loan as defined in Code section 133(b)(1)(B)?		
8a	What was the date of the securities acquisition loan? ► (month day year)		
b	At all times after the acquisition of the employer securities with the loan proceeds, did the ESOP own more than 50% of: (i) each class of outstanding stock of the employer corporation, or (ii) the total value of all outstanding stock of the corporation?		
c	If line **8b** is "No," does the securities acquisition loan satisfy one of the transition rules of Act section 7301(f) of OBRA 1989 or satisfy the exception in Code section 133(b)(6)(B)(ii)? (See instructions for explanation of transition rules.)		
d	If line **8c** is "No," enter the name and address of payees to whom interest with respect to securities acquisition loans was paid ►		
9	What was the amount of interest paid on the securities acquisition loan? ►		
10a	Were any securities disposed of within 3 years after the plan acquired section 133 securities in a taxable event described in Code section 4978B(c)?		
b	If line **10a** is "Yes," does one or more of the exceptions provided in Code section 4978B(d) apply to all dispositions of employer securities?		
11a	Were any of the ESOP's securities acquisition loans refinanced during this reporting period?		
b	If line **11a** is "Yes," and the term of the loan was extended, enter the number of years of the extension ►		
	If the employer maintaining the ESOP deducted dividends under Code section 404(k), answer the questions on lines 12 through 14, otherwise skip to line 15.		
12a	Did the amount of the dividends paid exceed the employer's current or accumulated earnings and profits within the meaning of Code section 316?		
b	Is the amount paid a dividend under applicable state law?		
13	If dividends deducted under Code section 404(k) were used to repay an exempt loan, were any dividends used to repay the loan generated by securities that were not acquired with the proceeds of the loan being repaid?		
14	If the answer to line **13** is "Yes," were the dividends paid with respect to employer securities that satisfy the transition rules of Act section 7302(b)(2) of OBRA 1989?		

15 Complete the following table for each class of stock owned by the ESOP:

(a) Class of stock	(b) Common stock (C) Preferred stock (P)	(c) Readily tradable* Yes (Y) No (N)	(d) Dividend rate during plan year**	(e) Dividends paid to participants***	(f) Dividends used to repay exempt loan	
					(1) allocated stock	(2) unallocated stock
				$	$	$
				$	$	$
				$	$	$
				$	$	$
Totals ▶				$	$	$

*If the stock is readily tradable on an established securities market within the meaning of Code section 409(l), enter "Y," otherwise enter "N."
**Dividend rate paid for each class of stock during the plan year.
***Dividends paid directly to or distributed to participants.

SCHEDULE F (Form 5500)

Department of the Treasury
Internal Revenue Service

Fringe Benefit Plan Annual Information Return

Under Section 6039D of the Internal Revenue Code

► File as an attachment to Form 5500.

OMB No.

199X

This Form is NOT Open to Public Inspection

For the calendar plan year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of plan	**B** Three-digit plan number ►
C Plan sponsor's name as shown on line 2a of Form 5500	**D Employer identification number**

1 Check the Internal Revenue Code section that describes this fringe benefit plan:
☐ 125 (Cafeteria plan) ☐ 127 (Educational assistance program)

2 Enter the total number of employees of the employer . . . . . _____

3 Enter the total number of employees eligible to participate in the plan . . . . . _____

4 Enter the total number of employees participating in the plan. (See instructions.) . . . . . _____

5 Enter the total cost of the fringe benefit plan for the plan year. (See instructions.) . . . . . _____

6 Did the fringe benefit plan terminate in this plan year? (See instructions.) . . . . . ☐ **Yes** ☐ **No**

For Paperwork Reduction Act Notice, see page 1 of the Instructions for Form 5500. Cat. No. 14687J **Schedule F (Form 5500) 199X**

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SCHEDULE FIN (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

Financial Information

This schedule is required to be filed under Section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code) to report large plan and DFE financial information.

► **File as an attachment to Form 5500.**

OMB No.

19 9X

Form is Open to Public Inspection.

For calendar year 199X or fiscal plan year beginning , 199X and ending , 19

A	Name of plan	**B**	Three-digit plan number ►
C	Name of plan sponsor as shown on line 2a of Form 5500	**D**	**Employer identification number**

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines c(9) through c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** DFEs do not complete lines 1b(1), 1b(2), 1c(7), 1g, 1h, 1i, and, except for master trust investment accounts, also do not complete lines 1d and 1e. See instructions.

		(a) Beginning of Year	(b) End of Year
	Assets		
a	Total noninterest-bearing cash	a	
b	Receivables (less allowance for doubtful accounts):		
	(1) Employers	b(1)	
	(2) Participants	b(2)	
	(3) Other	b(3)	
c	General investments		
	(1) Interest-bearing cash (including money market accounts and certificates of deposit)	c(1)	
	(2) U.S. Government securities	c(2)	
	(3) Corporate debt instruments (other than employer securities)		
	(A) Long-term	c(3)(A)	
	(B) Short-term	c(3)(B)	
	(4) Corporate stocks (other than employer securities)		
	(A) Preferred	c(4)(A)	
	(B) Common	c(4)(B)	
	(5) Partnership/joint venture interests	c(5)	
	(6) Real estate (other than employer real property)	c(6)	
	(7) Loans to participants	c(7)	
	(8) Loans (other than to participants)	c(8)	
	(9) Value of interest in common/collective trusts	c(9)	
	(10) Value of interest in pooled separate accounts	c(10)	
	(11) Value of interest in master trust investment accounts	c(11)	
	(12) Value of interest in 103-12 investment entities	c(12)	
	(13) Value of interest in registered investment companies	c(13)	
	(14) Value of funds held in insurance company general account (unallocated contracts)	c(14)	
	(15) Other	c(15)	
d	Employer-related investments:		
	(1) Employer securities	d(1)	
	(2) Employer real property	d(2)	
e	Buildings and other property used in plan operation	e	
f	Total assets (add all amounts in lines 1a through 1e)	f	
	Liabilities		
g	Benefit claims payable	g	
h	Operating payables	h	
i	Acquisition indebtedness	i	
j	Other liabilities	j	
k	Total liabilities (add all amounts in lines 1g through 1j)	k	
	Net Assets		
l	Net assets (subtract line 1k from line 1f)	l	

Schedule FIN (Form 5500) 199X — Page **2**

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. DFEs do not complete lines 2a, 2b(1)(E), and 2e.

		(a) Amount	(b) Total
Income			
a	**Contributions:**		
(1)	Received or receivable in cash from: (A) Employers	a(1)(A)	
	(B) Participants	a(1)(B)	
	(C) Others	a(1)(C)	
(2)	Noncash contributions	a(2)	
(3)	Total contributions. Add lines **2a(1)(A), (B), (C)** and line **2a(2)**	a(3)	
b	**Earnings on investments:**		
(1)	Interest		
	(A) Interest-bearing cash (including money market accounts and certificates of deposit)	b(1)(A)	
	(B) U.S. Government securities	b(1)(B)	
	(C) Corporate debt instruments		
	(i) Long-term	(1)(C)(i)	
	(ii) Short-term	(1)(C)(ii)	
	(D) Loans (other than to participants)	b(1)(D)	
	(E) Participant loans	b(1)(E)	
	(F) Other	b(1)(F)	
	(G) Total interest. Add lines **2b(1)(A)** through **(F)**	b(1)(G)	
(2)	Dividends: (A) Preferred stock	b(2)(A)	
	(B) Common stock	b(2)(B)	
	(C) Total dividends. Add lines **2b(2)(A)** and **(B)**	b(2)(C)	
(3)	Rents	b(3)	
(4)	Net gain (loss) on sale of assets: (A) Aggregate proceeds	b(4)(A)	
	(B) Aggregate carrying amount (see instructions)	b(4)(B)	
	(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	b(4)(C)	
(5)	Unrealized appreciation (depreciation) of assets (A) Real estate	b(5)(A)	
	(B) Other	b(5)(B)	
	(C) Total unrealized appreciation of assets. Add lines **2b(5)(A)** and **(B)**	b(5)(C)	
(6)	Net investment gain (loss) from common/collective trusts	b(6)	
(7)	Net investment gain (loss) from pooled separate accounts	b(7)	
(8)	Net investment gain (loss) from master trust investment accounts	b(8)	
(9)	Net investment gain (loss) from 103-12 investment entities	b(9)	
(10)	Net investment gain (loss) from registered investment companies	b(10)	
c	Other income	c	
d	Total income. Add all **income** amounts in column (b) and enter total	d	
Expenses			
e	Benefit payment and payments to provide benefits:		
(1)	Directly to participants or beneficiaries (other than IRAs)	e(1)	
(2)	To insurance carriers for the provision of benefits	e(2)	
(3)	Direct rollovers to eligible retirement plans (including IRAs)	e(3)	
(4)	Other	e(4)	
(5)	Total benefit payments. Add lines **2e(1)** through **(4)**	e(5)	
f	Interest expense	f	
g	Administrative expenses: (1) Professional fees	g(1)	
(2)	Contract administrator fees	g(2)	
(3)	Investment advisory and management fees	g(3)	
(4)	Other	g(4)	
(5)	Total administrative expenses. Add lines **2g(1)** through **(4)**	g(5)	
h	Total expenses. Add all **expense** amounts in column (b) and enter total	h	
Net Income and Reconciliation			
i	Net income (loss) (subtract line 2h from line 2d)	i	
j	Transfers of assets		
(1)	To this plan	j(1)	
(2)	From this plan	j(2)	

Part III Accountant's Opinion

3 The opinion of an independent qualified public accountant for this plan is (check one box) (see instructions):

a **Attached** to this Form 5500 and the opinion is— (1) ☐ Unqualified (2) ☐ Qualified (3) ☐ Disclaimer (4) ☐ Adverse

b **Not attached** because: (1) ☐ the Schedule FIN is filed for a CCT, PSA or MTIA.
(2) ☐ the opinion will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

If 3a(1)–3a(4) is checked, enter the name and EIN of the accountant ▶ _____

c Check this box if the accountant performed a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 2520.103-12(d) . . . . ☐

Part IV Transactions During Plan Year

		Yes	No	Amount
4	During this plan year:			
a	Did the employer fail to transmit to the plan any participant contributions within the maximum time period described in 29 CFR 2510.3-102? (See instructions)			
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part I if **"Yes"** is checked.)			
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if **"Yes"** is checked.)			
d	Did the plan engage in any nonexempt transaction with any party-in-interest? (Attach Schedule G (Form 5500) Part III if **"Yes"** is checked.)			
e	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?			
f	Did the plan hold any assets whose current value is neither readily determinable on an established market nor set by an independent third party appraiser?			
g	Did the plan receive any noncash contributions whose value was set without an appraisal by an independent third party appraiser?			
h	Did the plan fail to provide or reduce the amount of any welfare benefit when due under the plan because of insufficient assets or failure to pay insurance premiums?			
i	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year. ☐ **Yes** ☐ **No** _____ **Amount**

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions).

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

SCHEDULE FIN-SP (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

Financial Information—Small Plan

This schedule is required to be filed under Section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code) to report small plan financial information.

► **File as an attachment to Form 5500.**

OMB No.

19 9X

Form is Open to Public Inspection.

For calendar year 199X or fiscal plan year beginning , 199X and ending , 19 .

A	Name of plan	**B**	Three-digit plan number ►
C	Name of plan sponsor as shown on line 2a of Form 5500	**D**	**Employer identification number**

Complete Schedule FIN-SP if the plan covered fewer than 100 participants as of the beginning of the plan year. You may also complete Schedule FIN-SP if you are filing as a small plan under the 80–120 participant rule (see instructions). Complete Schedule FIN if reporting as a large plan or DFE.

Part I Small Plan Financial Information

Report below the current value of assets and liabilities, income, expenses, transfers and changes in net assets during the plan year. Combine the value of plan assets held in more than one trust. Do not enter the value of the portion of an insurance contract that guarantees during this plan year to pay a specific dollar benefit at a future date. Include all income and expenses of the plan including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. **Round off amounts to the nearest dollar.**

			Beginning of Year	End of Year
1	**Plan Assets and Liabilities:**			
a	Total plan assets	1a		
b	Total plan liabilities	1b		
c	Net plan assets (subtract line 1b from line 1a.)	1c		
2	**Income, Expenses, and Transfers for this Plan Year:**		Amount	Total
a	Contributions received or receivable			
	(1) Employers	a(1)		
	(2) Participants	a(2)		
	(3) Others	a(3)		
b	Noncash contributions	2b		
c	Total income received or receivable (including contributions)	2c		
d	Benefits paid	2d		
e	Total expenses (including benefits paid)	2e		
f	Net income (loss) (subtract line 2e from line 2c.)	2f		
g	Net transfers	2g		

3 **Specific Assets:** If the plan held any assets in one or more of the following specific categories, enter the current value as of the end of the plan year. Allocate the value of the plan's interest in a commingled trust containing the assets of more than one plan on a line-by-line basis unless the trust meets one of the specific exceptions described in the instructions.

a Partnership/joint venture interests: _____
b Employer real property: _____
c Real estate (other than employer real property): _____
d Employer securities: _____
e Participant loans: _____
f Loans (other than to participants): _____
g Tangible personal property: _____

Part II Transactions During Plan Year

	4 During this Plan Year:		Yes	No	Amount
a	Did the employer fail to transmit to the plan any participant contributions within the maximum time period described in 29 CFR 2510.3-102? (See instructions)	4a			
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible?	4b			
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible?	4c			
d	Did the plan engage in any nonexempt transaction with any party-in-interest?	4d			
e	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4e			
f	Did the plan hold any assets whose current value is neither readily determinable on an established market nor set by an independent third party appraiser?	4f			
g	Did the plan receive any noncash contributions whose value was set without an appraisal by an independent third party appraiser?	4g			
h	Did the plan fail to provide or reduce the amount of any welfare benefit when due under the plan because of insufficient assets or failure to pay insurance premiums?	4h			
i	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4i			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year . . . . . ☐ **Yes** ☐ **No** _____ **Amount**

5b If during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

SCHEDULE G (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Financial Transaction Schedules

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

► **File as an attachment to Form 5500.**

OMB No.

19 9X

This Form Is Open to Public Inspection

For calendar plan year 199X or fiscal plan year beginning , 199X, and ending , 19

A Name of Plan

B Three-digit plan number ►

C Name of plan sponsor as shown on line 2a of Form 5500

D **Employer identification number**

Part I Loans or Fixed Income Obligations in Default or Classified as Uncollectible

(a)	(b) Identity and address of obligor	(c) Original amount of loan	(d) Amount of principal received during reporting year	(e) Amount of interest received during reporting year	(f) Unpaid balance at end of year	(g) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation, and other material items	(h) Amount of principal overdue	(i) Amount of interest overdue

Part II Leases in Default or Classified as Uncollectible

(a)	(b) Identity of lessor/lessee	(c) Relationship to plan, employer, employee organization or other party-in-interest	(d) Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)	(e) Original cost	(f) Current value at time of lease	(g) Gross rental receipts during the plan year	(h) Expenses paid during the plan year	(i) Net receipts	(j) Amount in arrears

For Paperwork Reduction Act Notice, see the Instructions for Form 5500. Cat. No. 14739A **Schedule G (Form 5500) 199X**

Part III **Nonexempt Transactions**

If a nonexempt prohibited transaction occurred with respect to a disqualified person, file Form 5330 with the IRS to pay the excise tax on the transaction.

(a) Identity of party involved	(b) Relationship to plan, employer, or other party-in-interest	(c) Description to transactions including maturity date, rate of interest, collateral, par or maturity value	(d) Purchase price	(e) Selling price	(f) Lease rental	(g) Expenses incurred in connection with transaction	(h) Cost of asset	(i) Current value of asset	(j) Net gain or (loss) on each transaction

SCHEDULE P (Form 5500)

Department of the Treasury
Internal Revenue Service

Annual Return of Fiduciary of Employee Benefit Trust

► **File as an attachment to Form 5500 or 5500-EZ.**

OMB No.
19 9X
This Form Is Open to Public Inspection.

For trust calendar year 199X or fiscal year beginning , 199X, and ending , 19 .

Please type or print

1a Name of trustee or custodian

b Number, street, and room or suite no. (If a P.O. box, see the instructions for Form 5500 or 5500-EZ.)

c City or town, state, and ZIP code

2a Name of trust	**b** Trust's employer identification number

3 Name of plan if different from name of trust

4 Have you furnished the participating employee benefit plan(s) with the trust financial information required to be reported by the plan(s)? . . . . . ☐ **Yes** ☐ **No**

5 Enter the plan sponsor's employer identification number as shown on Form 5500 or 5500-EZ. . . . . ►	

Under penalties of perjury, I declare that I have examined this schedule, and to the best of my knowledge and belief it is true, correct, and complete.

Signature of fiduciary ► **Date** ►

For the Paperwork Reduction Notice, see page 1 of the Form 5500 instructions. Cat. No. 13504X **Schedule P (Form 5500) 199X**

Printed on recycled paper

SCHEDULE PEN (Form 5500)

Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Pension Plan Information

This schedule is required to be filed under sections 104 and 4065 of the Employee Retirement Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

► **File as an Attachment to Form 5500.**

OMB No.

19 9X

Form is Open to Public Inspection.

For calendar year 199X or fiscal plan year beginning , 199X and ending , 19 .

A	Name of plan	**B** Three-digit plan number ►	
C	Plan sponsor's name as shown on line 2a of Form 5500	**D** Employer Identification Number	

E Is the plan intended to be qualified? ☐ Yes ☐ No

Part I Participants

1a	Separated participants receiving benefits	1a	
b	Other separated vested participants (attach Schedule SSA if required)	1b	
c	Active participants as of the end of the plan year.	1c	
d	Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	1d	
e	Participants that terminated employment during the plan year with accrued pension benefits	1e	

Part II Distributions

All references to distributions relate only to payments of benefits during the plan year; unless otherwise indicated, the term "participants" includes beneficiaries of deceased participants and alternate payees.

2	Total value of distributions paid in property other than in cash, annuity contracts, or publicly traded employer securities.	2	$
3	Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits). ____-_____ ____-_____		
	Profit-sharing plans, ESOPs and stock bonus plans, skip to Part III.		
4	Number of participants (living or deceased) to or for whom distributions commenced in any form other than a qualified joint and survivor annuity, qualified preretirement survivor annuity, or life annuity (if unmarried)	4	

Part III Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

5 Is the plan administrator making an election under Code section 412(c)(8) or ERISA section 302(c)(8)? ☐ Yes ☐ No ☐ N/A

If the plan is a defined benefit plan, go to line 8.

6 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions, and enter the date of the ruling letter granting the waiver. ► Month ..... Day ..... Year .....

Complete lines 3, 9, and 10 of Schedule B and skip the remainder of this Part.

7a	Enter the minimum required contribution for this plan year.	7a	$
b	Enter the amount contributed by the employer to the plan for this plan year.	7b	$
c	Subtract the amount in line 7b from the amount in line 7a. Enter the result (enter a negative amount in brackets)	7c	$

Skip if you completed line 7c.

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change, does the plan sponsor or plan administrator agree with the change? ☐ Yes ☐ No ☐ N/A

Do not complete line 9, if the plan is a multiemployer plan or a plan with 100 or fewer participants during the prior plan year (see instructions).

9 Is the employer electing to compute minimum funding for this plan year using the transitional rule provided in Code section 412(l)(11) and ERISA section 302(d)(11)? ☐ Yes ☐ No ☐ N/A

Part IV Amendments

10 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased the value of benefits? (see instructions) ☐ Yes ☐ No

SCHEDULE Q (Form 5500)

Department of the Treasury
Internal Revenue Service

Qualified Pension Plan Coverage Information

This form is required to be filed under section 6058(a) of the Internal Revenue Code (the Code).

► **File as an attachment to Form 5500.**

OMB No.

19 9X

Form is Open to Public Inspection.

For calendar year 199X or fiscal plan year beginning 199X and ending , 19 .

A	Name of plan	**B**	Three-digit plan number ►
C	Name of plan sponsor as shown on line 2a of Form 5500	**D**	**Employer identification number**

Note: *If the plan is maintained by:*

- More than one employer and benefits employees who are not collectively-bargained employees, a separate Schedule Q may be required for each employer (see the instruction for line 1), or
- An employer that operates qualified separate lines of business (QSLOBs) under Code section 414(r), a separate Schedule Q may be required for each QSLOB (see the instruction for line 2).

1 If this schedule is being filed to provide coverage information regarding the noncollectively bargained employees of an employer participating in a plan maintained by more than one employer, enter the name and EIN of the participating employer:

1a	Name of participating employer	**1b**	**Employer identification number**

2 If the employer maintaining the plan operates QSLOBs, enter the following information:

a The number of QSLOBs that the employer operates is _____ .

b The number of such QSLOBs that have employees benefiting under this plan is _____ .

c Does the employer apply the minimum coverage requirements to this plan on an employer-wide rather than a QSLOB basis? . . . . . ☐ **Yes** ☐ **No**

d If the entry on line 2b is two or more and line 2c is "NO," identify the QSLOB to which the coverage information given on line 3 or 4 relates ►

3 Exceptions—Check the box before each statement that describes the plan or the employer. If you check any box, do not complete the rest of this Schedule.

a ☐ The employer employs only highly compensated employees (HCES)

b ☐ The plan benefits only nonhighly compensated employees (NHCES)

c ☐ The plan benefits only collectively bargained employees

d ☐ The plan benefits all nonexcludable NHCES of the employer (as defined in Code sections 414(b), (c), and (m)), including leased employees and self-employed individuals.

4 Enter the date the plan year began for which coverage data is being submitted. Month _____ Day _____ Year _____

a Did any leased employees perform services for the employer at any time during the plan year? . . . . ☐ **Yes** ☐ **No**

b In testing whether the plan satifies the coverage and nondiscrimination tests of Code sections 410(b) and 401(a)(4), does the employer aggregate plans? . . . . . ☐ **Yes** ☐ **No**

c Complete the following:

(1)	Total number of employees of the employer (as defined in Code section 414(b), (c) and (m)), including leased employees and self-employed individuals	**c(1)**
(2)	Number of excludable employees as defined in IRS regulations (see instructions)	**c(2)**
(3)	Number of nonexcludable employees (Subtract line 4c(2) from line 4c(1))	**c(3)**
(4)	Number of nonexcludable employees (line 4c(3)) who are HCEs	**c(4)**
(5)	Number of nonexcludable employees (line 4c(3)) who benefit under the plan	**c(5)**
(6)	Number of benefiting nonexcludable employees (line 4c(5)) who are HCEs	**c(6)**

d Enter the plan's ratio percentage . . . . . **d** . %

e Identify any disaggregated portion of the plan and enter its ratio percentage:

(1) Portion: _____ Ratio Percentage: . %

(2) Portion: _____ Ratio Percentage: . %

(3) Portion: _____ Ratio Percentage: . %

f This plan satisfies the coverage requirements on the basis of (check one): ☐ the ratio percentage test ☐ average benefit test

If this schedule is being filed to provide coverage information regarding the employees of an employer participating in a plan maintained by more than one employer, the participating employer must complete the signature block below.

Under penalties of perjury, I declare that I have examined this schedule, including accompanying statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of participating employer _____ Date _____

Type or print name of individual signing for the participating employer

SCHEDULE SSA (Form 5500)

Department of the Treasury
Internal Revenue Service

Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits

Under Section 6057(a) of the Internal Revenue Code

► **File as an attachment to Form 5500.**

► **For Paperwork Reduction Act Notice, see page 1 of the instructions for Form 5500.**

OMB No.

19 9X

This Form is NOT Open to Public Inspection

For the calendar year 199X or fiscal plan year beginning , 199X, and ending , 19

1a Name of plan sponsor (employer if for a single employer plan) | **1b** Sponsor's employer identification number (EIN)

2a Name of plan | **2b** Three digit plan number ►

3 Enter one of the following Entry Codes in column (a) for each separated participant with deferred vested benefits that:

Code A — has not previously been reported.

Code B — has previously been reported under the above plan number but requires revisions to the information previously reported.

Code C — has previously been reported under *another* plan number but will be receiving their benefits from the plan listed above instead.

Code D — has previously been reported under the above plan number but is no longer entitled to those deferred vested benefits.

	Use with entry code "A", "B", "C", or "D"		***Use with entry code "A" or "B"***					***Use with entry code "C"***	
			Enter code for nature and form of benefit		Amount of vested benefit				
						Defined contribution plan			
(a) Entry code	(b) Social security number	(c) Name of participant	(d) Type of annuity	(e) Payment frequency	(f) Defined benefit plan—periodic payment	(g) Units or shares	(h) Total value of account	(i) Previous sponsor's employer identification number	(j) Previous plan number

☐ Check here if additional participants are shown on attachments. All attachments must include the sponsor's name, EIN, name of plan, plan number, and column identification letter for each column completed for line 3.

☐ Check here if plan is a government, church or other plan that elects to voluntarily file Schedule SSA. If so, complete lines 4 through 5c, and the signature area. Otherwise, complete the signature area only.

4 Plan sponsor's address (number, street, and room or suite no.) (If a P.O. box, see the instructions for line 4.)

City or town, state, and ZIP code

5a Name of plan administrator (if other than sponsor) | **5b** Administrator's EIN

5c Number, street, and room or suite no. (If a P.O. box, see the instructions for line 4.)

City or town, state, and ZIP code

Under penalties of perjury, I declare that I have examined this report, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of plan administrator ►

Phone number of plan administrator ► ( ) — Date ►

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare
Benefits Administration

Pension Benefit
Guaranty Corporation

199X

Instructions for Form 5500

Annual Return/Report of Employee Benefit Plan

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act.)

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA and Code sections 6039D, 6047(e), 6057(b), and 6058(a). You are required to give us the information. We need it to determine whether the plan is operating according to the law.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or its instructions must be retained as long as their contents may become material in the administration of the Internal Revenue Code or are required to be maintained pursuant to Title I or IV of ERISA. Generally, the Form 5500 return/reports are open to public inspection. However, Schedules E, F, and SSA (Form 5500) are confidential, as required by Code section 6103.

The time needed to complete and file the forms listed below reflects the combined requirements of the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation, and the Social Security Administration. These times will vary depending on individual circumstances. The estimated average times are:

	Record keeping	Learning About The Law Or The Form	Preparing The Form	Copying, Assembling and Sending The Form
Form 5500 (initial filers)				
Form 5500 (all other filers)				
Schedule A				
Schedule B				
Schedule C				
Schedule D				
Schedule E				
Schedule F				
Schedule FIN				
Schedule FIN-SP				
Schedule G				
Schedule P				
Schedule PEN				
Schedule Q				
Schedule SSA				

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send any of these forms or schedules to this address. Instead see **Where to File** on page 5.

About The Form 5500

The Annual Return/Report Form 5500 is used to report information concerning employee benefit plans, Direct Filing Entities (DFEs) and fringe benefit plans. See **Who Must File** on page 2, and **When to File** and **Where To File** on page 5.

Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each plan every year (Code section 6058 and ERISA section 104 and 4065). Every employer maintaining a specified fringe benefit plan as described in Code section 6039D (except Code sections 79, 105, 106, 120, and 129 plans) is also required to file each year.

The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their returns and report forms to minimize the filing burden for plan administrators and employers. The chart on page 11 gives a brief guide to the annual return/report requirements for the 199X Form 5500. Employers and administrators who comply with these instructions will generally satisfy the annual reporting requirements for the IRS and DOL. Plans covered by the PBGC have special additional

requirements, including filing the Annual Premium Payment (PBGC Form 1) and reporting certain transactions directly with that agency. See PBGC's Premium Payment Package (Form 1).

Each Form 5500 must accurately reflect the characteristics and operations of the plan or arrangement being reported. The requirements for completing the Form 5500 vary according to the type of plan or arrangement. Many rejection notices result from making several common mistakes that can be avoided. The section **Lines and Schedules To Complete** on page 7 summarizes what information must be reported for different types of plans and arrangements.

The Form 5500 and attachments are subject to computerized review. The filing may be rejected based upon this review. It is in the filer's best interest that the information provided is complete and accurate. ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. See **Penalties** on Page 5.

Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the Department of Labor to the public pursuant to ERISA sections 104 and 106.

Contents

Who Must File

File the applicable return/report every year for any of the following pension benefit plans, welfare benefit plans, fringe benefit plans, or Direct Filing Entities (Code section 6058 and ERISA sections 104 and 4065).

Pension Benefit Plan

Except as provided below in the **Note** and in **Pension and Welfare Plans Excluded From Filing**, all pension benefit plans covered by ERISA are required to file a Form 5500. The return/report is due whether or not the plan is qualified and even if benefits no longer accrue, contributions were not made this play year, or contributions are no longer made and/or benefits no longer accrue. Pension benefit plans required to file include both defined benefit plans and defined contribution plans.

The following are among the pension benefit plans for which a return/report must be filed:

1. Profit-sharing , stock bonus, money purchase, 401(k) plans, etc.

2. Annuity arrangements under Code section 403(b)(1).

3. Custodial accounts established under Code section 403(b)(7) for regulated investment company stock.

4. Individual retirement accounts (IRAs) established by an employer under Code section 408(c).

5. Pension benefit plans maintained outside the United States primarily for nonresident aliens if the employer who maintains the plan is:

a. a domestic employer, or

b. a foreign employer with income derived from sources within the United States (including foreign subsidiaries of domestic employers) if contributions to the plan are deducted on its U.S. income tax return. For this type of plan, enter 3A on Form 5500, Part II, line 6a.

6. Church plans electing coverage under Code section 410(d). Church plans that elect should enter 813000 as the business code on Form 5500, Part II, line 2d.

7. Pension benefit plans that cover residents of Puerto Rico, the U.S. Virgin Islands, Guam, Wake Island, or American Samoa. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.

8. Plans that satisfy the Actual Deferral Percentage requirements of Code section 401(k)(3)(A)(ii) by adopting the "SIMPLE" provisions of section 401(k)(11).

See **Lines and Schedules To Complete** on page 7 and **Pension and Welfare Plans Excluded From Filing** on page 4 for more information.

Note: *Plans without employees, as defined in 29 CFR 2510.3-3(b), may be exempt from filing or may be eligible to file a Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Pension Benefit Plan in lieu of Form 5500. A pension plan without employees is a program that provides deferred compensation for (1) an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) partners, or partners and one or more of the partner's spouses in a partnership.*

A pension plan without employees may file a Form 5500-EZ in lieu of a Form 5500 if the plan: (a) satisfies the minimum coverage requirements of section 410(b) of the Code without being combined with any other plan maintained by the employer; (b) does not cover a business that is a member of a "controlled group" for Form 5500 reporting purposes (i.e., a controlled group of corporations under Code sections 414(b), a group of trades or businesses under common control under Code section 414(c), or an affiliated service group under Code section 414(m)) that includes the business of the owner or partner covered by the plan; and (c) does not cover a business for which leased employees (as defined in Code section 414(n)(2)) perform services.

Neither a Form 5500-EZ or a Form 5500 is required to be filed for a plan year if a plan without employees satisfies the conditions listed above and the plan had assets of $100,000 or less at the end of every plan year beginning on or after 1/1/94, or there are two or more plans that satisfy the above conditions and total assets for the plans are less than or equal to $100,000 at the end of every plan year beginning on or after 1/1/94. For details see the instructions to Form 5500-EZ.

Welfare Benefit Plan

Except as provided below in **Pension and Welfare Plans Excluded From Filing**, a welfare benefit plan is required to file a Form 5500 if it is an employee welfare benefit plan covered by ERISA. Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay, disability, etc. See **Lines and Schedules To Complete** on page 7 and **Pension and Welfare Plans Excluded From Filing** on page 4 for more information.

Reminder: *The administrator of an employee welfare benefit plan that provides benefits wholly or partially through a Multiple Employer Welfare Arrangement (MEWA) as defined in ERISA section 3(40) must file a Form 5500, unless otherwise exempt (see page 4).*

Fringe Benefit Plan

Cafeteria plans described in Code section 125 and educational assistance programs described in Code section 127 are considered fringe benefit plans and are required to file the annual information specified by Code section 6039D. However, Code section 127 educational assistance programs that provide only job-related training that is deductible under Code section 162 do not need to file Form 5500.

Note: *Fringe benefit plans often are associated with one or more welfare benefit plans. A single Form 5500 may be filed for the fringe benefit plan and an associated welfare plan if all the required information is completed for both plans.*

See **Lines and Schedules To Complete** on page 7 for more information about what must be completed for fringe benefit plans.

Pension and Welfare Plans Excluded From Filing

Caution: *The exemptions below do not apply to fringe benefit plans. A Form 5500 for a fringe benefit plan must be filed under Code section 6039D even if it is associated with a welfare benefit plan that is exempt from filing under one of the categories below.*

Do Not File A Form 5500 For A Pension Benefit Plan That Is Any Of The Following:

1. An unfunded excess benefit plan. See ERISA section 4(b)(5).
2. An annuity or custodial account arrangement under Code section 403(b)(1) or (7) not established or maintained by an employer as described in 29 CFR 2510.3-2(f).
3. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).
4. A simplified employee pension (SEP) described in Code section 408(k) that conforms to the alternative method of compliance in 29 CFR 2520.104-48 or 2520.104-49. A SEP is a pension plan that meets certain minimum qualifications on eligibility and employer contributions.
5. A church plan not electing coverage under Code section 410(d).
6. A pension plan that is a qualified foreign plan within the meaning of Code section 404A(e) that does not qualify for the treatment provided in Code section 402(e)(5).
7. An unfunded pension plan for a select group of management or highly compensated employees if a timely registration statement was filed with the DOL as required by 29 CFR 2520.104-23.
8. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104-27.
9. An individual retirement account or annuity not considered a pension plan under 29 CFR 2510.3-2(d).
10. A governmental plan.

Do Not File A Form 5500 For A Welfare Benefit Plan That is Any Of The Following:

1. A welfare benefit plan that covered fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded. See 29 CFR 2520.104-20 and DOL Technical Release 92-01.

a. An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or employee organization that sponsors the plan (*Plans which are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the year. However, a welfare plan with employee contributions from a fringe benefit plan under Code section 125 may file as an unfunded plan if the plan satisfies the requirements for an unfunded welfare plan in all other respects. See DOL Technical Release 92-01).*

b. A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or employee organization forwards within 3 months of receipt) (*The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that is qualified to do business in any state).*

c. A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare benefit plan that provides medical benefits as in **a** above and life insurance benefits as in **b** above.

Caution: *The term "voluntary employees' beneficiary associations," as used in Code section 501(c)(9) (also called "VEBAs"), is not the same as, and should not be confused with, the employer or employee organization that sponsors the plan. Welfare benefit plans that use a Code section 501(c)(9) trust are generally not exempt from the requirement to file an annual return/report. See ERISA section 3(4).*

2. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.
3. A governmental plan.

4. An unfunded or insured welfare plan for a select group of management or highly compensated employees that meets the terms of 29 CFR 2520.104-24.

5. An employee benefit plan maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

6. A welfare benefit plan that participates in a group insurance arrangement that files a Form 5500 on behalf of the welfare benefit plan as specified in 29 CFR 2520.103-2. See 29 CFR 2520.104-43.

7. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104-22.

8. An unfunded dues financed welfare benefit plan exempt by 29 CFR 2520.104-26.

9. A church plan under ERISA section 3(33).

When To File

File the Form 5500, with all required attachments, by the last day of the 7th month after the end of the plan year (not to exceed 12 months in length). File 199X forms for plan years that started in 199X. If the plan year differs from the calendar year, fill in the fiscal year space just under the form title. For a short plan year, file the form and applicable schedules by the last day of the 7th month after the short plan year ends. A short plan year ends on the date of the change in accounting period or upon the complete distribution of the assets of the plan (and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied).

Extension of Time To File

Form 5558

A one time extension of time to file (up to 2½ months) may be granted for filing returns/reports if Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, is filed before the normal due date (not including any extensions) of the return/report. A copy of the approved extension must be attached to the Form 5500.

Automatic Extension

Plans are automatically granted an extension of time to file Form 5500 until the due date of the Federal income tax return of the employer if all of the following conditions are met: (1) the plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500; and (3) a copy of the application for extension of time to file the Federal income tax return is attached to the Form 5500. An extension granted by using this automatic extension procedure cannot be extended further by filing a Form 5558.

Where To File

File the Form 5500, with any required attachments, at the address indicated below.

[TO BE DETERMINED WITH DEVELOPMENT OF NEW PROCESSING SYSTEM FOR FORM 5500]

Electronic Filing and Reproductions

[TO BE DETERMINED WITH DEVELOPMENT OF NEW PROCESSING SYSTEM FOR FORM 5500]

Penalties

ERISA and the Code provide for the assessment or imposition of penalties for not giving complete information and for not filing statements and returns/reports. Certain penalties are administrative (i.e., they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of the Form 5500 data). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties for not meeting the Form 5500 filing requirements. One or more of the following five administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,000 a day for each day a plan administrator fails or refuses to file a complete report.

2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). This penalty also applies to returns required to be filed under Code section 6039D.

3. A penalty of $1 a day (up to $5,000) for each participant for whom a registration statement (Schedule SSA (Form 5500)) is required but not filed.

4. A penalty of $1,000 for not filing an actuarial statement.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $5,000 or imprisoned not more than 1 year, or both.

2. A penalty up to $10,000, 5 years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA.

Final Return/Report

If all assets under an employee benefit plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or distributed to another plan, and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied, check the final return/report box (Part I, A(3)) at the top of the Form 5500 filed for such plan. The last year a return/report must be filed for a pension benefit plan is the year in which distribution of all assets is completed. If a trustee is appointed for a terminated defined benefit plan pursuant to ERISA section 4042, the last plan year for which a return/report must be filed is the year in which the trustee is appointed.

Signature and Date

The plan administrator must sign and date all returns/reports filed under Title I of ERISA. This generally includes all plans required to file Form 5500 other than pension plans without employees and fringe benefit plans that are required to file only because of Code section 6039D. Failure to sign the return/report may result in Title I penalties.

A return/report for a pension plan without employees may be signed by either the plan administrator or the employer. Either signature is also sufficient for purposes of meeting ERISA's Title II filing requirements for any plan, other than a fringe benefit plan

When a joint employer-union board of trustees or committee is the plan sponsor or plan administrator, at least one employer representative and one union representative must sign and date the Form 5500.

Note: *Employers participating in certain multiple-employer plans are required to sign a Schedule Q (Form 5500) filed with the plan's Form 5500. See the instructions for the Schedule Q.*

Preparer Information

The name, employer identification number, and preparer classification code of any person paid to prepare the Form 5500 must be provided below the signature line. This information does not need to be provided for someone who prepares the Form 5500 without compensation or for an employee of the plan sponsor or plan administrator.

Preparer Classification Codes

If the name and EIN of a paid preparer is required to be shown on the Form 5500, also enter the classification code that best describes the preparer.

Code	Type of Preparer
1	Attorney, CPA, Enrolled Actuary or Enrolled Agent
2	Benefits Consultant
3	Other

Change In Plan Year

Generally only defined benefit pension plans need to get prior approval for a change in plan year. (See Code section 412(c)(5).) Rev. Proc. 87-27, 1987-1 C.B. 769 explains the procedure for automatic approval of a change in plan year for these pension plans. If a change in plan year for a pension or a welfare plan creates a short plan year, a Form 5500 must be filed for the short plan year. Enter the correct dates on Form 5500, Part I if the plan year being reported is not the 199X calendar year.

Amended Return/Report

To correct errors and/or omissions on a previously filed annual return/report for the 199X plan year, submit a completed Form 5500 with Part I, box A(2) checked and an original signature. Attach only those schedules being corrected and complete on the schedules only those lines being changed. All corrections made on the Form 5500 should be marked by circling the line numbers that have been changed since the prior submission.

Lines and Schedules To Complete

The applicable schedules and attachments listed below must be completed. Any attachments to the Form 5500 must be properly identified. The Form 5500 reporting requirements vary depending on whether the Form 5500 is being filed for a "large plan," a "small plan," and/or a DFE, and on the particular type of plan or DFE involved (e.g., welfare plan, pension plan, fringe benefit plan, common/collective trust, pooled separate account, master trust investment account, 103-12 IE, or group insurance arrangement).

Definition of small plan or large plan for filing Form 5500 - Generally, a return/report filed for pension benefit plan or welfare benefit plan that covered fewer than 100 participants as of the beginning of the plan year should be completed following the requirements below for a "small plan," and a return/report filed for a plan that covered 100 or more participants as of the beginning of the plan year should be completed following the requirements below for a "large plan."

Exceptions: 80-120 Participant Rule - If the number of participants reported in Part II, line 4a is between 80 and 120, and a return/report was filed for the prior plan year, you may elect to complete the 199X return/report in the same category ("large plan" or "small plan") as was filed for the prior return/report. For example, If a Form 5500-C/R was filed for the prior plan year, and the number entered in Part II, line 4a of the 199X Form 5500 is 100 to 120, you may elect to complete the 199X Form 5500 and schedules in accordance with the instructions for a small plan.

Short Plan Year Rule - If the plan had a short plan year of less than 7 months and elected to defer filing the accountant's report in accordance with 29 CFR 2520.104-50 for the prior year, the 199X Form 5500 must be competed following the requirements for a large plan, including the attachment of the Schedule FIN and the accountant's reports, regardless of the number entered in Part II, line 4a of the Form 5500.

Welfare Benefit Plan

Small welfare plan - Complete the Form 5500, including the signature block. Attach Schedule FIN-SP and, if applicable, Schedules A and D.

Large welfare plan - Complete the Form 5500, including the signature block. Attach, if applicable, Schedules A, C, D, FIN, and G, and the report of an independent qualified public accountant.

Note: *An unfunded, fully insured or combination unfunded/insured welfare plan (as defined on page 4) that covered 100 or more participants as of the beginning of the plan year should not attach the Schedule FIN or an accountant's opinion. See 29 CFR 2520.104-44. However, a welfare benefit plan that uses a "voluntary employees' beneficiary association" (VEBA) under Code section 501(c)(9) is generally not exempt from the requirement of engaging an independent qualified public accountant. ERISA section 3(4).*

Fringe Benefit Plan

Large and small fringe benefit plans - Complete the Form 5500, including the signature block (except Part I, box C, and Part II, lines 4 and 7). Attach Schedule F.

Welfare Plan And Fringe Benefit Plan Filing Together

A single Form 5500 filed for both a welfare plan and a fringe benefit plan - Complete all information required for a welfare benefit plan (see instructions above). In addition, check Form 5500 box 6c and attach Schedule F.

Pension Benefit Plan

Small pension plan - Except as provided in **Limited Pension Plan Reporting** below, complete the Form 5500, including the signature block. Attach, as applicable, Schedules A, B, D, E, FIN-SP, PEN, Q, and SSA. Schedule P may also be filed.

Large pension plan - Except as provided in **Limited Pension Plan Reporting** below, complete the Form 5500, including the signature block, and attach, as applicable, Schedules A, B, C, D, E, FIN, G, PEN, Q and SSA, and the report of an independent qualified public accountant. Schedule P may also be filed.

Limited Pension Plan Reporting

The pension plans or arrangements described below are eligible for limited annual reporting:

1. **403(b) Arrangements:** A pension plan or arrangement using a tax deferred annuity arrangement under Code section 403(b)(1) and/or a custodial account for regulated investment company stock under Code section 403(b)(7) as the sole funding vehicle for providing pension benefits need complete only Part I and Part II, lines 1 through 3, and 6 on the Form 5500.

2. **IRA Plans:** A pension plan utilizing individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing pension benefits need complete only Part I and Part II, lines 1 through 3, and 6 on the Form 5500.

Note: *These arrangements and plans do not have to engage an independent qualified public accountant, attach an accountant's opinion to the Form 5500, or attach any schedules to the Form 5500.*

3. **Fully Insured Pension Plan:** A pension benefit plan providing benefits exclusively through an insurance contract or contracts that are fully guaranteed and that meet all of the conditions of 29 CFR 2520.104-44(b)(2) during the entire plan year need not engage an independent qualified public accountant, attach an accountant's opinion to the Form 5500 or complete Schedules FIN or FIN-SP (Form 5500). A pension plan including both insurance contracts of the type described in 29 CFR 2520.104-44 as well as other assets should limit its reporting in Part I of the Schedules FIN or FIN-SP to those other assets (the value of the allocated contracts should not be reflected in Part I of the Schedule FIN or Schedule FIN-SP). if the Form 5500 is being filed for a large plan with assets other than allocated insurance contracts, a Schedule FIN is required and an accountant's report must be attached to the Form 5500 in accordance with the instructions to the Schedule FIN.

Note: *For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104-44, a contract is considered to be "**allocated**" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount. This amount must be provided to each participant without adjustment for fluctuations in the market value of the underlying assets of the company or organization, and each participant must have a legal right to such benefits, which is legally enforceable directly against the insurance company or organization. For example, deposit administration, immediate participation guarantee, and guaranteed investment contracts are NOT allocated contracts for purposes of the Form 5500.*

4. **Nonqualified pension benefit plans maintained outside the United States:** Nonqualified pension benefit plans maintained outside the United States primarily for nonresident aliens required to file a return/report (see **Who Must File** on page 2) must complete the Form 5500 (enter 3A in Part II, line 6) and the Schedule PEN (Form 5500), Parts I and II.

Direct Filing Entities (DFEs)

Plans may invest or participate in certain trusts, accounts, and other arrangements (defined in the box on the next page) for which a separate DFE Form 5500 may be filed. The DFE Form 5500 reports information concerning the DFE and its relationship with the participating plans. The filing of the DFE Form 5500 generally provides reporting relief for the investing plans. In the case of CCTs, PSAs, MTIAs, and 103-12 IEs (as described in the chart below), the relief allows investing plans to report more limited information concerning the plan's investment in the DFE on the plan's Form 5500. In the case of GIAs, the relief exempts the participating plans from the requirement to file

separate Form 5500s. The following instructions describe the requirements for a Form 5500 filed for a DFE, and special requirements for Form 5500s filed for plans that participate in a DFE.

Note: *Only one DFE Form 5500 should be filed for all plans participating in the DFE. The DFE Form 5500 is an integral part of the annual report of each participating plan and the participating plan's annual report will not be deemed complete (and the administrator will be subject to penalties) unless the DFE Form 5500 is filed no later than the date the plan's Form 5500 is due, including approved extensions. CCTs and PSAs are not required to file a DFE Form 5500 although large plans and MTIAs participating in a CCT or PSA that choose not to file will not be eligible for the DFE reporting relief and will have to file more detailed information about the CCT or PSA on the Form 5500 for the participating plans and MTIAs .*

DIRECT FILING ENTITIES (DFEs) - DEFINITIONS

Common/Collective Trust (CCT) and Pooled Separate Account (PSA): For reporting purposes, (1) "**common/collective trust**" and (2) "**pooled separate account**" are (1) a trust maintained by a bank, trust company, or similar institution and (2) an account maintained by an insurance carrier, both of which are regulated, supervised, and subject to periodic examination by a state or Federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations as that term is used in Code section 1563. See 29 CFR 2520.103-3, 103-4, 103-5, and 103-9 .For reporting purposes, a CCT or PSA is not a DFE until a Form 5500 is filed for the CCT or PSA. A CCT or PSA is not required to file a DFE Form 5500, however, a plan participating in a CCT or PSA for which a Form 5500 has not been filed does not receive the reporting relief afforded to plans participating in a DFE. See the instructions below on page 10-11 pertaining to special requirements for plans which invest in CCTs or PSAs that are not DFEs. ***Note:*** *For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3-101(h)(1)(iii) does not constitute a pooled separate account.*

Master Trust Investment Account (MTIA): For reporting purposes, a "**master trust**" is a trust for which a regulated financial institution (as defined below) serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control with respect to the management of assets held in the trust), and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held. A "**regulated financial institution**" means a bank, trust company, or similar financial institution that is regulated, supervised, and subject to periodic examination by a state or Federal agency. "**Common control**" is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated). The assets of a master trust are considered to be held in one or more "investment accounts." A "**master trust investment account**" may consist of a pool of assets or a single asset. Each pool of assets held in a master trust must be treated as a separate master trust investment account if each plan that has an interest in the pool has the same fractional interest in each asset in the pool as its fractional interest in the pool, and if each such plan may not dispose of its interest in any asset in the pool without disposing of its interest in the pool. A master trust may also contain assets that are not held in such a pool. Each such asset must be treated as a separate MTIA. **Note:** Under the alternative method of compliance cited below, a Form 5500 must be filed for each MTIA. The administrator of a plan with assets held in an MTIA that consists exclusively of one or more assets of that plan during the entire plan year may elect to report the assets as if they were not in an MTIA. See 29 CFR 2520.103-1(e).

103-12 Investment Entity: For reporting purposes, an entity described below becomes a "**103-12IE**" when a Form 5500 is filed for the entity. 29 CFR 2520.103-12 provides an alternative method of reporting for plans that invest in an entity, other than an MTIA, CCT, or PSA, whose underlying assets include "plan assets" within the meaning of 29 CFR 2510.3-101 of two or more plans that are not members of a "related group" of employee benefit plans. For this reporting purpose, a "**related group**" consists of each group of two or more employee benefit plans (1) each of which receives 10% or more of its aggregate contributions from the same employer or from a member of the same controlled group of corporations (as determined under Code section 1563(a), without regard to Code section 1563(a)(4) thereof); or (2) each of which is either maintained by, or maintained pursuant to a collective-bargaining agreement negotiated by, the same employee organization or affiliated employee organizations. For this purpose, an "**affiliate**" of an employee organization means any person controlling, controlled by, or under common control with such organization. See 29 CFR 2520.103-12.

Group Insurance Arrangement (GIA): 29 CFR 2520.104-43 exempts each welfare benefit plan that is part of a group insurance arrangement from the requirement to file a Form 5500 if a Form 5500 is filed for the group insurance arrangement. A "**group insurance arrangement**" provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively-bargained multiple-employer plan), fully insures one or more welfare plans of each participating employer, and uses a trust both as the holder of the insurance contracts and the conduit for payment of premiums to the insurance company.

DFE Lines and Schedules to Complete

A Form 5500 filed for a DFE must comply with the Form 5500 instructions for large pension plans not intending to be qualified, substituting the term "DFE" for the word "plan" unless otherwise specified in the instructions.

Note: *Because contributions and benefit payments are considered to be made to/by the plan (not to/by a DFE), a CCT, PSA, MTIA or 102-12 IE should report the total of all transfers of assets to the CCT, PSA, MTIA or 103-12 IE, including those resulting from contributions to participating plans on line 2j(1) of the Schedule FIN, and the total of all*

transfers of assets out of the CCT, PSA, MTIA, or 103-12 IE, including those disbursed as benefit payments by participating plans, on line 2j(2).

Reporting Requirements For a Common/Collective Trust (CCT) or Pooled Separate Account (PSA) Filing a Form 5500

1. Complete Form 5500 Part I, lines A, B(4) (enter a C or P, as appropriate, in the space provided), and D and Part II, lines 1, 2, 5, and 8;
2. Attach one or more Schedules Ds, as appropriate, to list all plans that participated in the CCT or PSA and all CCTs, PSAs and 103-12 IEs in which the CCT or PSA invested at any time during the CCT or PSA year; and
3. Attach Schedule FIN, with Parts I, II, and III completed, to the Form 5500 to report financial information concerning the CCT or PSA.

Reporting Requirements For A Master Trust Investment Account (MTIA)

1. Complete Form 5500, Part I, lines A, B(4) (enter an M), and D and Part II, lines 1, 2, 5, 7 and 8;
2. Attach one or more Schedule As, as appropriate, to the Form 5500 to report insurance, annuity, and investment contracts held by the MTIA;
3. Attach a Schedule C, if applicable, to list the service providers for the MTIA;
4. Attach one or more Schedule Ds to the Form 5500 to list all plans that participated in the MTIA and any CCTs, PSAs and 103-12 IEs in which the MTIA invested at any time during the MTIA year;
5. Attach Schedule FIN to the Form 5500 to report financial information concerning the MTIA; and
6. Attach one or more Schedule Gs, as appropriate, to list MTIA loans, leases and fixed income obligation in default or uncollectible; and to list MTIA nonexempt transactions;

Reporting Requirements For 103-12 IEs

1. Complete Form 5500, Part I, lines A, B(4) (enter an E), and D and Part II, lines 1, 2, 5, and 8;
2. Attach one or more Schedule As, as appropriate, to the Form 5500 to report insurance, annuity, and investment contracts held by the 103-12 IE;
3. Attach Schedule C (if applicable) to list the service providers for the 103-12 IE and any terminated accountants;
4. Attach one or more Schedule Ds to the Form 5500 to list plans that participated in the 103-12 IE and any CCTs, PSAs and 103-12 IEs in which the 103-12 IE invested at any time during the 103-12 IE year;
5. Attach Schedule FIN to the Form 5500 to report financial information on the 103-12 IE;
6. Attach one or more Schedule Gs to the Form 5500 to list 103-12 IE loans, leases and fixed income obligation in default or uncollectible, and any nonexempt transactions with an employee benefit plan; and
7. Attach the report of an independent qualified public accountant for the 103-12 IE to the Form 5500.

Reporting Requirements For A Group Insurance Arrangement (GIA)

1. Complete Form 5500, Part I, lines A, B(4) (enter a G), and D and Part II, lines 1,2, 5, 7 and 8.
2. Attach one or more Schedule As, as applicable, to the Form 5500 to report insurance contracts held by the GIA;
3. Attach Schedule C, if applicable, to list the service providers for the GIA and any terminated accountants;
4. Attach one or more Schedule Ds, as applicable, to the Form 5500 to list plans that participated in the GIA at any time during the GIA year;
5. Attach a Schedule FIN to the Form 5500 to report financial information concerning the GIA;
6. Attach one or more Schedule Gs to the Form 5500 to list all GIA nonexempt transactions; and
7. Attach the report of an independent qualified public accountant for the GIA to the Form 5500. See 29 CFR 2520.103-2.

Special Requirements for a Form 5500 Filed for a Plan Participating in DFEs, CCTs and/or PSAs

1. Attach one or more Schedule Ds to list all CCTs, PSAs, MTIAs, and 103-12 IEs in which the plan invested during the year.
2. If the Schedule FIN is attached to the Form 5500, enter the dollar value of the plan's interests in DFEs in Part I, lines 1c(9) through 1c(12). Enter the plan's net investment gain or loss from all DFEs in Part II, lines 2b(6) through 2c(9), as appropriate.

Caution: Do not enter an amount in 1c(9) or 1c(10) for CCTs and PSAs for which a Form 5500 has not been filed. Allocate the plan's interest in the underlying assets of these CCTs and PSAs and enter the allocated values in the appropriate asset and liability categories. Do not allocate the income and expenses of these CCTs and PSAs. Enter the plan's net investment gain or loss from all CCTs and PSAs in Part II, lines 2b(6) or 2b(7), as appropriate.

3. If the Schedule FIN-SP is attached to the Form 5500, enter the allocable lines 1 and/or 2, dollar value of the plan's interests in DFEs, CCTs, and PSAs in Part I, as appropriate.

QUICK REFERENCE CHART OF FORM 5500 SCHEDULES AND ATTACHMENTS

This chart is intended to provide only general guidance -- please refer to the specific Form 5500 instructions for complete information on filing requirements (e.g., *Pension and Welfare Plans Excluded From Filing* on page 4 and *Lines and Schedules To Complete* on page 7)

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE	Fringe Benefit Plan
Schedule A (Insurance Information)	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete if MTIA, 103-12 IE, or GIA has insurance contracts.	Not required.
Schedule B (Actuarial Information)	Must complete if defined benefit plan and subject to minimum funding standards	Must complete if defined benefit plan and subject to minimum funding standards	Not required.	Not required.	Not required.	Not required.
Schedule C (Service Provider Information)	Must complete if service provider paid $5,000 or more and/or an accountant or actuary was terminated.	Not required.	Must complete if service provider paid $5,000 or more and/or an accountant or actuary was terminated.	Not required.	MTIAs, GIAs and 103-12 IEs must complete Part I if service provider paid $5,000 or more. GIAs and 103-12 IEs must complete Part II if an accountant was terminated.	Not required.
Schedule D (DFE/ Participating Plan Information)	Must complete if plan participates in DFE, CCT, and/or PSA.	Must complete if plan participates in DFE, CCT, and/or PSA.	Must complete if plan participates in DFE, CCT, and/or PSA.	Must complete if plan participates in DFE, CCT, and/or PSA.	Must complete.	Not required.
Schedule E (ESOP Information)	Must complete if ESOP.	Must complete if ESOP.	Not required.	Not required.	Not required.	Not required.
Schedule F (Fringe Benefit Plan Information)	Not required.	Not required.	Not required.	Not required.	Not required.	Must complete.
Schedule FIN (Large Plan and DFE Financial Information)	Must complete.	Not required.	Must complete.	Not required.	Must complete.	Not required.

	Large Pension Plan	Small Pension Plan	Large Welfare Plan	Small Welfare Plan	DFE	Fringe Benefit Plan
Schedule FIN-SP (Small Plan Financial Information)	Not required.	Must complete.	Not required.	Must complete	Not required.	Not required.
Schedule G (Financial Schedules)	Must complete if Schedule FIN, lines 4b, 4c, or 4d are "Yes."	Not required.	Must complete if Schedule FIN, lines 4b, 4c, or 4d are "Yes."	Not required.	Must complete if Schedule FIN, lines 4b, 4c, or 4d for a GIA, MTIA or 103-12 IE are "Yes."	Not required.
Schedule P (Annual Return of Fiduciary)	Voluntary	Voluntary	Not required.	Not required.	Not required.	Not required.
Schedule PEN (Pension Plan Information)	Must complete.	Must complete.	Not required.	Not required.	Not required.	Not required.
Schedule Q (Qualified Pension Plan Information)	Must complete if qualified plan.	Must complete if qualified plan.	Not required.	Not required.	Not required.	Not required.
Schedule SSA (Statement Identifying Separated Participants With Deferred Vested Benefits)	Must complete if plan had separated participants with deferred vested benefits to report.	Must complete if plan had separated participants with deferred vested benefits to report.	Not required.	Not required.	Not required.	Not required.
Accountant's Report	Must attach.	Not required.	Must attach.	Not required.	Must attach for a GIA or 103-12 IE.	Not required.

Form 5500 Line-By-Line Instructions

If the Form 5500 being filed has pre-printed answers, verify the accuracy of the printed responses, strike out any incorrect responses and add any information necessary to provide a complete and accurate response. "Yes/No" questions must be marked "Yes" or "No," but not both. "N/A" is not an acceptable response unless expressly permitted in the instructions for that line.

Part I - Annual Report Identification Information

File Form 5500 with "199X" printed in the upper right hand corner for a plan year that began in 199X. If the plan year is not the 199X calendar year, enter the dates in Part I. A form printed for a prior year may not be used to report for this plan year.

Box A(1). - Check this box if an annual return/report has not been previously filed for this plan. For the purpose of completing box A(1), the Form 5500-EZ is not considered an annual return/report.

Box A(2). - Check this box if this Form 5500 is being submitted to correct errors and/or omissions on a previously filed Form 5500 for the 199X plan year.

Box A(3). - Check this box if this Form 5500 is the last Form 5500 required to be submitted for this plan. (See **Final Return/Report** on page 6)

Note: *Check the "final Form 5500" box (and enter "4R" on line 4b) for a welfare plan that has not been terminated if a Form 5500 is not required to be filed for the next plan year because the welfare plan has*

become eligible for an exemption. For example, certain unfunded and insured welfare plans may be required to file the 199X Form 5500 and be exempt from filing the 1999 Form 5500 if the number of participants covered as of the beginning of the 1999 plan year drops below 100. See ***Do Not File A Form 5500 For A Plan Providing Welfare Benefits That Is Any Of The Following*** *on page 4. Should the number of participants covered by such a plan increase to 100 or more in a future year, the plan should check the "first Form 5500" box on that year's Form 5500.*

Kinds of Filers

The different types of plan entities that file the Form 5500 are described below. In general, the following rules apply.

1. If one employer or one employee organization maintains a plan, file a separate return/report for the plan. If the employer or employee organization maintains more than one such plan, file a separate return/report for each plan

2. A "controlled group" is considered one employer. A "controlled group" for Form 5500 reporting purposes is a controlled group of corporations under Code sections 414(b), a group of trades or businesses under common control under Code section 414(c), or an affiliated service group under Code section 414(m).

3. If several employers participate in a program of benefits in which the funds attributable to each employer are available to pay benefits only for that employer's employees, each employer must file a separate return/report.

Box B(1) - Check this box if the Form 5500 is filed for a multiemployer plan. A plan is a multiemployer plan if (1) more than one employer is required to contribute, (2) the plan is maintained pursuant to one or more collective bargaining agreements, and (3) an election under section 414(f)(5) and ERISA section 3(37)(E) has not been made. File one Form 5500 for each multiemployer plan. Contributing employers do not file individually for these plans. See Code section 414(f) and 29 CFR 2510.3-37 for details on multiemployer plans.

Box B(2). - Check this box if the Form 5500 is filed for a single employer plan. A single employer plan is an employee benefit plan maintained by one employer or one employee organization. Do not check box B(2) if the Form 5500 is filed for a multiemployer plan or a multiple-employer plan. However, if more than one employer participates in a plan and the plan provides that each employer's contributions are available to pay benefits only for that employer's employees, a separate Form 5500 with box B(2) checked must be filed for each participating employer. These filers are considered separate single employer plans for Form 5500 reporting purposes.

Box B(3). - Check this box if the Form 5500 is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not one of the plans already described. For reporting purposes, a controlled group is considered one employer. Multiple employer plans include plans that are collectively bargained and collectively funded, and that had properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3). File one return/report for each such multiple employer plan.

Note: *Check box B(3) and file a single Form 5500 only if all plan assets are available to pay all plan benefits -- a plan maintained by more than one employer is eligible to file a single Form 5500 only if all plan assets are available to pay all plan benefits.*

Box B(4). - Check this box if the Form 5500 is being filed for a DFE. Identify the type of DFE by entering the appropriate initials as specified below. A Form 5500 filed for a **Direct Filing Entity (DFE)** (see page 9 for definitions) must enter "**MTIA**" for the report of a master trust investment account; "**103-12 IE**" for a 103-12 investment entity; "**CCT**" for a common/collective trust; "**PSA**" for a pooled separate account; or "**GIA**" for a group insurance arrangement.

Note: *If box B(4) is checked, the entry on line 1b must be 501 or higher for a GIA or 801 or higher for any other type of DFE.*

Box C. - Check box C when the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process (even if the plan is not established and administered by a joint board of trustees) and even if only some of the employees covered by the plan are members of a collective

bargaining unit that negotiates contributions and/or benefits. The contributions and/or benefits do not have to be identical for all employees under the plan.

Box D. - Check this box if you filed for an extension of time to file this form. Attach a copy of the approved Form 5558 or a copy of the employer's extension of time to file the income tax return if you are using the automatic extension of time to file Form 5500 until the due date of the Federal income tax return of the employer, as described in **When to File** on page 5.

Part II - Basic Plan Information

The number preceding each instruction refers to the item number on the Form 5500.

Line 1a.- Enter the formal name of the plan or DFE or enough information to identify the plan or DFE. If the present name of the plan exceeds 70 characters and spaces, abbreviate it.

Line 1b.- Enter the three-digit plan number (PN) the employer or plan administrator assigned to the plan. The three digit number with the plan sponsor's EIN entered on line 2b, is used by the IRS, DOL and PBGC as a unique 12 digit number to identify the plan or DFE being reported on the Form 5500.

Assign 001 or a higher sequential number to any plan providing pension benefits as illustrated in the table below. Assign 501 or a higher sequential number for welfare and fringe benefit plans and GIAs. Assign 801 or a higher sequential number to DFEs that are not GIAs. Do **not** use 999 on line 1b.

Once you use a plan or DFE number, continue to use it for that plan or DFE on all future filings with the IRS, DOL and PBGC. Do not use it for any other plan or DFE, even if the first plan or DFE is terminated.

For each Form 5500 with the same EIN (line 2b), when ▼	Assign Plan Number ▼
Part II, box 6a is checked	001 to the first plan. Consecutively number others as 002, 003...
Part II, box 6b and/or 6c is checked **or** a G is entered on Part I, line B(4).	501 to the first plan or GIA. Consecutively number others as 502, 503...
Part I, box B(4) checked for a DFE other than a GIA.	801 to the first DFE. Consecutively number others as 802, 803...

Exception: *If the 333 (or a higher number in a sequence beginning with 333) was previously assigned to the plan, and box 6a is checked, that number may continue to be entered in line 1b.*

Line 1c.- Enter the date the plan first became effective.

Line 2a.- Enter the name and address of the plan sponsor or, in the case of a Form 5500 filed for a DFE, the name and address of the insurance company, financial institution or other sponsor of the DFE (the trust or other entity that holds the insurance contract for a group insurance arrangement). If the plan covers only the employees of one employer, enter the employer's name. If the Post Office does not deliver mail to the street address and the sponsor has a P.O. box, show the box number with the street address.

The term "plan sponsor" means -
- The employer, for an employee benefit plan that a single employer established or maintains, and for a fringe benefit plan;
- The employee organization in the case of a plan of an employee organization; or
- The association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Include enough information on line 2a to describe the sponsor adequately. For example, "Joint Board of Trustees of Local 187 Machinists" rather than just "Joint Board of Trustees." A plan of a controlled group of corporations whose sponsor is more than one of the members of the controlled group should insert the name of only one of the sponsoring members.

Line 2b.- Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00-1234567.

Employers and plan administrators who do not have an EIN should apply for one on **Form SS-4**, Application for Employer Identification Number. Form SS-4 can be obtained at most IRS or Social Security Administration (SSA) offices.

A plan of a controlled group of corporations whose sponsor is more than one of the members of the controlled group should insert the EIN of the sponsoring member named in 2a.

If the plan sponsor is a group of individuals, get a single EIN for the group. When you apply for a number, enter on line 1 of Form SS-4 the name of the group, such as "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan." EINs may be obtained by filing Form SS-4 as explained above.

Note: *Although EINs for funds (trusts or custodial accounts) associated with plans are generally not required to be furnished on the Form 5500, the IRS will issue EINs for such funds for other trust reporting purposes. EINs may be obtained by filing Form SS-4 as explained above.*

Plan sponsors should use the trust EIN described in the **Note** above when opening a bank account or conducting other transactions for a trust that require an EIN.

Line 2d.- Enter the business code that best describes the nature of the plan sponsor's business from the list of business codes located at the end of these instructions. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a.- Enter the name and address of the plan administrator, unless (a) the administrator is the sponsor identified in item 2, or (b) Part I, box B(4) is checked because the Form 5500 is submitted as the report of a DFE. If (a) or (b) applies, the word "Same" should be entered on line 3a and lines 3b and 3c should be blank. Plan administrator means—

- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by regulations if an administrator is not designated and a plan sponsor cannot be identified.

Line 3b.- Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500 reporting purposes. If thee plan administrator does not have an EIN, apply for one as explained in the instructions for line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Note: *Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must get an EIN.*

Line 4.- The description of "participant" in the instructions below is only for purposes of line 4 of this form.

Plans providing only welfare benefits should determine the number of participants by reference to 29 CFR 2510.3-3(d). Include former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA who are covered by the employee welfare benefit plan. Dependents are considered to be neither participants nor beneficiaries in a welfare plan.

To determine the number of participants in a pension plan for purposes of line 4, count all active participants; retired or separated participants receiving or entitled to future benefits; and deceased participants whose beneficiaries are receiving or are entitled to receive benefits.

The term "active participant" includes all individuals who are currently in employment covered by a plan and are earning or retaining credited service under a plan. This term includes individuals who are covered by the plan, but are not currently accruing a benefit. For example, count individuals who are eligible to elect to have the employer make payments to a Code section 401(k) qualified cash or deferred arrangement, regardless of whether an election was made. The term "active participant" also includes any nonvested individuals who are earning or retaining credited service under a plan.

This term does not include nonvested former employees who have incurred the break in service period specified in the plan.

Deceased participants include all deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan.

Participants receiving or entitled to benefits include all individuals who are retired or separated from employment covered by the plan and are currently receiving benefits or are entitled to receive benefits under the plan in the future.

Note: *Do not include any individual who (1) is an "alternate payee" entitled to pension benefits under a qualified domestic relations order; (2) received an irrevocable commitment from an insurance company to pay all the benefits to which the individual is entitled under the plan; (3) is a nonvested former employee who incurred the break in service period specified in the plan; (4) is a child who is an "alternate recipient" entitled to health benefits under a qualified medical child support order; (5) is a former employees who received a distribution or deemed distribution of his or her entire nonforfeitable account balance.*

Line 5.- If the plan sponsor's name and EIN have changed since the last return/report was filed for this plan enter the name, EIN and plan number as it appeared on the last return/report filed for this plan.

Line 6.- Benefits Provided Under the Plan. Check the appropriate boxes to indicate the types of benefit provided by the plan. On the lines provided, enter all applicable codes from the table below that describe the characteristics of the plan being reported.

Examples: 1. A Form 5500 filed for a qualified defined benefit pension plan guaranteed by the PBGC which provides benefits that are primarily pay related with an offset arrangement should check box 6a and enter the codes "1A", "1D" and "1G".
2. A Form 5500 filed for a welfare plan providing health insurance, life insurance, dental insurance, and eye examinations to its employees should check 6b and enter the codes "4A", "4B", "4D", and "4E".
3. A Form 5500 for a prototype qualified employee benefit plan providing defined benefit pension benefits guaranteed by the PBGC that are primarily pay related, life insurance, and voluntary employee contributions allocated to separate accounts should check boxes 6a and 6b and enter the codes "1A", "1G","2K", "3E" and "4B".

Code	Plan Characteristics - Check box 6a and/or 6b and enter all codes that appear in the left column below on the lines provided if the plan characteristics and explanation below apply to the plan being reported.
	Pension benefit features - Box 6a - Defined Benefit Pension Feature Codes 1A to 1H - A defined benefit plan provides benefits based on a specific formula that is not based on the value of the assets and earnings of the plan.
1A	Benefits are primarily pay related
1B	Benefits are primarily flat dollar
1C	Cash balance plan - Plan benefits are based on hypothetical accounts with guaranteed asset earning rates.
1D	Offset arrangement - Plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer.
1E	401(h) arrangement - Plan contains separate accounts under Code section 401(h) to provide employee health benefits.
1F	414(k) arrangement - Benefits are based partly on the balance of the separate account of the participant (also include appropriate defined contribution pension feature codes).
1G	Covered by PBGC - Plan is covered under the PBGC insurance program (see ERISA section 4021).
1H	Terminated for PBGC purposes - Plan has terminated for PBGC purposes under ERISA sections 4041 or 4042 and the plan termination date is on or before the last day of the plan year.
	Box 6a - Defined Contribution Pension Feature Codes 2A to 2P
2A	Allocations based upon age, service, or age and service

2B	Target benefit plan
2C	Money purchase (other than target benefit)
2D	Offset plan - Plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer.
2E	Profit-sharing
2F	404(c) Plan -- This plan is intended to meet the conditions of 29 CFR 2550.404c-1.
2G	Participant-Directed Account Plan - Total - Participants have the opportunity to direct the investment of all the assets allocated to their individual accounts.
2H	Participant-Directed Account Plan - Part - Participants have the opportunity to direct the investment of a portion of the assets allocated to their individual accounts.
2I	Stock bonus
2J	401(k) feature - A cash or deferred arrangement described in Code section 401(k) that is part of a qualified defined contribution plan that provides for an election by employees to defer part of their compensation or receive these amounts in cash.
2K	401(m) arrangement - Employee contributions are allocated to separate accounts under the plan or employer contributions are based, in whole or in part, on employee deferrals or contributions to the plan.
2L	403(b)(1) arrangement - See the instructions on page 2 for Code section 403(b)(1) arrangements for certain exempt organizations
2M	403(b)(7) accounts - See the instructions on page 2 for Code section 403(b)(7) custodial accounts for regulated investment company stock for certain exempt organizations
2N	408 accounts and annuities - See the instructions on page 2 for pension plan utilizing individual Code section 408 retirement accounts or annuities as the funding vehicle for providing benefits.
2O	An ESOP other than a leveraged ESOP - A completed Schedule E must be attached to a Form 5500 filed for an Employee Stock Ownership Plan (ESOP).
2P	Leveraged ESOP - An ESOP that acquires employer securities with borrowed money or other debt-financing techniques. A completed Schedule E must be attached to a Form 5500 filed for an ESOP..
	Box 6a - Other Pension Benefit Feature Codes 3A to 3I
3A	Non-U.S. plan - Pension Plan maintained outside the United States primarily for nonresident aliens
3B	Plan covering Self-Employed individuals
3C	Plan not intended to be qualified - A plan not intended to be qualified under Code sections 401, 403, or 408.
3D	Master plan - A pension plan that is made available by a sponsoring organization for adoption by employers; that is the subject of a favorable opinion letter under Revenue Procedure 89-9, 1989-1 C.B. 780, as modified by Rev. Proc. 90-21, 1990-1 C.B. 499; and for which a single funding medium (for example, a trust or custodial account) is established for the joint use of all adopting employers. For this purpose, sponsoring organizations include banks, IRS-approved nonbank trustees, insurance companies, regulated investment companies, certain trade or professional associations, and other organizations described in section 3.07 of Revenue Procedure 89-9, as modified.
3E	Prototype plan - A pension plan that is made available by a sponsoring organization for adoption by employers; that is the subject of a favorable opinion letter under Revenue Procedure 90-21, 1990-1 C.B. 780, as modified by Rev. Proc. 90-21, 1990-1 C.B. 499; and under which a separate funding medium (for example, a separate trust or custodial account) is established for each adopting employer. See the preceding paragraph regarding the meaning of "sponsoring organization."
3F	Regional Prototype plan - A pension plan that is made available by a regional sponsor for adoption by employers and that is the subject of a favorable notification letter under Rev. Proc. 89-13, 1989-1 C.B. 801, as modified by Rev. Proc. 90-21, 1990-1 C.B. 499. For this purpose, regional sponsors include individuals and organizations, other than organizations that are permitted to sponsor master or prototype plans.
3G	One- participant plan - A plan without employees as defined in 29 CFR 2510.3-3(b).
3H	Plan is sponsored by a controlled group (Code sections 414(b), (c), or (m)).
3I	Other
	Box 6b - Welfare Benefit Codes 4A to 4R
4A	Health (other than dental or vision)
4B	Life Insurance

4C	Supplemental unemployment
4D	Dental
4E	Vision
4F	Temporary disability (accident and sickness)
4G	Prepaid legal
4H	Long-term disability
4I	Severance pay
4J	Apprenticeship and training
4K	Scholarship (funded)
4L	Death benefits (other than life insurance, including travel accident)
4P	Taft-Hartley Financial Assistance for Employee Housing Expenses
4Q	Other
4R	Report of unfunded, fully insured, or combination unfunded/insured welfare plan that will not file a Form 5500 for next plan year in accordance with 29 CFR 2520.104-20.

Line 7.- Funding and Benefit Arrangements. Check all boxes that apply to indicate the funding and benefit arrangements used during the plan year. The funding arrangement is the method for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides benefits. The benefit arrangement is the method by which benefits are actually provided to participants by the plan. For the purposes of line 7:

"Insurance" means the plan has an account, contract, or policy with, and/or used the investment services of, an insurance company. Do not check "insurance" if the sole function of the insurance company was to provide administrative services.

Code section 412(i) insurance contracts are contracts that provide retirement benefits under a plan that are guaranteed by an insurance carrier. In general, such contracts must provide for level premium payments over the individual's period of participation in the plan (to retirement age), premiums must be timely paid as currently required under the contract, no rights under the contract may be subject to a security interest and no policy loans may be outstanding. If a plan is funded exclusively by the purchase of such contracts, the otherwise applicable minimum funding requirements of section 412 of the Code and section 302 of ERISA do not apply for the year and a Schedule B is not required to be filed.

"Trust" includes any fund or account which receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company.

"General assets of the sponsor" means the plan either had no assets or some assets were commingled with the general assets of the plan sponsor prior to the time the plan actually provided the benefits promised.

"Other" means the plan used a method to either fund or provide benefits under the plan without using an insurance company, Code section 412(i) insurance contract, trust, or the general assets of the plan sponsor.

Example: If the plan invested all of its assets in banks, registered investment companies, or other non-insurance company investments until it purchased annuities to provide the benefits promised under the plan, boxes 7a(3) and 7b(1) should be checked.

Note: At least one Schedule A must be attached to the Form 5500 if 7a(1), 7a(2), 7b(1), and/or 7b(2) is checked. See the instructions to the Schedule A and enter the number of Schedules A on line 8, if applicable.

Line 8.- Form 5500 Schedules.

All attachments to the Form 5500, including schedules, must include both the plan sponsor's EIN and the plan number entered on lines 2b and 1b of the Form 5500. Check the boxes on line 8 to indicate the Schedules being filed and, where lines are provided, enter the number of schedules attached to the Form 5500. The Schedules are described below.

Pension Schedules

Schedule PEN (Pension Plan Information) must be completed if the Form 5500 is being filed for a pension benefit plan unless otherwise specified under **Limited Pension Plan Reporting** on page 8. See the instructions for the Schedule PEN (Form 5500).

Schedule Q (Qualified Pension Plan Coverage Information) must be completed for a pension benefit plan that is intended to be qualified under Code section 401(a) or section 403(a). See the instructions for the Schedule Q (Form 5500).

Schedule B (Actuarial Information) is required for certain plans, in accordance with the instructions for the Schedule B. See the instructions for the Schedule B (Form 5500). Also see the instructions for Part III of the Schedule PEN.

Schedule E (ESOP Annual Information) is required for all pension benefit plans with ESOP benefits. See the instructions for Schedule E.

Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits) may be needed to report separated participants. See **When to Report a Separated Participant** in the instructions for Schedule SSA.

Fringe Benefit Schedule

Schedule F (Fringe Benefit Plan Annual Information) must be attached to the Form 5500 for all fringe benefit plans. See the instructions for the Schedule F (Form 5500).

Financial Schedules

Schedule FIN (Financial Information) is required for all pension benefit plans and welfare benefit plans filing as "large plans," unless the plan is exempt as an insured or unfunded plan or under **Limited Pension Plan Reporting** on page 8. Schedule FIN is also required for all DFE filers (CCTs, PSAs, MTIAs, 103-12 IEs, and GIAs). See the instructions for the Schedule FIN (Form 5500).

Schedule FIN-SP (Financial Information - Small Plan) is required for all pension benefit plans and welfare benefit plans filing as "small plans," unless the plan is exempt as an insured or unfunded plan or under **Limited Pension Plan Reporting** on page 8. See the instructions for the Schedule FIN-SP (Form 5500).

Schedule A (Insurance Information) is required if any benefits under an employee benefit plan are provided by an insurance company, insurance service or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization. This includes investment contracts with insurance companies such as guaranteed investment contracts and pooled separate accounts. Schedule A information is required to be reported for the plan year. If the contract began after the beginning of the plan year, the information should cover from the commencement of the contract to the end of the plan year. If the contract terminated before the end of the plan year, the information should cover from the beginning of the plan year to the termination of the contract. The information may not cover a period of more than 12 months in length. See the instructions for the Schedule A (Form 5500).

Note: *Do not file Schedule A to report Administrative Services Only (ASO) contracts. Do not file Schedule A if a Schedule A is filed for the contract as part of the Form 5500 filed directly by a master trust investment account or 103-12 IE. Do not file Schedule A if the plan covers only: (1) an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) partners, or partners and one or more of the partner's spouses in a partnership.*

ERISA Section 103(a)(2) requires an insurance company (or similar organization) to provide the plan administrator with the information needed to complete the annual report. Contact the insurance company (or similar organization) if the required information is not received in a timely manner. If the information is missing on the Schedule A (Form

5500) due to a refusal of the insurance company to provide the information, note this on Schedule A.

Schedule C (Service Provider Information) is required when the Form 5500 is filed for a large plan, MTIA, 103-12 IE or GIA and (1) any service provider who rendered services to the plan during the plan year received $5,000 or more in compensation, directly or indirectly from the plan or (2) an accountant and/or actuary has been terminated. For additional information, see the Schedule C instructions.

Schedule D (Participating Plan/DFE Schedule) is required when the Form 5500 is filed for an employee benefit plan with investments in one or more DFEs; or for a Form 5500 filed for a DFE. See the instructions for the Schedule D (Form 5500).

Schedule G. (Financial Transaction Schedules). **Parts I and II** (Loans, Leases, and Fixed Income Obligations) is required when the Form 5500 is filed for a large plan, MTIA, 103-12 IE or GIA and the Schedule FIN requires the reporting of certain loans, leases, and fixed income obligations in default or determined to be uncollectible. **Part III** (Non-Exempt Transactions) is required for large plans, MTIAs, and GIAs to report non-exempt transactions. See the instructions for the Schedule G (Form 5500).

Schedule P (Annual Return of Fiduciary of Employee Benefit Trust) is required, for the plan year in which the trust year ends, by any fiduciary (trustee or custodian) of an organization that is qualified under Code section 401(a) and exempt from tax under Code section 501(a) who wants to protect the organization under the statute of limitations provided in Code section 6501(a). See the instructions for the Schedule P (Form 5500).

ERISA COMPLIANCE QUICK CHECKLIST

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary, and it should not be filed with your Form 5500.

If you answer "No" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports that tell participants what the plan provides and how it operates?

2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?

3. Do you respond to written participant inquiries for copies of plan documents and information within 30 days?

4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?

5. Is your plan covered by a fidelity bond against losses due to fraud or dishonesty?

6. Are the plan's investments diversified so as to minimize the risk of large losses?

7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?

8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks associated with plan investments before making the investments?

9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?

10. Did the plan pay participant benefits on time and in the correct amounts?

If you answer "Yes" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official, for example, has the plan made a loan to or participated in an investment with the employer, company officer, or plan trustees?

2. Has any plan official used the assets of the plan for his/her own interest?

3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Pension and Welfare Benefits Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

Codes for Principal Business Activity and Principal Product or Service These industry titles and definitions are based, in general, on the **Proposed NAICS-based industry coding structure for Corporations** authorized by the Regulatory and Statistical Analysis Division, Office of Information and Regulatory Affairs, Office of Management and Budget, to classify enterprises by type of activity in which they are engaged. (*indicates a pseudo-code (combination))

Code	
Agriculture, Forestry, Fishing & Hunting	
111000	Crop Production
112000	Animal Production
115000	Support Activities for Agriculture & Forestry
116000*	Forestry & Logging, Fishing, Hunting & Trapping
Mining	
211110	Oil & Gas Extraction
212110	Coal Mining
212200	Metal Ore Mining
Non-Metallic Mineral Mining and Quarrying	
212310	Stone Mining & Quarrying
212320	Sand, Gravel, Clay, & Ceramic & Refractory Minerals Mining & Quarrying
212390	Other Non-Metallic Mineral Mining & Quarrying
213110	Support Activities for Mining
Utilities	
221100	Electric Power Generation, Transmission & Distribution
221210	Natural Gas Distribution
221300	Water, Sewage & Other Systems
Construction	
233110	Land Subdivision and Land Development
233200	Residential Building Construction
233300	Nonresidential Building Construction
234000	Heavy Construction
Special Trade Contractors	
235110	Plumbing, Heating & Air-Conditioning Contractors
235310	Electrical Contractors
236000*	All Other Special Trade Contractors
Manufacturing	
Food Manufacturing	
311110	Animal Food Mfg
311200	Grain & Oilseed Milling
311300	Sugar & Confectionery Product Mfg
311400	Fruit & Vegetable Preserving & Specialty Food Mfg
311500	Dairy Product Mfg
311600	Meat Product Mfg
311700	Seafood Product Preparation & Packaging
311800	Bakeries & Tortilla Mfg
311900	Other Food Mfg
Beverage and Tobacco Product Manufacturing	
312110	Soft Drink & Ice Mfg
312150*	Alcoholic Beverage Mfg (Breweries, Wineries, and Distilleries)
312200	Tobacco Mfg
Textile Mills and Textile Mill Products	
313000	Textile Mills
314000	Textile Product Mills
Apparel Manufacturing	
315100	Apparel Knitting Mills
315220	Men's & Boys' Cut & Sew Apparel Mfg
315230	Women's & Girls' Cut & Sew Apparel Mfg
315280*	Other Cut & Sew Apparel Mfg and Contractors
315900	Apparel Accessories & Other Apparel Mfg
Leather and Allied Product Manufacturing	
316210	Footwear Mfg
316800*	Leather Tanning & Other Leather & Allied Product Mfg
Wood Product Manufacturing	
321110	Sawmills & Wood Preservation
321210	Veneer, Plywood, & Engineered Wood Product Mfg
321900	Other Wood Product Mfg
Paper Manufacturing and Printing	
322100	Pulp, Paper, & Paperboard Mills
322200	Converted Paper Product Mfg
323100	Printing & Related Support Activities
Petroleum and Coal Products Manufacturing	
324110	Petroleum Refineries
324180*	Other Petroleum & Coal Products Mfg, except Petroleum Refineries
Chemical Manufacturing	
325100	Basic Chemical Mfg
325200	Resin, Synthetic Rubber, & Artificial & Synthetic Fibers & Filaments Mfg
325300	Pesticide, Fertilizer & Other Agricultural Chemical Mfg
325410	Pharmaceutical & Medicine Mfg
325500	Paint, Coating, Adhesive, & Sealant Mfg
325600	Soap, Cleaning Compound & Toilet Preparation Mfg
325900	Other Chemical Product Mfg
Plastics and Rubber Products Manufacturing	
326100	Plastics Product Mfg
326200	Rubber Product Mfg
Non-Metallic Mineral Product Manufacturing	
327100	Clay Product & Refractory Mfg
327210	Glass & Glass Product Mfg
327300	Cement & Concrete Product Mfg
327800*	Lime, Gypsum & Other Nonmetallic Mineral Product Mfg
Primary Metal Manufacturing	
331500	Foundries (ferrous and nonferrous)
331600*	Ferrous Metal & Ferroalloy Mfg
331700*	Nonferrous Metal Production & Processing
Fabricated Metal Product Manufacturing	
332110	Forging & Stamping
332300	Architectural & Structural Metals Mfg
332400	Boiler, Tank, & Shipping Container Mfg
332700	Machine Shops, Turned Product, & Screw, Nut & Bolt Mfg
332810	Coating, Engraving, Heat Treating, & Allied Activities
332980*	Cutlery & Hand Tool, Hardware, Spring & Wire Products & Other Fabricated Metal Product Mfg
Machinery Manufacturing	
333100	Agriculture, Construction, & Mining Machinery Mfg
333200	Industrial Machinery Mfg
333310	Vending, Commercial Laundry, Office, Photographic, Photocopying & Other Service Industry & Commercial Machinery Mfg
333410	Ventilation, Heating, Air-Conditioning & Commercial Refrigeration Equip Mfg
333510	Metalworking Machinery Mfg
333610	Engine, Turbine & Power Transmission Equip Mfg
333900	Other General Purpose Machinery Mfg
Computer and Electronic Product Manufacturing	
334110	Computer & Peripheral Equip Mfg
334410	Semiconductor & Other Electronic Component Mfg
334510	Navigational, Measuring, Medical, & Control Instruments Mfg
334610	Mfg & Reproducing Magnetic & Optical Media
334800*	Communication, Audio and Video Equip Mfg
Electrical Equipment, Appliance and Component Manufacturing	
335200	Household Appliance Mfg
335800*	All Other Electrical Equip & Component Mfg
Transportation Equipment Manufacturing	
336410	Aerospace Product & Parts Mfg
336610	Ship & Boat Building
336700*	Motor Vehicles, Trailer, and Parts Mfg
336800*	Railroad Rolling Stock and Other Transportation Equip Mfg
Furniture and Related Product Manufacturing	
337000	Furniture & Related Product Mfg
Miscellaneous Manufacturing	
339110	Medical Equipment & Supplies Mfg
339900	Other Misc Mfg
Wholesale Trade	
Durable Goods	
421100	Motor Vehicle & Motor Vehicle Part & Supplies Wholesalers
421200	Furniture & Home Furnishing Wholesalers
421300	Lumber & Other Construction Materials Wholesalers
421400	Professional & Commercial Equip & Supplies Wholesalers
421500	Metal & Mineral (except Petroleum) Wholesalers
421600	Electrical Goods Wholesalers
421700	Hardware, & Plumbing & Heating Equip & Supplies Wholesalers
421800	Machinery, Equip & Supplies Wholesalers
421900	Misc Durable Goods Wholesalers
Nondurable Goods	
422100	Paper & Paper Product Wholesalers
422210	Drug, Drug Proprietaries & Druggists' Sundries Wholesalers
422300	Apparel, Piece Goods, & Notions Wholesalers
422400	Grocery & Related Product Wholesalers
422500	Farm Product Raw Material Wholesalers
422600	Chemical & Allied Products Wholesalers
422700	Petroleum & Petroleum Products Wholesalers
422800	Beer, Wine, & Distilled Alcoholic Beverage Wholesalers
422900	Misc Nondurable Goods Wholesalers
Retail Trade	
441100	Automobile Dealers
441200	Other Motor Vehicle Dealers
441300	Automotive Parts, Accessories & Tire Stores
442000	Furniture & Home Furnishings Stores
443100	Electronics & Appliance Stores
444000	Building Material & Garden Equip & Supplies Dealers
445100	Grocery Stores
445200	Specialty Food Stores
445300	Beer, Wine & Liquor Stores
446100	Health & Personal Care Stores
447100	Gasoline Stations

Code	
448000	Clothing, Shoe, Jewelry, Luggage and Leather Goods Stores
451000	Sporting Goods, Hobby, Book & Music Stores
452000	General Merchandise Stores
453000	Misc Store Retailers
454000	Nonstore Retailers (includes Mail-Order, Electronic Shopping, Vending Machines, and Fuel Dealers)
Transportation & Warehousing	
481000	Air Transportation
482110	Rail Transportation
483000	Water Transportation
484000	Truck Transportation
485000	Transit & Ground Passenger Transportation
486000	Pipeline Transportation
487000	Scenic & Sightseeing Transportation
488000	Support Activities for Transportation
492000	Couriers & Messengers
493100	Warehousing & Storage Facilities
Information	
Publishing Industries	
511110	Newspaper Publishers
511120	Periodical Publishers
511130	Book Publishers
511180*	Database, Directory, Greeting Cards, and Other Publishers
511210	Software Publishers
Motion Picture and Sound Recording Industries	
512100	Motion Picture & Video Industries
512200	Sound Recording Industries
Broadcasting and Telecommunications	
513100	Radio & Television Broadcasting
513200	Cable Networks & Program Distribution
513300	Paging, Cellular, Satellite, and Other Telecommunications
514000	News Syndicates, Libraries, On-Line Information & Data Processing Services
Finance & Insurance	
Depository Credit Intermediation	
522120	Savings Institutions
522130	Credit Unions
522180*	Commercial, Private and Industrial Banking
Non-Depository Credit Intermediation	
522210	Credit Card Issuing
522220	Sales Financing
522292	Real Estate Credit
522297*	Consumer Lending, International Trade Financing and Other Non-Depository Credit Intermediation
522300	Activities Related to Credit Intermediation
Securities, Commodity Contracts & Other Intermediation & Related Activities	
523300*	Securities Brokers & Dealers, Portfolio Management, and Related Activities
523400*	Commodities Brokers & Dealers
523800*	All Other Financial Investment Activities & Exchanges
Insurance Carriers & Related Activities	
524140*	Direct Life, Health, and Medical Insurance & Reinsurance Carriers
524150*	Direct Insurance & Reinsurance (except Life, Health & Medical) Carriers
524200	Agencies, Brokerages & Other Insurance Related Activities
Funds, Trusts & Other Financial Vehicles (U.S. Only)	
525910	Open-End Investment Funds
525930	Real Estate Investment Trusts
525800*	All Other Funds, Trusts, & Other Financial Vehicles
Real Estate & Rental & Leasing	
Real Estate	
531100	Lessors of Real Estate
531210	Offices of Real Estate Agents & Brokers
531300	Real Estate Property Managers, Appraisers, & Other Activities Related to Real Estate
Rental and Leasing Services	
532000	Rental & Leasing Services
533110	Owners & Lessors of Other Non-Financial Assets
Professional, Scientific & Technical Services	
541100	Legal Services
541211	Offices of Certified Public Accountants
541218*	Tax Preparation, Bookkeeping, Payroll and Other Accounting Services
541300	Architectural, Engineering & Related Services
541500	Computer Systems Design & Related Services
541600	Management, Scientific & Technical Consulting Services
541800	Advertising & Related Services
542100*	Interior, Industrial, & Graphic Design, Scientific & Marketing Research, Photographic, Veterinary & Other Professional, Scientific & Technical Services
Holding Companies	
551111	Offices of Bank Holding Companies
551112	Offices of Other Holding Companies
Administrative & Support, Waste Management & Remediation Services	
561000	Administrative & Support Services
562000	Waste Management & Remediation Services
Educational Services	
611000	Educational Services
Health Care & Social Assistance	
621110	Offices of Physicians
621210	Offices of Dentists
621300	Offices of Other Health Practitioners
621480*	Outpatient Care Centers (except HMO Medical Centers)
621491	HMO Medical Centers
621510	Medical & Diagnostic Laboratories
621800*	Other Ambulatory and Home Health Care Services
622000	Hospitals
623000	Nursing & Residential Care Facilities
624000	Social Assistance (including Child Day Care Services)
Arts, Entertainment & Recreation	
711000	Performing Arts, Spectator Sports & Related Industries
712100	Museums, Historical Sites & Similar Institutions
713000	Amusement, Gambling & Recreation Industries
Accommodation & Foodservices	
721000	Accommodation
722000	Foodservices & Drinking Places
Other Services (except Public Administration)	
Repair and Maintenance	
811100	Automotive Repair & Maintenance
811800*	All Other Repair & Maintenance
812000	Personal & Laundry Services
813000	Religious, Grantmaking, Civic, & Professional & Similar Organizations
Unclassified Establishments	
999999	Unclassified Establishments

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Department of Labor
Pension and Welfare
Benefits Administration

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Instructions for Schedule A (Form 5500)

Insurance Information

"ERISA" refers to the Employee Retirement Income Security Act of 1974.

General Instructions

Who Must File

The Schedule A must be attached to the Form 5500 for every defined benefit pension plan, defined contribution pension plan, welfare benefit plan, and DFE (except CCT or PSA) where any benefits under the plan or DFE are provided (or investments are managed) by an insurance company, insurance service, or other similar organization during the plan or DFE year. See the Form 5500 instructions for **Direct Filing Entities (DFEs).**

Check the appropriate box on Part II, line 8 of the Form 5500 and enter the total number, if any Schedules A have been attached.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule A is attached.

Include only the contracts issued to the plan or DFE for which this return/report is being filed. Information on the Schedule A must be for the plan year reported on the Form 5500 (including a short plan year) unless the contract began or ended within the plan year, in which case the information should pertain to the period within the plan year during which the contract was effective.

Caution: *Do not enter Schedule A information for the insurance contract or policy year.*

Part I - Summary of All Insurance Contracts

Column 1(c). - Enter the number assigned by the National Association of Insurance Commissioners (NAIC) to the insurance company. If none, enter "0000".

Column 1(e). - Since coverage may fluctuate during the year, the administrator should estimate the number of persons that were covered by the policy or contract at the end of the plan year. Where contracts covering individual employees are grouped, compute entries as of the end of the plan year.

Column 2(c). - Report all sales commissions regardless of the identity of the recipient. Do not report override commissions, salaries, bonuses, etc., paid to a general agent or manager for managing an agency, or for performing other administrative functions.

Column 2(d). - Fees to be reported represent payments by insurance carriers to agents, brokers and other persons for items other than commissions (e.g., service fees, consulting fees, and finders fees). Fees paid by insurance carriers to persons other than agents and brokers should be reported here, **NOT** in Parts II and III on Schedule A as acquisition costs, administrative charges, etc

Note: *For purposes of item 2, commissions and fees include amounts paid by an insurance company on the basis of the aggregate value (e.g, .policy amounts, premiums) of contracts or policies (or classes thereof) placed or retained. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported in column (c) or (d), as appropriate.*

Caution: *For plans and DFEs required to file Schedule C, fees paid by employee benefit plans or DFEs to agents, brokers, and other persons are also to be reported on Schedule C (Form 5500).*

Column 2(e). - Enter the most appropriate code:

1 - Bank, Savings & Loan Association, Credit Union or other similar financial institution
2 - Trust company
3 - Insurance Agent or Broker
4 - Agent or Broker other than insurance
5 - Third party administrator
6 - Investment Company/Mutual Fund
7 - Investment Manager/Adviser
8 - Labor union
9 - Foreign entity (e.g., an agent or broker, bank, insurance company, etc. not operating within the jurisdictional boundaries of the United States)
0 - Other

Part II - Investment and Annuity Contract Information

Line 3. - Enter the current value for an investment contract identified on item 6, e.g., a deposit administration (DA), immediate participation guarantee (IPG), or guaranteed investment contract (GIC).

Exception: This line may be left blank if (1) the Schedule A is filed for a defined benefit pension plan and the contract was entered into before March 20, 1992, or (2) the Schedule A is filed for a defined contribution pension plan and the contract is a fully benefit-responsive contract, i.e., it provides a liquidity guarantee by a financially responsible third party of principal and previously accrued interest for liquidations, transfers, loans, or hardship withdrawals initiated by plan participants exercising their rights to withdraw, borrow, or transfer funds under the terms of a defined contribution plan that do not include substantial restrictions to participants' access to plan funds.

Line 5a. - The rate information called for here may be furnished by attaching the appropriate schedules of current rates filed with the appropriate state insurance department or by providing a statement regarding the basis of the rates.

Lines 6b through 6f. - Show deposit fund amounts rather than experience credit records when both are maintained.

Part III - Welfare Benefit Contract Information

Line 7i. - Report a stop-loss insurance policy whose claims are paid to the plan or which is otherwise an asset of the plan. ***Note:*** *Employers sponsoring welfare plans that provide benefits exclusively out of the employer's general assets may purchase a stop loss policy for the employer to facilitate the employer in managing its risk associated with its liabilities under the plan. These employer contracts generally are not plan assets and are not reportable on Schedule A.*

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

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Instructions for Schedule B (Form 5500)

Actuarial Information

"ERISA" refers to the Employee Retirement Income Security Act of 1974.
"Code" refers to the Internal Revenue Code.

General Instructions

Who Must File

The employer or plan administrator of a defined benefit plan that is subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA) must file this schedule as an attachment to the Form 5500 or Form 5500-EZ. The Schedule B does not have to be filed if Form 5500-EZ is not required to be filed (in accordance with the instructions for Form 5500-EZ); however, the funding standard account for the plan must continue to be maintained, even if the Schedule B is not filed.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule B is attached.

Lines A through E and G (most recent enrollment number) must be completed for ALL plans. If the Schedule B is attached to a Form 5500, lines A, B, C and D should include the same information as reported in Part II of the Form 5500.

Check the box in line F if the plan has 100 or fewer participants in the prior plan year. A plan has 100 or fewer participants in the prior plan year only if there were 100 or fewer participants (both active and nonactive participants) on each day of the preceding plan year, taking into account participants in all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) who are also employees of that employer or member. Nonactive participants include vested terminated and retired employees.

All defined benefit plans, regardless of size or type, must complete and file Part I. Part II must be filed for all plans other than those specified in 1 and 2 below:

1. Part II should not be filed for multiemployer plans for which box 2 in line E is checked.
2. Part II should not be filed for plans that have 100 or fewer participants in the prior plan year as described above.

In addition, please note that RPA '94 refers to the Retirement Protection Act of 1994 and that OBRA '87 refers to the Omnibus Budget Reconciliation Act of 1987.

Note: *(1) For split-funded plans, the costs and contributions reported on Schedule B should include those relating to both trust funds and insurance carriers. (2) For plans with funding standard account amortization charges and credits see the instructions for lines 9c, 9j, 12j, and 13i, as applicable, regarding attachment.*

Statement by Enrolled Actuary

An enrolled actuary must sign Schedule B. The signature of the enrolled actuary may be qualified to state that it is subject to attached qualifications. See Income Tax Regulations section 301.6059-1(d) for permitted qualifications. If the actuary has not fully reflected any final or temporary regulation, revenue ruling or notice promulgated under the statute in completing the Schedule B, check the box on the last line of page 1. If this box is checked, indicate on an attachment whether an accumulated funding deficiency or a contribution that is not wholly deductible would result if the actuary had fully reflected such regulation, revenue ruling or notice. A stamped or machine produced signature is not acceptable. The most recent enrollment number must be entered in line G. In addition, the actuary may offer any other comments related to the information contained in Schedule B.

Specific Instructions

Part I

Line 1. - All entries must be reported as of the valuation date.

Line 1a. - Actuarial Valuation Date. - The valuation

for a plan year may be as of any date in the plan year, including the first or last day of the plan year. Valuations must be performed within the period specified by ERISA section 103(d) and Code section 412(c)(9).

Line 1b(1). - Current Value of Assets. - Enter the current value of assets as of the valuation date. The current value is the same as the fair market value. Do not adjust for items such as the existing credit balance or the outstanding balances of certain amortization bases. Contributions designated for 199X should not be included in this amount. Note that this entry may be different than the entry in line 2a. Such a difference may result, for example, if the valuation date is not the first day of the plan year, or if insurance contracts are excluded from assets reported on line 1b(1) but not on line 2a.

Assets that are not available to provide defined benefits under the plan, such as rollover amounts, other assets held in individual accounts, and assets held in Code section 401(h) accounts that are irrevocably committed to pay health benefits, should not be included on line 1(b)(1) regardless of whether they are reported on the Form 5500, Schedule FIN or FIN-SP, or the Form 5500-EZ. Additionally, asset and liability amounts must be determined in a consistent manner. Therefore, if the value of any insurance contracts has been excluded from the amount reported on line 1b(1), liabilities satisfied by such contracts should also be excluded from the liability values reported on lines 1c(1), 1c(2), 1d(2), and 1d(3).

Line 1b(2). - Actuarial Value of Assets. - Enter the value of assets determined in accordance with Code section 412(c)(2) or ERISA section 302(c)(2). Do not adjust for items such as the existing credit balance or the outstanding balances of certain amortization bases, and do not include contributions designated for 199X in this amount.

Line 1c(1). - Accrued Liability for Immediate Gain Methods. Complete this line only if you use an immediate gain method (see Rev. Rul. 81-213, 1981-2 C.B. 101, for a definition of immediate gain method).

Lines 1c(2)(a), (b), and (c). - Information for Plans Using Spread Gain Methods. - Complete these lines only if you use a spread gain method (see Rev. Rul. 81-213 for a definition of spread gain method).

Line 1c(2)(a). - Unfunded Liability for Methods with Bases. Complete this line only if you use the frozen initial liability or attained age normal cost method.

Lines 1c(2)(b) and (c). - Entry Age Normal Accrued Liability and Normal Cost. - For spread gain methods, the full funding limitation is calculated using the entry age normal method (see Rev. Rul. 81-13, 1981-1 C.B. 229).

Line 1d(1). - Amount Excluded from Current Liability. - In computing current liability for purposes of Code section 412(l) (but not for purposes of Code section 412(c)(7)), certain service is disregarded under Code section 412(l)(7)(D) and ERISA section 302(d)(7)(D). If the plan has participants to whom those provisions apply, only a percentage of the years of service before such individuals became participants in the plan is taken into account. Enter the amount excluded from RPA '94 current liability. If an employer has made an election under Code section 412(l)(7)(D)(iv) not to disregard such service, enter zero. Note that such an election, once made, cannot be revoked without the consent of the Secretary of the Treasury.

Lines 1d(2)(a) and 1d(3)(a) - RPA '94 Current Liability and OBRA '87 Current Liability. - All plans regardless of the number of participants must provide the information indicated in accordance with these instructions. The interest rate used to compute the RPA '94 current liability must be in accordance with guidelines issued by the IRS, using the 90% to 10X% interest rate corridor of Code section 412(l)(7)(C)(i) for plan years beginning in 199X. The RPA '94 current liability must be computed using the 1983 G.A.M. mortality table for non-disabled lives published in Rev. Rul. 95-28, 1995-1 C.B. 74, and may be computed taking into account the mortality table for disabled lives published in Rev. Rul. 96-7, 1996-1 C.B. 59. The OBRA '87 current liability is the current liability as defined in Code section 412(l)(7), but computed without regard to the limitation on the interest rate and prescribed mortality tables provided in section 412(l)(7)(C) as enacted by RPA '94. See Q&A-9(1) of Rev. Rul. 96-21, 1996-1 C.B. 64, for the specific circumstances under which the OBRA '87 current liability interest rate may be different from the RPA '94 current liability interest rate.
Each other actuarial assumption used in calculating the RPA '94 and OBRA '87 current liabilities must be the same assumptions used for calculating other costs for the funding standard account. See Notice 90-11, 1990-1 C.B. 319. The actuary must take into account rates of early retirement and the plan's early retirement and turnover provisions as they relate to benefits, where these would significantly affect the results. Regardless of the valuation date, RPA '94 and OBRA '87 current liabilities are computed taking into account only credited service through the end of the prior plan year. No salary

scale projections should be used in these computations. Do not include the expected increase in current liability due to benefits accruing during the plan year reported in lines 1d(2)(b) and 1d(3)(b) in these computations.

Lines 1d(2)(b) and 1d(3)(b). - Expected Increase in Current Liability. - Enter the amounts by which the RPA '94 and OBRA '87 current liabilities are expected to increase due to benefits accruing during the plan year on account of credited service and/or salary changes for the current year. One year's salary scale may be reflected.

Line 1d(2)(c). - Current Liability Computed at Highest Allowable Interest Rate. - Enter the current liability computed using the highest allowable interest rate. All other assumptions used should be identical to those used for lines 1d(2)(a) and (b). It is not necessary to complete line 1d(2)(c) if the plan is a multiemployer plan or if the plan had 100 or fewer participants in the prior plan year. Whether or not a plan had 100 or fewer participants in the prior plan year is determined in accordance with the instructions under **Who Must File** on page 1. This line need not be completed if the actuarial value of assets (line 1b(2)) divided by the RPA '94 current liability (line 1d(2)(a)) is greater than or equal to 90%. However, if this line is not completed, sufficient records should be retained so that the current liability amount that would otherwise have been entered on this line can be computed at a later time if required.

Lines 1d(2)(d) and 1d(3)(c). - Do not complete these lines if Code section 412(l) does not apply to the plan for this plan year under Code sections 412(l)(1), 412(l)(6), or 412(l)(9).

Line 1d(2)(d). - Expected Release from RPA '94 Current Liability for the Plan Year. - If applicable, enter the expected release from RPA '94 current liability on account of disbursements (including single sum distributions) from the plan expected to be paid after the valuation date but prior to the end of the plan year (see also Q&A-7 of Rev. Rul. 96-21). This line is applicable if the employer has elected the Transition Rule of Code section 412 (l)(11) for the plan year.

Line 1d(3)(c). - Expected Release from OBRA '87 Current Liability for the Plan Year. - If applicable, enter the expected release from OBRA '87 current liability on account of disbursements (including single sum distributions) from the plan expected to be paid after the valuation date but prior to the end of the plan year (see also Q&A-7 of Rev. Rul. 96-21).

Line 1d(4). - Expected Plan Disbursements. - Enter the amount of plan disbursements expected to be paid for the plan year (see also Q&A-8 of Rev. Rule 96-21 for plans for which the Transition Rule of section 412(l)(11) is elected).

Line 2. - All entries must be reported as of the beginning of the 199X plan year. Lines 2a and 2b should include all assets and liabilities under the plan except for assets and liabilities attributable to: (1) rollover amounts or other amounts in individual accounts which are not available to provide defined benefits, or (2) benefits for which an insurer has made an irrevocable commitment as defined in 29 CFR 4001.2.

Line 2a. - Current Value of Assets. - Enter the current value of net assets as of the first day of the plan year. Except for plans with excluded assets as described above, this entry should be the same as reported on the Form 5500 or Form 5500-EZ. Note that contributions designated for the 199X plan year are not included on those lines.

Line 2b. - RPA '94 Current Liability (beginning of year). - Enter the RPA '94 current liability as of the first day of the plan year. Do not include the expected increase in current liability due to benefits accruing during the plan year. See the instructions for lines 1d(2)(a) and 1d(3)(a) for actuarial assumptions used in determining RPA '94 current liability.

Column (1) - Enter the number of participants and beneficiaries as of the beginning of the plan year. If the current liability figures are derived from a valuation that follows the first day of the plan year, the participant and beneficiary count entries should be derived from the counts used in that valuation in a manner consistent with the derivation of the current liability reported in columns (2) and (3).

Column (2) - Include only the portion of the current liability attributable to vested benefits.

Column (3) - Include the current liability attributable to all benefits, both vested and nonvested.

Line 2c. - This calculation is required under ERISA section 103(d)(11). Do not complete if line 2a divided by line 2b(4), column (3), is 70% or greater.

Line 3. - Contributions Made to Plan. - Show all employer and employee contributions for the plan year. Include employer contributions made not later than 2 months (or the later date allowed under Code section 412(c)(10) and ERISA section 302(c)(10)) after the end of the plan year. Show only contributions actually made to the plan by the date Schedule B is signed. Certain employer contributions must be made in quarterly

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installments; see Code section 412(m). Note that contributions that are made to meet the liquidity requirement of Code section 412(m)(5) should be reported.

Add the amounts in both columns (b) and (c) and enter both results on the total line. All contributions must be credited toward a particular plan year.

Line 4a. - Quarterly Contributions. - In accordance with RPA '94, only plans that have a funded current liability percentage (as provided in Rev. Rul. 95-31, 1995-1 C.B. 76) for the preceding plan year of less than 100 percent are subject to the quarterly contribution requirement of Code section 412(m) and ERISA section 302(e). For 1997, the funded current liability percentage for the preceding plan year is equal to line 1b(2) (actuarial value of assets) divided by line 1d(2)(a) (RPA '94 current liability), both lines as reported on the previous year's Schedule B (Q&A-3,4 and 5 of Rev. Rul. 95-31, also provide guidance on this computation).

Line 4b. - Multiemployer plans, plans with funded current liability percentages (as provided in Code section 412(m)(1)) of 100 percent or more for the preceding plan year, and plans that on every day of the preceding plan year had 100 or fewer participants (as defined under **Who Must File**) are not subject to the liquidity requirement of Code section 412(m)(5) and ERISA section 302(e)(5) and should not complete this line. See Q&A's 7 through 17 of Rev. Rul. 95-31 for guidance on the liquidity requirement. Note that a certification by the enrolled actuary must be attached if the special rule for nonrecurring circumstances is used (see Code section 412(m)(5)(E)(ii)(II) and Q&A-13 of Rev. Rul. 95-31).

If the plan has a liquidity shortfall for any quarter of the plan year (see Q&A-10 of Rev. Rul. 95-31), enter the amount of the liquidity shortfall for each such quarter. If the plan was subject to the liquidity requirement, but did not have a liquidity shortfall, enter zero. File Form 5330 with the IRS to pay the 10% excise tax(es) if there is a failure to pay the liquidity shortfall by the required due date, unless a waiver of the 10% tax under Code section 4971(f) has been granted.

Line 5. - Actuarial Cost Method. - Enter only the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method was used in all years. The projected unit credit method is included in the Accrued benefit (unit credit) category of line 5c. If a method other than a method listed in lines 5a through 5g is used, check the box for line 5h and specify the method. For example, if a modified individual level premium method for which actuarial gains and losses are spread as a part of future normal cost is used, check the box for 5h and describe the cost method. For the shortfall method, check the appropriate box for the underlying actuarial cost method used to determine the annual computation charge.

Changes in funding methods include changes in actuarial cost method, changes in asset valuation method, and changes in the valuation date of plan costs and liabilities or of plan assets. Changes in the funding method of a plan include not only changes to the overall funding method used by the plan but also changes to each specific method of computation used in applying the overall method. Generally, these changes require IRS approval. If the change was made pursuant to Rev. Proc. 95-51, 1995-2 C.B. 430, check yes in line 5j. If approval was granted by either an individual ruling letter or a class ruling letter for this plan, enter the date of the applicable ruling letter in line 5k.

Line 6. - Actuarial Assumptions. - If gender-based assumptions are used in developing plan costs, enter those rates where appropriate in line 6. Note that requests for gender-based cost information do not suggest that gender-based benefits are legal. If unisex tables are used, enter the values in both Male and Female lines. Complete all blanks. Enter N/A if not applicable.

Attach a statement of actuarial assumptions (if not fully described by line 6), and actuarial methods used to calculate the figures shown in lines 1 and 9 (if not fully described by line 5).

Also attach a summary of the principal eligibility and benefit provisions on which the valuation was based, an identification of benefits not included in the valuation, a description of any significant events that occurred during the year, a summary of any changes in principal eligibility or benefit provisions since the last valuation, a description (or reasonably representative sample) of plan early retirement factors, and any change in actuarial assumptions or cost methods and justifications for any such change (see section 103(d) of ERISA).

Also, include any other information needed to fully and fairly disclose the actuarial position of the plan.

Line 6a(1). - RPA '94 Current Liability Interest Rate. - Enter the interest rate used to determine RPA '94 current liability. For plan years beginning in 199X, the interest rate used must not fall outside the corridor of 90% to 10X% of the weighted average interest rate (see Code section 412(l)(7)(C)(i)). The rate used must be in accordance with the guidelines issued by the IRS. See Notice 90-11 and Rev. Rul. 96-21. Enter rate to the nearest .01 percent.

Line 6a(2). - OBRA '87 Current Liability Interest Rate. - Enter the interest rate used to determine OBRA '87 current liability. The interest rate used must not fall outside the corridor of 90% to 110% of the weighted average interest rate. The rate used must be in accordance with the guidelines issued by the IRS. See Notice 90-11 and Rev. Rul. 96-21. Enter rate to the nearest .01 percent.

Line 6b. - Weighted Average Retirement Age. - If each participant is assumed to retire at his/her normal retirement age, enter the age specified in the plan as normal retirement age. If the normal retirement age differs for individual participants, enter the age that is the weighted average normal retirement age; do not enter NRA. Otherwise, enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the nearest whole age that is the weighted average retirement age. On an attachment to Schedule B, list the rate of retirement at each age and describe the methodology used to compute the weighted average retirement age, including a description of the weight applied at each potential retirement age.

Line 6c. - Check Yes, if the rates in the contract were used (e.g., purchase rates at retirement).

Line 6d. - Mortality Table. - The 1983 G.A.M. mortality table published in Rev. Rul. 95-28 must be used in the calculation of RPA '94 current liability for non-disabled lives. The 1983 G.A.M. mortality table published in Rev. Rul. 96-7 may be used in the calculation of RPA '94 current liability for disabled lives. Enter the mortality table code for non-disabled lives used for OBRA '87 current liability (see instructions for lines 1d(2)(a) and 1d(3)(a)) and for valuation purposes as follows:

Mortality Table	Code
1951 Group Annuity	1
1971 Group Annuity Mortality (G.A.M.)	2
1971 Individual Annuity Mortality (I.A.M.)	3
UP-1984	4
1983 I.A.M	5
1983 G.A.M	6
1983 G.A.M. (solely per Rev. Rul. 95-28)	7
UP-1994	8
Other	9
None	0

Code 6 includes all sex-distinct versions of the 1983 G.A.M. table other than the table published in Rev. Rul. 95-28. Thus, for example, Code 6 also would include the 1983 G.A.M. male-only table used for males, where the 1983 G.A.M. male-only table with a 6-year setback is used for females. Code 9 includes mortality tables other than those listed in Codes 1 through 8, including any unisex version of the 1983 G.A.M. table including the table published by the Service in Rev. Rul. 95-6, 1995-1 C.B. 80.

Where an indicated table consists of separate tables for males and females, add F to the female table (e.g., 1F). When a projection is used with a table, follow the code with "P" and the year of projection (omit the year if the projection is unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age setback or set forward is used, indicate with "-" or "+" and the number of years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year setback, enter " 1P71-5." If the table is not one of those listed, enter "9" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements, under " post-retirement," enter on line 6d the value of $1.00 of monthly pension beginning at the age shown on line 6b, assuming the normal form of annuity for an unmarried person; in this case enter "N/A" on lines 6e and 6f.

Line 6e. - Valuation Liability Interest Rate. - Enter the assumption as to the expected interest rate (investment return) used to determine all the calculated values with the exception of current liability and liabilities determined under the alternative funding standard account (see instructions for line 8b). If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date. Enter rates to the nearest .01 percent.

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Line 6f. - Expense Loading. - If there is no expense loading, enter -0-. For instance, there would be no expense loading attributable to investments if the rate of investment return on assets is adjusted to take investment expenses into account. If there is a single expense loading not separately identified as pre-retirement or post-retirement, enter it under pre-retirement and enter "N/A" under post-retirement. Where expenses are assumed other than as a percentage of plan costs or liabilities, enter the assumed pre-retirement expense as a percentage of the plan's normal cost, and enter the post-retirement expense as a percentage of plan liabilities. If the normal cost of the plan is zero, enter the assumed pre-retirement expense as a percentage of the sum of the lines 9c(1) and 9c(2), minus line 9j. Enter rates to the nearest .1 percent.

Line 6g. - Annual Withdrawal Rates. - Enter rates to the nearest .01 percent. Enter the rate assumed for a new entrant to the plan at the age shown. Enter "S" before the rate if that rate is different for participants with the same age but longer service. Enter "U" before the rate if all participants of that age are assumed to experience the same withdrawal rates, regardless of service. Enter "C" before the rate if criteria other than service apply to the rates used.

Line 6h. - Salary Scale. - If a uniform level annual rate of salary increase is used, enter that annual rate. Otherwise, enter the level annual rate of salary increase that is equivalent to the rate(s) of salary increase used. Enter the annual rate as a percentage to the nearest .01 percent, used for a participant from age 25 to assumed retirement age. If the plan's benefit formula is not related to compensation, enter N/A.

Line 6i. - Estimated Investment Return. - Enter the estimated rate of return on the actuarial value of plan assets for the 1-year period ending on the valuation date. For this purpose, the rate of return is determined by using the formula 2I/(A + B - I), where I is the dollar amount of the investment return under the asset valuation method used for the plan, A is the actuarial value of the assets one year ago, and B is the actuarial value of the assets on the current valuation date. Enter rates to the nearest .1 percent, with negative amounts in parentheses.

Note: *Use the above formula even if the actuary feels that the result of using the formula does not represent the true estimated rate of return on the actuarial value of plan assets for the 1-year period ending on the valuation date. The actuary may attach a statement showing both the actuary's estimate of the rate of return and the actuary's calculations of that rate.*

Line 7. - New Amortization Bases Established. - List all new amortization bases established in the current plan year (prior to the combining of bases, if bases were combined). Use the following table to indicate the type of base established, and enter the appropriate code under "Type of Base." Put negative numbers (i.e., credit bases) in parentheses (e.g., ($20,000)). List amortization bases and charges and/or credits as of the valuation date. Bases that are considered fully amortized because there is a credit for the plan year on line 9l(4) should be listed.

Code	Type of Amortization Base
1	Experience gain or loss
2	Shortfall gain or loss
3	Change in unfunded liability due to plan amendment
4	Change in unfunded liability due to change in actuarial assumptions
5	Change in unfunded liability due to change in actuarial cost method
6	Waiver of the minimum funding standard
7	Switchback from alternative funding standard account
8	Initial unfunded liability (for new plan)
9	150% current liability full funding limitation base

Line 8a. - Funding Waivers or Extensions. - If a funding waiver or extension request is approved after the Schedule B is filed, an amended Schedule B should be filed with Form 5500 to report the waiver or extension approval (also see instructions for line 9m(1)).

Line 8b. - Alternative Methods or Rules. - Enter the appropriate code from the table below if one or more of the alternative methods or rules were used for this plan year.

Code	Method or Rule
1	Shortfall method
2	Alternative funding standard account (AFSA)
3	Shortfall method used with AFSA
4	Plan is in reorganization status
5	Shortfall method used when in reorganization status

Shortfall Method: Only certain collectively bargained plans may elect the shortfall funding method (see regulations under Code section 412). Advance approval from the IRS for the election of the shortfall method of funding is NOT required if it is first adopted for the first plan year to which Code section 412 applies. However, advance approval

from the IRS is required if the shortfall funding method is adopted at a later time, if a specific computation method is changed, or if the shortfall method is discontinued.

Alternative Minimum Funding Standard Account: A worksheet must be attached if the alternative minimum funding standard account is used. The worksheet should show:

1. The prior year alternate funding deficiency (if any).

2. Normal cost.

3. Excess, if any, of the value of accrued benefits over the market value of assets.

4. Interest on **1, 2,** and **3** above.

5. Employer contributions (total from columns (b)) of line 3 of Schedule B.

6. Interest on **5** above.

7. Funding deficiency: if the sum of **1** through **4** above is greater than the sum of **5** and **6** above, enter the difference.

If the entry age normal cost method was not used as the valuation method, the plan may not switch to the alternative minimum funding standard account for this year. Additionally, in line **3** of the worksheet, the value of accrued benefits should exclude benefits accrued for the current plan year. The market value of assets should be reduced by the amount of any contributions for the current plan year.

Reorganization Status: Attach an explanation of the basis for the determination that the plan is in reorganization for this plan year. Also, attach a worksheet showing for this plan year:

1. The amounts considered contributed by employers,

2. Any amount waived by the IRS,

3. The development of the minimum contribution requirement (taking into account the applicable overburden credit, cash-flow amount, contribution bases and limitation on required increases on the rate of employer contributions), and

4. The resulting accumulated funding deficiency, if any, that is to be reported on line 9p.

Line 8c. - All multiemployer plans check "No". Plans other than multiemployer plans check "Yes" only if the plan is covered by Title IV of ERISA. If line 8c is "Yes" attach a schedule of the active plan participant data used in the valuation for this plan year. Use the same size paper as the Schedule B and the format shown above and label the schedule " Line 8c Schedule of Active Participant Data."

Expand this schedule by adding columns after the "5 to 9" column and before the "40 & up" column for active participants with total years of credited service in the following ranges: 10 to 14; 15 to 19; 20 to 24; 25 to 29; 30 to 34; and 35 to 39. For each column, enter the number of active participants with the specified number of years of credited service divided according to age group. For participants with partial years of credited service, round the total number of years of credited service to the next lower whole number.

Plans reporting 1,000 or more active participants on line 2b(3) must also provide average compensation data. For each grouping, enter the average compensation of the active participants in that group. For this purpose, compensation is the compensation taken into account for each participant under the plan's benefit formula, limited to the amount defined under Code section 401(a)(17). Years of credited service are the years credited under the plan's benefit formula. Do not enter the average compensation in any grouping that contains fewer than 20 participants.

If the plan is a multiple-employer plan, complete one or more schedules of active-participant data in a manner consistent with the computations for the funding requirements reported on line 9. See the specific instructions for **Lines 9a through 9q.** For example, if the funding requirements are computed as if each participating employer maintained a separate plan, attach a separate schedule for each participating employer in the multiple-employer plan.

Line 9. - Shortfall Method. - Under the shortfall method of funding, the normal cost in the funding standard account is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) that occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated.

Lines 9a through 9q. - Multiple Employer Plans. - If the plan is a multiple employer plan subject to the rules of Code section 413(c)(4)(A) for which minimum funding requirements are to be computed as if each employer were maintaining a separate plan, complete one Schedule B for the plan. Also submit an attachment completed in the same format as lines 9a through 9q showing, for this plan year, for each individual employer maintaining the plan, the development of the minimum contribution requirement (taking into account the applicable normal cost, amortization charges and credits, and all other applicable charges or credits to the funding standard account that would apply if the employer were maintaining a separate plan). Compute the entries on Schedule B, except for the entries on

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lines 9a, 9h, 9o, and 9p, as the sum of the appropriate individual amounts computed for each employer. Compute the entry on line 9a as the sum of the prior year's funding deficiency, if any, for each individual employer and the entry on line 9p as the sum of the separately computed funding deficiency, if any, for the current year for each employer. Credit balance amounts on lines 9h and line 9o are separately computed in the same manner. (Note that it is possible for the Schedule B to show both a funding deficiency and a credit balance for section 413(c) plans. This could not appear for other plans.)

Lines 9c and 9j. - Amortization Charges and Credits. - If there are any amortization charges or credits, attach a maintenance schedule of funding standard account bases. The attachment should clearly indicate the type of base (i.e., original unfunded liability, amendments, actuarial losses, etc.), the outstanding balance of each base, the number of years remaining in the amortization period, and the amortization amount. If bases were combined in the current year, the attachment should show information on bases both prior to and after the combining of bases. The outstanding balance and amortization charges and credits must be calculated as of the valuation date for the plan year.

Line 9c(1). - 150% Current Liability Full Funding Limitation Base. - If a credit was entered on line 9l(5) on the prior year's Schedule B, establish a new base equal to the amount of the credit (increased with interest to the current valuation date at the valuation rate) and amortize the base over a 10-year period at the valuation rate.

Line 9c(2). - Amortization for funding waivers must be based on the interest rate provided in Code section 412(d) ("mandated rate").

Line 9d. - Interest as Applicable. - Interest as applicable should be charged to the last day of the plan year. The mandated rates must be used when calculating interest on any amortization charges for funding waivers.

Line 9e. - If the funded current liability percentage for the preceding year reported in line 4a is at least 100%, quarterly contributions are not required for the current plan year. Interest is charged for the entire period of underpayment. Refer to IRS Notice 89-52, 1989-1 C.B. 692, for a description of how this amount is calculated.

Note: *Notice 89-52 was issued prior to the amendment of section 412(m)(1) by the Revenue Reconciliation Act of 1989. Rather than using the rate in the Notice, the applicable interest rate for this purpose is the greater of:*

1. *175% of the Federal mid-term rate at the beginning of the plan year, or*

2. *The rate used to determine the "RPA '94" current liability.*

All other descriptions of the additional interest charge contained in Notice 89-52 still apply.

Line 9f. - Enter the required additional funding charge from line 12u. Enter **"N/A"** if line 12 is not applicable.

Line 9h. - Note that the credit balance or funding deficiency at the end of " Year X" should be equal to the credit balance or funding deficiency at the beginning of "Year X + 1." If such credit balances or funding deficiencies are not equal, attach an explanation. For example, if the difference is because contributions for a prior year which were not previously reported are received this plan year, attach a listing of the amounts and dates of such contributions.

Line 9l(1). - ERISA Full Funding Limitation. - Instructions for this line are reserved pending published guidance.

Line 9l(2). - 150% Current Liability Full Funding Limitation. - Instructions for this line are reserved pending published guidance.

Line 9l(3). - RPA '94 Override. - Instructions for this line are reserved pending published guidance.

Line 9l(4). - Full Funding Credit before reflecting OBRA '87 Full Funding Limitation. - Enter the excess of (1) the accumulated funding deficiency, disregarding the credit balance and contributions for the current year, if any, over (2) the greater of lines 9l(1) or 9l(3).

Line 9l(5). - Additional Credit due to OBRA '87 Full Funding Limitation. - Enter (1) the excess, if any, of the accumulated funding deficiency, disregarding the credit balance and contributions for the current plan year, over the greater of lines 9l(2) or 9l(3), minus (2) the amount in line 9l(4). If the result is negative, enter zero.

Line 9m(1). - Waived Funding Deficiency Credit. - Enter a credit for a waived funding deficiency for the current plan year (Code section 412(b)(3)(C)). If a waiver of a funding deficiency is pending, report a funding deficiency. If the waiver is granted after Form 5500 is filed, file Form 5500, page one only with an amended Schedule B to report the funding waiver.

Line 9m(2). - Other Credits. - Enter a credit in the case of a plan for which the accumulated funding deficiency is determined under the funding standard

account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard.

Line 9q. - Reconciliation Account. - The reconciliation account is made up of those components that upset the balance equation of Income Tax Regulations section 1.412(c)(3)-1(b). Valuation assets should not be adjusted by the reconciliation account balance when computing the required minimum funding.

Line 9q(1). - The accumulation of additional funding charges for prior plan years must be included. Enter the sum of line 9q(1) (increased with interest at the valuation rate to the first day of the current plan year) and line 9f, both from the prior year's Schedule B (Form 5500).

Line 9q(2). - The accumulation of additional interest charges due to late or unpaid quarterly installments for prior plan years must be included. Enter the sum of line 9q(2) (increased with interest at the valuation rate to the first day of the current plan year) and line 9e, both from the prior year's Schedule B (Form 5500).

Line 9q(3)(a). - If a waived funding deficiency is being amortized at an interest rate that differs from the valuation rate, enter the prior year's reconciliation waiver outstanding balance increased with interest at the valuation rate to the current valuation date and decreased by the year end amortization amount based on the mandated interest rate. Enter the amounts as of the valuation date.

Line 9q(4). - Enter the sum of lines 9q(1), 9q(2), and 9q(3)(b) (each adjusted with interest at the valuation rate to the current valuation date, if necessary).

Note: *The net outstanding balance of amortization charges and credits minus the prior year's credit balance minus the amount on line 9q(4) (each adjusted with interest at the valuation rate, if necessary) must equal the unfunded liability.*

Line 10. - Contribution Necessary to Avoid Deficiency. - Enter the amount from line 9p. However, if the alternative funding standard account is elected and the accumulated funding deficiency under that method is smaller than line 9p, enter such amount (also see instructions for line 8b). For multiemployer plans in reorganization, see the instructions for line 8b. File Form 5330 with the IRS to pay the 10% excise tax (5% in the case of a multiemployer plan) on the funding deficiency.

Line 11. - In accordance with ERISA section 103(d)(3), attach a justification for any change in actuarial assumptions for the current plan year. The preceding sentence applies for all plans.

The following instructions are applicable only to changes in current liability assumptions for plans (other than multiemployer plans) subject to Title IV of ERISA which resulted in a decrease in the unfunded current liability (UCL). If the current liability assumptions (other than a change in the assumptions required under Code section 412(l)(7)(C)) were changed for the current plan year and such change resulted in a decrease in UCL, approval for such a change may be required. However, if one of the following three conditions is satisfied with respect to a change in assumptions for a plan year, then the plan sponsor is not required to obtain approval from the IRS for such change(s):

Condition 1: Aggregate Unfunded Vested Benefits
The aggregate unfunded vested benefits as of the close of the plan year preceding the year in which assumptions were changed (as determined under section 4006(a)(3)(E)(iii) of ERISA) for the plan, and all other plans maintained by contributing sponsors (as defined in section 4001(a)(13) of ERISA) and members of such sponsor's controlled group (as defined in section 4001(a)(14) of ERISA) which are covered by Title IV of ERISA (disregarding plans with no unfunded vested benefits) is less than or equal to $50 million.

Condition 2: Amount of Decrease in UCL
The change in assumptions (other than a change required under Code section 412(l)(7)(C)) resulted in a decrease in the UCL of the plan for the plan year in which the assumptions were changed of less than or equal to $5 million.

Condition 3: Amount of Decrease in UCL, and CL Before Change in Assumptions

Although the change in assumptions (other than a change required under Code section 412(l)(7)(C)) resulted in a decrease in the UCL of the plan for the plan year in which the assumptions were changed which was greater than $5 million and less than or equal to $50 million, the decrease was less than five percent of the current liability of the plan before such change.

If the current liability assumptions for the plan have been changed, and such change requires approval of the Service, enter on an attachment the date(s) of the ruling letter(s) granting approval.

If the current liability assumptions for the plan have been changed, and such change would have required approval in the absence of satisfaction of

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one of the conditions outlined above, enter on an attachment the number of the applicable condition and the plan year for which it applies. If condition 1 or 2 applies, also enter the amount of the decrease in UCL. Note that only one of the conditions needs to be entered.

Specific Instructions for Part II

Line 12. - Additional Required Funding Charge. - There is no additional funding charge for plans that have 100 or fewer participants in the prior plan year (as defined under **Who Must File**). Do not complete Part II for such plans.

Line 12a. - A plan's "Gateway %" is equal to the actuarial value of assets (line 1b(2), unreduced by any credit balance) divided by the current liability computed with the highest allowable interest rate (line 1d(2)(c)). If line 1d(2)(c) is not completed in accordance with instructions for that line, use RPA '94 current liability reported on line 1d(2)(a). There is no additional funding charge for plan years beginning in 1997 if the Gateway % is at least 90%. In such cases, enter -0- on line 12u. There is no additional funding charge for plan years beginning in 199X if (a) the Gateway % is at least 80% but less than 90%, and (b) the Gateway for the plan year beginning in 1995 was at least 90, and (c) for the plan year beginning in 1994, at least one of the following four conditions is met (in such case, enter -0- on line 12u):

Condition Code	Condition
1	The full funding limitation was equal to zero.
2	The plan had no additional funding requirement as defined in Code section 412(l).
3	The plan would have had no additional funding requirement as defined in Code section 412(l) if current liability were computed using the highest allowable current liability interest rate for such year, and without reducing the assets by the credit balance.
4	The plan's additional funding requirement did not exceed the lesser of (a) ½ of 1% of current liability as reported in line 13a of the Schedule B of the applicable year, or (b) $5,000,000.

Line 12c. - Enter the actuarial value of assets (line 1b(2)), reduced by the prior year's credit balance (line 9h). If line 9h was determined at a date other than the valuation date, adjust the credit balance for interest at the valuation rate to the current valuation date before subtracting. Do not add a prior year's funding deficiency to the assets.

Line 12d. - Current Liability Percentage. - Enter the actuarial value of the assets expressed as a percentage of RPA '94 current liability. Enter the result to the nearest .01% (e.g., 28.72%).

Line 12f. - Enter the liability for any unpredictable contingent event (other than events that occurred before the first plan year beginning after 1988) that was included in line 12b, whether or not such unpredictable contingent event has occurred.

Line 12g. - Enter the outstanding balance of the unfunded old liability as of the valuation date. The unfunded old liability for 1996 includes the DRC base, if any, established by a plan for the 1995 plan year. The unfunded old liability (and therefore all its components) will be considered fully amortized in accordance with Q&A-7 of Rev. Rul. 96-20, 1996-1 C.B. 62.

Note: *In the case of a collectively bargained plan, this amount must be increased by the unamortized portion of any unfunded existing benefit increase liability in accordance with Code section 412(l)(3)(C).*

Line 12h. - This amount is the unfunded new liability. It is recomputed each year. If a negative result is obtained, enter zero.

Line 12i. - If the unfunded new liability is zero, enter zero for the unfunded new liability amount. If the unfunded new liability is greater than zero, first calculate the amortization percentage as follows:

If the funded current liability percentage (line 12d) is less than or equal to 60%, the amortization percentage is 30%.

If the current liability percentage exceeds 60%, the amortization percentage is determined by reducing 30% by the product of 40% and the amount of such excess. Enter the resulting amortization percentage to the nearest 0.01 percent.

The unfunded new liability amount is equal to the above-calculated percentage of the unfunded new liability.

Line 12j. - Enter the amortization amount for line 12g based on the RPA '94 current liability interest rate (line 6a(1)) in effect for the plan year and the following amortization period:

Special rule: *In the case of a collectively bargained plan, the amortization amount must be increased by the amortization of any unfunded existing benefit increase liability in accordance with Code section 412(l)(3)(C)(ii). For any such amortization, the amortization period is equal to the remainder of the*

original 18-year period that applied when the amortization began.

Base maintenance: On a separate attachment, show the initial amount of each DRC amortization base (as defined in Rev. Rul. 96-20) being amortized under the general or special rule, the outstanding balance of each DRC amortization base, the number of years remaining in the amortization period, and the amortization amount (with the valuation date as the due date of the amortization amount). It is not necessary to separately list the unfunded old liability base and the additional unfunded old liability base. Do not enter base maintenance required for line 13 here. See instructions for line 13(i) only if applicable.

Line 12l. - Enter the result determined by subtracting the amortization credits (line 9j) from the sum of the normal cost and the amortization charges (lines 9b, 9c(1) and 9c(2)). Use the valuation date as the due date for the amortization amounts. A negative result should be entered in parentheses.

Note: *Any amortization installments established under Code section 412(b) for plan years beginning after December 31, 1987, and before January 1, 1993, by reason of nonelective changes under the frozen initial liability method shall not be included in the calculation of the offset for the first 5 plan years beginning after December 31, 1994.*

Line 12m. - Unpredictable Contingent Event Amount. - Line 12m does not apply to the unpredictable contingent event benefits (and related liabilities) for an event that occurred before the first plan year beginning after December 31, 1988.

Line 12m(1). - Enter the total of all benefits paid during the plan year that were paid solely because an unpredictable event occurred.

Line 12m(5). - Amortization of All Unpredictable Contingent Event Liabilities. - Amortization should be based on the RPA '94 current liability interest rate (line 6a(1)), using the valuation date as the due date. The initial amortization period for each base established in a plan year is generally 7 years; however, see Code section 412(l)(5) for special rules.

Note: *An alternative calculation of an unpredictable contingent amount is available for the first year of amortization. Refer to Code section 412(l)(5)(D) for a description. If this alternative calculation is used, include an attachment describing the calculation.*

Line 12m(6). - RPA '94 Additional Amount. - Subtract line 12g from line 12e. If the result is zero or less than zero, enter -0-. If the result is a positive number, multiply the result by the percentage used to calculate line 12i. Enter the excess, if any, of this amount over the amount on line 12i.

Line 12n. - Preliminary charge. - Adjust with interest using the RPA '94 current liability interest rate.

Line 12o. - Contributions needed to increase current liability percentage to 100. - This amount is calculated in the same manner as the target amount except that 100 percent is substituted for the target percentage (see Announcement 96-18, 1996-15 I.R.B. 15). Instructions for computing the target amount are provided at line 14c.

Lines 12q, 12r, and 12s. - Complete only the one applicable line.

Line 12u. - If the plan had 150 or more participants on each day of the preceding plan year, enter 100%. If the plan had less than 150 participants but more than 100 participants on each day of the preceding plan year, enter the applicable percentage. The same participant aggregation rule described in the instructions for line 12 applies. The applicable percentage is calculated as follows: (1) Determine the greatest number of participants on any day during the preceding plan year in excess of 100. (2) The applicable percentage is 2% times the number of such participants in excess of 100. The percentage should not exceed 100%. The amount on line 12u is also the amount entered on line 9f.

Line 13. - Additional Funding Charge under Prior Law (for Use with the Optional and/or Transition Rules). - The line is completed if the plan sponsor elected in 1995 to use the Optional rule under Code section 412(l)(3)(E) or is using the Transition rule under Code section 412(l)(11) in 199X. Do not complete line 13 for plans that are not subject to section 412(l) in 199X (i.e., plans that entered zero on line 12u immediately after completing the Gateway in line 12a). All calculations in line 13 must be done using the law pertaining to the additional funding charge as it existed prior to RPA '94 (see Q&A-9 of Rev. Rul. 96-21).

Line 13a. - Enter the OBRA '87 current liability as of the valuation date.

Line 13b. - Enter the actuarial value of assets (line 1b(2)), reduced by the prior year's credit balance (line 9h). If line 9h was determined at a date other than the valuation date, adjust the credit balance for interest at the valuation rate to the current

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valuation date before subtracting. Do not add a prior year's funding deficiency to the assets.

Line 13c. - Enter the adjusted actuarial value of assets expressed as a percentage of current liability. Round off to two decimal places (e.g., 59.41%).

Line 13e. - Enter the outstanding balance of the unfunded old liability as of the valuation date. To compute the outstanding balance, lines 13e and 13i from the previous year's Schedule B should be used.

Line 13f. - Enter the liability for any unpredictable contingent event benefit that was included on line 13a, whether or not such event has occurred.

Line 13g. - This amount is the unfunded new liability. It will be recalculated each year. If the result is negative, enter -0-.

Line 13h. - If the unfunded new liability is zero, enter -0- for the unfunded new liability amount. If the unfunded new liability is greater than zero, first calculate the amortization percentage as follows:

1. If the funded current liability percentage (line 13c) is less than or equal to 35%, the amortization percentage is 30%.
2. If the funded current liability percentage exceeds 35%, the amortization percentage is determined by reducing 30% by the product of 25% and the amount of such excess. Enter the resulting amortization percentage to the nearest 0.01 percent.

The unfunded new liability amount is equal to the above-calculated percentage of the unfunded new liability.

Line 13i. - Enter the amortization of the outstanding balance of the unfunded old liability as of the valuation date (line 13e). In the case of a collectively bargained plan, the unfunded old liability amount to enter on line 13i must include the amortization of any unfunded existing benefit increase liability calculated in accordance with Code section 412(l)(3)(C)(ii). On a separate attachment, show the breakdown of the various liabilities being amortized, the outstanding balance of each liability, the number of years remaining in the amortization period, and the amortization amount. Any such amortization amount must be determined based on:

1. The OBRA '87 current liability interest rate in effect at the beginning of the plan year, and
2. The valuation date as the due date of the amortization payment.

The amortization period must be the remainder of the original 18-year period that applied when the amortization began.

Any such amortization amount must be redetermined each year based on the outstanding balance (line 13e). If the plan becomes fully funded on a current liability basis, the unfunded old liability (including any liability arising from collectively bargained plans) will be considered fully amortized (see Q&A-7 of Rev. Rul. 96-20).

Line 13j. - Deficit Reduction Contribution. - Enter the sum of lines 13h and 13i. This amount is the deficit reduction contribution at the valuation date.

Line 13k. - When entering the net amortization amounts for certain bases include only charges (included on line 9c) and credits (included on line 9j) attributable to original unfunded liability, amendments, funding waivers, and charges resulting from a switchback from the alternative minimum account to the funding standard account.

If a base resulted from combining and/or offsetting pre-existing bases among which were bases not designated in the preceding paragraph, and such base was not uncombined in 1989 in accordance with Announcement 90-87, 1990-30 I.R.B. 23, then such resulting base may not be included in this line 13k.

Line 13l. - Line 13l does not apply to the unpredictable contingent event benefits (and the attributable liabilities) for an event that occurred before the first plan year beginning after December 31, 1988.

Line 13l(1). - Enter the total of all benefits paid during the plan year which were paid solely because the unpredictable contingent event occurred.

Line 13l(5). - Amortization should be based on the OBRA '87 current liability interest rate and should assume beginning of the year payments for a 7-year period.

Note: *Alternative calculation of an unpredictable contingent event amount is available for the first year of amortization. Refer to Code section 412(l)(5)(D) for a description. If this alternative calculation is used, include an attachment describing the calculation.*

Line 13p. - Enter the applicable amount of interest, based on the OBRA '87 current liability interest rate, to bring the additional funding charge (line 13o) to the end of the plan year.

B

Line 14. - Transition Rule. - The Transition rule of Code section 412(l)(11) provides an alternative method of computing the additional required funding charge. The rule may be elected by the employer as part of Form 5500 in any year up to the year 2001. The charge for a year is the amount necessary to increase the funded current liability percentage to the target percentage preset for that year, with adjustments to meet the two following conditions: (1) the charge must not be less than the additional funding charge under the law as it existed prior to RPA '94, and (2) in any event, the charge under the Transition rule must not be greater than the charge under present law (ignoring the effect of the Transition rule).

The Transition rule of Code section 412(l)(11) may only be elected by the employer sponsoring an eligible plan (see Q&A-2 of Rev. Rul. 96-21).

Note: *In accordance with Q&A-2 of Rev. Rul. 96-21, a plan that was not in existence in 1995 is not eligible to use the Transition rule.*

Line 14b. - Transition Rule Target Percentage. - If the initial funded current liability percentage, line 14a, is X% or less, enter the sum of line 14a and X. If line 14a is less than or equal to X% and greater than X, enter the sum of (1) X of line 14a, and (2) X. If line 14a is less than X and greater than X, enter the sum of (1) X of line 14a, and (2) X. If line 14a is less than X and greater than or equal to X, enter the sum of (1) X of line 14a, and (2) X. If line 14a is greater than or equal to X, enter the sum of line 14a and X.

Line 14c. - Target Amount. - The target amount is the additional amount necessary to increase the funded current liability percentage to the target percentage of line 14b . The target amount is equal to the excess, if any, of the product of line 14b and the adjusted current liability, over the adjusted assets. The adjusted current liability is computed in accordance with Q&A-7 of Rev. Rul. 96-21, and is equal to the excess of (1) the sum of lines 1d(2)(a) and 1d(2)(b), over (2) line 1d(2)(d), each adjusted to the end of the plan year using the RPA '94 current liability interest rate. The adjusted assets are computed in accordance with Q&A-8 of Rev. Rul. 96-21.

Department of Labor
Pension and Welfare
Benefits Administration

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Instructions for Schedule C (Form 5500)

Service Provider Information

"ERISA" refers to the Employee Retirement Income Security Act of 1974.

General Instructions

The Schedule C (Form 5500) is required to be attached to the Form 5500 for certain plans required to attach the *Schedule FIN* to the Form 5500, MTIAs, 103-12IEs, and GIAs to report information concerning service providers.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule C is attached.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule C is attached.

Part I - Service Provider Information

Complete Part I of the Schedule C (Form 5500), to report the top 40 most highly compensated persons receiving, directly or indirectly, $5,000 or more in compensation for services rendered to the plan during the year except:

1. Employees of the plan whose only compensation in relation to the plan was less than $1,000 for each month of employment during the plan year;
2. Employees of the plan sponsor who received no direct or indirect compensation from the plan;
3. Employees of a business entity (e.g., corporation, partnership, etc.), other than the plan sponsor, who provided services to the plan; or
4. Persons whose only compensation in relation to the plan consists of insurance fees and compensation listed in a Schedule A attached to this Form 5500.

Generally, indirect compensation would not include compensation that would have been received had the service not been rendered and that cannot be reasonably allocated to the services performed. Indirect compensation includes, among other things, payment of "finder's fees" or other fees and commissions by a service provider to an independent agent or employee for a transaction or service involving the plan.

Note: *The compensation listed should only reflect the amount of compensation received by the service provider from the plan or DFE filing the Form 5500, not the aggregate amount received for providing services to several plans or DFEs.*

If this Schedule C is attached to a Form 5500 filed for a plan, do not include service providers whose compensation is reported on a Schedule C attached to a DFE Form 5500.

Line 1. - Enter the total dollar amount of compensation received by all persons who provided services to the plan who are not listed in item 2 (except for those persons described in **2, 3, or 4** above.)

Example: A plan had service providers, A, B, C, and D, who received $12,000, $6,000, $4,500, and $430, respectively, from the plan. Service providers A and B must be identified on separate lines in line 2 by name, EIN, official plan position, etc. As service providers C and D each received less than $5,000, the amount they received must be combined and $4,930 entered in line 1.

Line 2. - On row (1) include the contract administrator, if any. A contract administrator is any individual, trade or business (whether incorporated or unincorporated) responsible for managing the clerical operations of the plan on a contractual basis (e.g., handling membership rosters, claims payment, maintaining books and records), except for salaried staff or employees of the plan or banks or insurance carriers. On the remaining rows ((2) through (40)) list the top 39 most highly compensated persons who provided services to the plan, starting with the most highly compensated and ending with the lowest compensated.

Column (b).-- An EIN must be entered in column (b). If an individual is listed in column (a), the EIN to be entered in column (b) should be the EIN of the individual's employer.

Column (c).-- For example, employees, trustee, accountant, attorney, etc.

Column (d).-- For example, employee, vice-president, union president, etc.

Column (e) and (f).-- Include the plan's share of amounts of compensation for services paid during the year to a master trust investment account or 103-12 IE trustee, and to persons providing services to the master trust investment account or 103-12 IE, if such compensation is not subtracted from the gross income of the MTIA or 103-12 IE in determining the net investment gain (or loss). Amounts of compensation subtracted from gross income in determining the net investment gain (or loss) of the MTIA or 103-12 IE must be included as part of the report of the MTIA or 103-12 IE.

Include brokerage commissions or fees only if the broker is granted some discretion (see 29 CFR 2510.3-21 paragraph (d), regarding "discretion"). Include all other commissions and fees on investments.

Column (g).-- Select the code that best describes the nature of services provided, and enter the number. If more than one service was provided, enter only the code of the primary service.

Code	Service
10	Accounting (including auditing)
11	Actuarial
12	Contract administrator
13	Administration
14	Brokerage (real estate)
15	Brokerage (stocks, bonds, commodities)
16	Computing, tabulating, ADP, etc.
17	Consulting (general)
18	Custodial (securities)
19	Insurance agents and brokers
20	Investment advisory
21	Investment management
22	Legal
23	Printing and duplicating
24	Recordkeeping
25	Trustee (individual)
26	Trustee (corporate)
27	Pension insurance adviser
28	Valuation services (appraisals, etc.)
29	Investment evaluations
30	Medical
31	Legal services to participants
99	Other (specify)

Note: *Do not list PBGC or IRS as a service provider on Part I of Schedule C.*

Part II - Termination Information on Accountants and Enrolled Actuaries

An explanation of the reasons for the termination of an accountant or enrolled actuary must be provided in Part II. Include a description of any material disputes or matters of disagreement concerning the termination, even if resolved prior to the termination. If an individual is listed, the EIN to be entered should be the EIN of the individual's employer. The plan administrator must also provide the terminated accountant or enrolled actuary with a copy of the explanation for the termination provided in Part II of the Schedule C, with a completed copy of the notice below:

Model Notice To Terminated Accountant Or Enrolled Actuary

I, as plan administrator, verify that the explanation that is reproduced below or attached to this notice is the explanation concerning your termination reported on the Schedule C (Form 5500) attached to the 199X Annual Return/Report Form 5500 for the _____ (enter name of plan).
This Form 5500 is identified in line 2b by the nine-digit EIN __ - _____ (enter sponsor's EIN), and in line 1b by the three-digit PN _____ (enter plan number).

Signed
Dated

You have the opportunity to comment to the Department of Labor concerning any aspect of this explanation. Comments should include the name, EIN, and PN of the plan and be submitted to: Office of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Department of Labor
Pension and Welfare
Benefits Administration

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Instructions for Schedule D (Form 5500)

DFE/Participating Plan Information

D

General Instructions

Who Must File

The Schedule D must be attached to a Form 5500 filed for an employee benefit plan that participated in one or more master trust investment accounts (MTIAs), common/collective trusts (CCTs), pooled separate accounts (PSAs), or 103-12 IEs at any time during the plan year. The Schedule D must be attached to a Form 5500 filed for a DFE.

More than one Schedule D may be required to be attached to the Form 5500 in order to list all participating plans and/or DFEs. Enter on Part II, line 8 of the Form 5500 the total number of Schedules D attached.

Purpose of Schedule

The Schedule D attached to a plan's Form 5500 reports information about a plan's participation in DFEs, CCTs and PSAs. The Schedule D attached to a DFE's Form 5500 reports information about plans that participated in a DFE, and any CCTs, PSAs, and/or 103-12 IEs that were investments of the DFE for which this Schedule D (Form 5500) is being filed.

Specific Instructions

Lines A, B, C and D. - This information entered on these lines should be the same as the information entered on Part II, lines 1a, 1b, 2a, and 2b, respectively, on the Form 5500 to which this Schedule D is attached.

Column (a) - List the name of each MTIA, CCT, PSA, and 103-12 IE that the plan participated in at any time during the plan year if the Schedule D is attached to a Form 5500 filed for an employee benefit plan.

List the name of each plan that participated in the DFE, and the name of each CCT, PSA, and/or 103-12 IE that this DFE invested in at any time during the DFE year if the Schedule D is attached to a Form 5500 filed for a DFE.

Enter only one plan or DFE on any line.

Column (b) - Enter the sponsor of the plan, DFE, CCT or PSA named in column (a).

Column (c) - Enter the nine-digit EIN and the three-digit plan number reported on lines 2b and 1b of the Form 5500 filed for the plan or DFE named in column (a). If a plan or DFE invested in a CCT or PSA for which a Form 5500 was not filed, list the CCT or PSA, enter the EIN, and assign plan number 999. *Do not use 999 as a plan number for any other purpose.*

Column (d) - Enter one of the following letters to identify the type of MTIA, CCT, PSA, or 103-12 IE listed. If a plan is listed on the line, leave blank.

On each line that lists a ▼	Enter this letter in column (d) ▼
MTIA	M
CCT	C
PSA	P
103-12 IE	E

Column (e) - Enter on each line under column (e) the dollar interest of the plan or DFE named on line A as of the end of the plan or DFE year in each MTIA, CCT, PSA, or 103-12 IE listed on that line in column (a).

Examples: If an MTIA is named on the first line in column (a), the name of the MTIA sponsor should be listed in column (b), the nine-digit number EIN and the three digit PN used on the MTIA's Form 5500 should be entered in column (c), such as: 123456789-801; an "M" should be entered in column (d); and the dollar value of the plan's interest in the MTIA should be entered in column (e).

If a CCT for which a Form 5500 was not filed is named on the second line under column (a), the name of the sponsoring financial institution should be entered in column (b); the nine-digit number EIN for the CCT followed by 999 should be entered on the second line under column (c), such as: 123456789-999; a "C" should be entered in column (d); and the dollar value of the plan or DFE's interest in the CCT should be entered in column (e).

Department of the
Treasury
Internal Revenue Service

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Instructions for Schedule E (Form 5500)

ESOP Annual Information

"Code" refers to the Internal Revenue Code.

General Instructions

Purpose of Form

Use this schedule to satisfy the requirements under Code section 6047(e) for an annual information return for an employee stock ownership plan (ESOP).

Who Must File

Every employer or plan administrator of a pension benefit plan that contains ESOP benefits must file a Schedule E (Form 5500).

How To File

File Schedule E (Form 5500) annually as an attachment to Form 5500 or 5500-EZ.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule E is attached.

Note: *The Small Business Job Protection Act repealed the partial interest exclusion of Code section 133 effective, in general, with respect to loans made after August 20, 1996. However, Schedule E (Form 5500) must be filed for securities acquisition loans made to ESOPs before August 21, 1996, loans made pursuant to a written binding contract in effect before June 10, 1996, and at all times thereafter before the loan was made, and certain loans made after August 20, 1996, to refinance a securities acquisition loan originally made on or before August 20, 1996.*

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule E is attached.

Lines 6 through 11.--A "securities acquisition loan" is an exempt loan to an ESOP to the extent that the proceeds are used to acquire employer securities for the plan.

Line 6.--A" back to back loan" is a securities acquisition loan from a lender to an employer corporation followed by a loan from the corporation to the ESOP maintained by the employer corporation. A "back to back loan" constitutes a "securities acquisition loan" under Code section 133 if the following requirements are satisfied:

1. The loan from the employer corporation to the ESOP qualifies as an exempt loan under Excise Tax Regulations sections 54.4975-7 and 54.4975-11;

2. The repayment terms of the loan from the corporation to the ESOP are "substantially similar" (as defined in Temporary Income Tax Regulations section 1.133-1T) to the repayment terms of the loan from the corporation to the lender; and

3. If the loan from the corporation to the ESOP provides for more rapid repayment of principal and interest, the allocations under the ESOP attributable to such repayments do not discriminate in favor of highly compensated employees (within the meaning of Code section 414(q)).

Line 7.--An immediate allocation loan is any loan to an employer corporation to the extent that, within 30 days, employer securities are transferred to the ESOP maintained by the corporation in an amount equal to the proceeds of the loan and the securities are allocable to the accounts of plan participants within one year of the date of the loan. (See Code section 133(b)(1)(B).)

Line 8c.-- The transition rules of Act section 7301(f)(2) through (6) of the Omnibus Budget Reconciliation Act of 1989 (OBRA), P.L. 101-239, provide that the amendments made to Code section 133 by OBRA will not apply to certain loans that satisfy the requirements of those paragraphs. In general, the amendments made by OBRA will not apply to:

1. Loans made pursuant to a binding written commitment in effect on June 6, 1989, and at all times thereafter before the loan was made, or pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission (SEC)) in effect on June 6, 1989, and at all times thereafter before such securities were acquired.

2. If subparagraph **1** does not apply, loans made pursuant to a binding written commitment in effect on July 10, 1989, and at all times thereafter before the loan was made, but only to the extent that the proceeds were used to acquire employer securities pursuant to a certain binding written contract (or tender offer registered with the SEC) in effect on July 10, 1989, and at all times thereafter before the securities are acquired.

3. Any loan made on or before July 10, 1992, pursuant to a written agreement entered into before July 10, 1989, if the agreement evidences the intent of the borrower to enter, on a periodic basis, into securities acquisition loans described in Code section 133(b)(1)(B) (as in effect before December 19, 1989). This rule applies only if one or more securities acquisition loans were made to the borrower on or before July 10, 1989.

See Act section 7301(f)(2) to determine the specific requirements of the transition rules described above. See Act section 7301(f)(3) through (6) for additional transition rules on refinancings, collective-bargaining agreements, filings with the United States, and the 30% test for certain loans.

Line 9.-- If the loan is a back to back loan or an immediate allocation loan, enter the amount of interest paid by the employer corporation to the lender(s) during the plan year.

Line 15, column (d).-- In determining the dividend rate for a class of common stock, use the percentage of the average dividends paid on the class of common stock during the plan year over the average value of the class of common stock during the plan year. In determining the dividend rate for a class of preferred stock, use the dividend rate stated in the terms of the stock, or if a dividend rate is not stated, use the percentage of the average dividends paid on the class of preferred stock during the plan year over the par value of the class of preferred stock.

Department of the Treasury
Internal Revenue Service

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Instructions for Schedule F (Form 5500)

Fringe Benefit Plan Annual Information Return

"Code" refers to the Internal Revenue Code.

General Instructions

The Small Business Job Protection Act of 1996 retroactively extends Code section 127, which had previously expired on December 31, 1994. The exclusion will expire again for taxable years beginning after May 31, 1997. Also, for taxable years beginning in 1997, the exclusion allowed by Code section 127 will not be applicable to any course beginning after June 30, 1997. The educational assistance exclusion is not applicable to graduate level courses starting after June 30, 1996. See section 5 of Pub.15-A for more information. Employers who have questions about the retroactive extension of this provision, including how to file for a refund for any 1995 or 1996 overpaid social security, medicare, and unemployment taxes can call 1-800-829-1040 for assistance. Also get **Circular E**, Employer's Tax Guide, for additional information.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule F is attached.

Purpose of Form

File Schedule F for the following fringe benefit plans: (a) a cafeteria plan described in Code section 125. or (b) an educational assistance program described in Code section 127.

Note: *Do not file Schedule F for an educational assistance program that provides only job-related training deductible as an ordinary and necessary business expense under Code section 162.*

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule F is attached.

The annual information return of a fringe benefit plan (to satisfy the requirements of Code section 6039D) consists of completing Form 5500, Part I, boxes A, B and D, Part II, lines 1 through 3, 5, 6 (check box c), and 8, and attach Schedule F.

Do not file any other schedules if the Form 5500 is being filed **only** for the fringe benefit plan. You may file a single Form 5500 for a fringe benefit plan and an associated welfare plan by completing all information required for the welfare plan, checking box 6c, and attaching the Schedule F.

Line 4. For purposes of Code section 6039d , fringe benefit plan "participant" means any individual who, for a plan year, has had at least $1 excluded from income by reason of Code section 125 or 127.

Line 5. The total cost of the fringe benefit plan includes:

1. The amount employees elect to have an employer contribute to provide for the benefits under the plan. For a Code section 125 cafeteria plan, enter the amount of the salary reductions and other employer contributions. Do not subtract benefits paid out from the plan and amounts forfeited.

2. Administrative expenses including any legal, accounting, or consulting fees attributable to the plan, whether paid directly by the employer or through the plan. Overhead expenses such as utilities and photocopying costs are not to be included for this reporting purpose.

Line 6. Complete this line if the Form 5500 is filed for a fringe benefit plan that terminated during this plan year.

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

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Instructions for Schedule FIN (Form 5500)

Financial Information for Large Plans and DFEs

"ERISA" refers to the Employee Retirement Income Security Act of 1974.

"Code" refers to the Internal Revenue Code.

FIN

General Instructions

Who Must File

The Schedule FIN (Form 5500) must be attached to a Form 5500 filed for pension benefit plans and welfare benefit plans that covered 100 or more participants as of the beginning of the plan year.

The Schedule FIN must also be attached to a Form 5500 filed for DFEs (CCTs, PSAs, MTIAs, 103-12s, and GIAs). See the instructions for ***Direct Filing Entities (DFEs)*** on page X of the Form 5500 instructions.

Exceptions: Certain insured, unfunded or combination unfunded/insured welfare plans and fully insured pension plans are exempt from completing the Schedule FIN. In addition, if a Form 5500-C/R was filed for the plan for the prior plan year and the plan covered fewer than 121 participants as of the beginning of the plan year, the Schedule FIN-SP may be completed instead of a Schedule FIN. See the Form 5500 instructions for ***Lines and Schedules To Complete*** on page Y for more information.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule FIN is attached.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule FIN is attached.

Use either the cash, modified cash, or accrual basis for recognition of transactions in Parts 1 and 2, as long as you use one method consistently. Round off all amounts reported on the Schedule FIN to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

Caution: *Do not mark through the printed line descriptions and insert your own description as this may cause additional correspondence due to a computerized review of the Schedule FIN.*

If the assets of two or more plans are maintained in one fund other than a DFE, such as when an employer has two plans that are funded through a single trust, complete Parts 1 and 2 by entering the plan's allocable part of each line item. If assets of one plan are maintained in two or more trust funds, report the combined financial information in Parts 1 and 2.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at time of the determination. See ERISA section 3(26).

Part I - Asset and Liability Statement

Columns (a) and (b) - Enter the current value on each line as of the beginning and end of the plan year.

Note: *Amounts reported in column (a) must be the same as reported for the end of the plan year for corresponding line items on the 1997 return/report for the plan. Do not include contributions designated for the 199X plan year in column (a).*
Line 1a.- Total noninterest bearing cash includes, among other things, cash on hand or cash in a noninterest bearing checking account.

Line 1b(1).- Noncash basis filers should include contributions due the plan by the employer but not yet paid. Do not include other amounts due from

the employer such as the reimbursement of an expense or the repayment of a loan.

Line 1b(2).- Noncash basis filers should include contributions withheld by the employer from participants and amounts due directly from participants that have not yet been received by the plan. Do not include the repayment of participant loans.

Line 1b(3).- Noncash basis filers should include amounts due to the plan which are not includable in lines 1b(1) or 1b(2). These amounts may include investment income earned but not yet received by the plan and other amounts due to the plan such as amounts due from the employer or another plan for expense reimbursement or from a participant for the repayment of an overpayment of benefits.

Line 1c(1).- Include all assets that earn interest in a financial institution account such as interest bearing checking accounts, passbook savings accounts, or in a money market accounts.

Line 1c(2).- Include securities issued or guaranteed by the U.S. Government or its designated agencies such as U.S. Savings Bonds, Treasury bonds, Treasury bills, FNMA, and GNMA.

Line 1c(3).- Include investment securities (other than employer securities defined in 1d(1) below) issued by a corporate entity at a stated interest rate repayable on a particular future date such as most bonds, debentures, convertible debentures, commercial paper and zero coupon bonds. Short-term corporate debt instruments mature in less than one year from date of issue. Do not include debt securities of governmental units that should be reported on line 1c(2) or 1c(15).

Line 1c(4)(A).- Include stock issued by corporations (other than employer securities defined in 1d below) which is accompanied by preferential rights such as the right to share in distributions of earnings at a higher rate or has general priority over the common stock of the same entity. Include the value of warrants convertible into preferred stock.

Line 1c(4)(B).- Include any stock (other than employer securities defined in 1d below) that represents regular ownership of the corporation and is not accompanied by preferential rights plus the value of warrants convertible into common stock.

Line 1c(5).- Include the value of the plan's participation in a partnership or joint venture if the underlying assets of the partnership or joint venture are not considered to be plan assets under 29 CFR 2510.3-101. Do not include the value of a plan's interest in a partnership or joint venture that is a 103-12 IE. Include the value of a 103-12 IE in 1c(12).

Line 1c(6).- Include the current value of both income and non-income producing real property owned by the plan. Do not include the value of property that is employer real property or property used in plan operations that should be reported on lines 1d and 1e, respectively.

Line 1c(7).- Enter the current value of all loans to participants including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account made in accordance with 29 CFR 2550.408b-1 and which are secured solely by a portion of the participant's vested accrued benefit. When applicable, combine this amount with the current value of any other participant loans.

Line 1c(8).- Include all loans made by the plan, except participant loans reported on line 1c(7). These include loans for construction, securities loans, mortgage loans (either by making or participating in the loans directly or by purchasing loans originated by a third party), and other miscellaneous loans. Include on this line residential mortgage loans that are not subject to Code section 72(p).

Lines 1c(9), (10), (11), and (12).- Enter the total current value of the plan's interest in DFEs as of the beginning and end of the plan year. Each DFE must be listed on Schedule D (Form 5500) with the value of the plan's interest in the DFE reported under column (e) of the Schedule D.

***Note:** If a 199X Form 5500 has not been submitted for the CCT or PSA, do not enter the net interest in the CCT or PSA on line 1c(9) or 1c(10). Report the plan's interest in the underlying investments of the CCT or PSA on a line-by-line basis. See 29 CFR 2520.103-3 and 2520.103-4.*

Line 1c(14).- Use the same method for determining the value of the insurance contracts reported here as you used for line 3 of Schedules A (Form 5500), or, if line 3 is not required, line 6.

Line 1c(15).- Include all other investments not includable in lines 1c(1) through (14), such as options, index futures,repurchase agreements, state and municipal securities, collectibles, and other personal property.

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Line 1d(1).- An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes and commercial paper.

Line 1d(2).- The term "employer real property" means real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer. For purposes of determining the time at which a plan acquires employer real property for purposes of this line, such property shall be deemed to be acquired by the plan on the date on which the plan acquires the property or on the date on which the lease to the employer (or affiliate) is entered into, whichever is later.

Line 1e.- Include the current (not book) value of the buildings and other property used in the operation of the plan. Buildings or other property held as plan investments should be reported in 1c(6) and 1d(2).

Do not include the value of future pension payments on lines 1g, h, i, j or k.

Line 1g.- Noncash basis plans should include the total amount of benefit claims which have been processed and approved for payment by the plan.

Line 1h.- Noncash basis plans should include the total amount of obligations owed by the plan which were incurred in the normal operations of the plan and have been approved for payment by the plan but have not been paid.

Line 1i.- "Acquisition indebtedness", for debt-financed property other than real property, means the outstanding amount of the principal debt incurred:

1. By the organization in acquiring or improving the property;
2. Before the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property; or
3. After the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property and was reasonably foreseeable at the time of such acquisition or improvement. For further explanation, see Code section 514(c).

Line 1j.- Noncash basis plans should include amounts owed for any liabilities that would not be classified as benefit claims payable, operating payables, or acquisition indebtedness.

Line 1l.- Column (b) must equal the sum of column (a) plus lines 2i, 2j(1), and 2j(2).

Part II - Income and Expense Statement

Line 2a.- Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Note: *Plans using the accrual basis of accounting should not include contributions designated for the year before the 199X plan year on line 2a.*

Line 2a(1)(B). - Report all participant contributions, including, for welfare plans, elective contributions under a cafeteria plan (Code section 125), and, for pension plans, elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 2a(2).- Use the current value, at date contributed, of securities or other noncash property.

Line 2b(1)(A).- Enter interest earned on interest-bearing cash, including earnings from sweep accounts, STIF accounts, money market accounts, certificates of deposit, etc.

Line 2b(1)(B).- Enter interest earned on U.S. Government Securities. This is the interest earned on the investments that are reported on line 1c(2).

Line 2b(1)(C).- Generally, this is the interest earned on securities that are reported on lines 1(c)(3)(A) and (B) and 1d(1).

Line 2b(2).- Generally, the dividends are for investments reported on line 1c(4)(A) and (B) and 1d(1). For accrual basis plans, include any dividends declared for stock held on the date of record, but not yet received as of the end of the plan year.

Line 2b(3).- Generally, rents represent the income earned on the real property that is reported in items 1c(6) and 1d(2). Rents should be entered as a "Net" figure. Net rents are determined by taking the total rent received and subtracting all expenses directly associated with the property. If the real property is jointly used as income producing property and for the operation of the plan, that

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portion of the expenses attributable to the income producing portion of the property should be netted against the total rents received.

Line 2b(4).- Enter in column (b), the total of net gain (loss) on sale of assets. This equals the sum of the net realized gain (or loss) on each asset held at the beginning of the plan year which was sold or exchanged during the plan year, and on each asset that was both acquired and disposed of within the plan year.

Note: *As current value reporting is required for the Form 5500, assets are revalued to current value at the end of the plan year. For purposes of this form, the increase or decrease in the value of assets since the beginning of the plan year (if held on the first day of the plan year) or their acquisition date (if purchased during the plan year) is reported in line 2b(5) below, with two exceptions: (1) the realized gain (or loss) on each asset that was disposed of during the plan year is reported in 2b(4) (NOT on line 2b(5)), and (2) the net investment gain (or loss) from DFEs and registered investment companies is reported in lines 2b(6) through (10).*

The sum of the realized gain (or loss) of assets sold or exchanged during the plan year is to be calculated as follows:

1. Enter in 2b(4)(A) the sum of the amount received for these former assets;

2. Enter in 2b(4)(B), column (a), the sum of the current value of these former assets as of the beginning of the plan year and the purchase price for assets both acquired and disposed of during the plan year; and

3. Enter in 2b(4)(C), column (b), the result obtained when 2b(4)(B) is subtracted from 2b(4)(A). A negative figure should be placed in parentheses.

Note: *Bond write-offs should be reported as realized losses.*

Line 2b(5).- Subtract the current value of assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of assets at the end of the year to obtain this figure. A negative figure should be placed in parentheses. Do not include the value of assets reportable in items 2b(6) through 2b(10).

Lines 2b(6), (7), (8), and (9).- Report on these lines all earnings, expenses, gains or losses, and unrealized appreciation or depreciation that were included in computing the net investment gain (or loss) for the DFE(s).

The net investment gain (or loss) allocated to the plan for the plan year from the plan's investment in DFEs is equal to:

a. The sum of the current value of the plan's interest in each DFE at the end of the plan year,

b. Minus the current value of the plan's interest in each DFE at the beginning of the plan year,

c. Plus any amounts transferred out of each DFE by the plan during the plan year, and

d. Minus any amounts transferred into each DFE by the plan during the plan year.

Caution: *Allocate the value of the plan's interest in the underlying investments of any fund that is not a DFE (e.g., CCTs or PSAs that do not file a Form 5500) and report the plan's share of the fund's earnings, expenses, and gains (losses) on a line-by-line basis on lines 1c(1) through 1c(8), 1c(15) or 1d.*

Line 2b(10). - Enter net investment gain (loss) from registered investment companies here. Compute in the same manner as discussed above for DFEs for which a Form 5500 has been filed. Enter the net gain as a positive number or the net loss in parenthesis.

Line 2c.- Include all other plan income earned that is not included in 2a or 2b. Do not include transfers from other plans that should be reported in line 2j.

Line 2e - If distributions include securities or other property, use the current value at date distributed.

Line 2e(1).- Include the current value of all cash, securities, or other property at the date of distribution.

Line 2e(2).- Include payments to insurance companies and similar organizations such as Blue Cross, Blue Shield and health maintenance organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, health insurance, vision care, dental coverage, stop-loss insurance whose claims are paid to the plan (or which is otherwise an asset of the plan)), etc.

Line 2e(3).- Include all eligible rollover distributions as defined in Code section 401(a)(31)(C) that have been paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(D)).

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Line 2e(4).- Include all payments made to other organizations or individuals providing benefits. Generally, these are individual providers of welfare benefits such as legal services, day care services, training and apprenticeship services.

Line 2f.- Interest expense is a monetary charge for the use of money borrowed by the plan. This amount should include the total of interest paid or to be paid (for accrual basis plans) during the plan year.

Line 2g.- Report all administrative expenses (by specified category) paid by or charged to the plan, including those that were not subtracted from the gross income of DFEs in determining their net investment gain(s) or loss(es). Expenses incurred in the general operations of the plan are classified as administrative expenses.

Line 2g(1).-Include the total fees paid (or in the case of accrual basis plans; costs incurred during the plan year but not paid as of the end of the plan year) by the plan for outside accounting, actuarial, legal, and valuation/appraisal services. Include fees for the annual audit of the plan by an independent qualified public accountant; for payroll audits; for accounting/bookkeeping services; for actuarial services rendered to the plan, and to a lawyer for rendering legal opinions, litigation, and advice (but not for providing legal services as a benefit to plan participants). Include the fee(s) for valuations or appraisals to determine the cost, quality, or value of an item such as real property, personal property (gemstones, coins, etc.), and for valuations of closely held securities for which there is no ready market. Do not include amounts paid to plan employees to perform bookkeeping/accounting functions which should be included in 2g(4).

Line 2g(2).- Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to a contract administrator for performing administrative services for the plan. For purposes of the return/report, a contract administrator is any individual, partnership or corporation, responsible for managing the clerical operations (e.g., handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis. Do not include salaried staff or employees of the plan or banks or insurance carriers.

Line 2g(3).- Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to an individual, partnership or corporation (or other person) for advice to the plan relating to its investment portfolio. These may include fees paid to manage the plan's investments, fees for specific advise on a particular investment; and fees for the evaluation of the plan's investment performance.

Line 2g(4), Column (a).- Other expenses are those that cannot be included in 2g(1) through 2g(3). These may include plan expenditures such as salaries and other compensation and allowances (e.g., payment of premiums to provide health insurance benefits to plan employees), expenses for office supplies and equipment, cars, telephone, postage, rent, expenses associated with the ownership of a building used in the operation of the plan, and trustees' fees and reimbursement of expenses associated with trustees such as lost time, seminars, travel, meetings, etc.

Line 2j.- Include in these reconciliation figures the value of all transfers of assets or liabilities into or out of the plan resulting from, among other things, mergers and consolidations. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. A transfer is not a shifting of one plan's assets or liabilities from one investment to another. Transfers out at the end of the year should be reported as occurring during the plan year.

***Note:** A transfer of all or part of an individual participant's account balance that is reportable on Form 1099-R should not be included on line 2j.*

Part III - Accountant's Opinion

Line 3.- Employee benefit plans, 103-12 IEs, and GIAs completing the Schedule FIN must engage an independent qualified public accountant pursuant to ERISA 103(a)(3)(A) and 29 CFR 2520.103-1(b). The accountant's report **must** be attached to the Form 5500 if a Schedule FIN (Form 5500) is attached and box 3b(1) or 3b(2) on the Schedule FIN is not checked.

29 CFR 2520.103-1(b) requires that any separate financial statements prepared in order for the independent qualified public accountant to form the opinion and notes to these financial statements must be attached to the Form 5500. Any separate statements must include the information required to be disclosed in lines 1 and 2 of the Schedule FIN; however, they may be aggregated into categories in a manner other than that used on the Schedule FIN. The separate statements should be either typewritten or printed and consist of reproductions of lines 1 and 2 or statements incorporating by references lines 1 and 2. See ERISA section 103(a)(3)(A), and the DOL regulations 29 CFR

2520.103-1(a)(2) and (b), 2520.103-2, and 2520.104-50.

If the required accountant's report is not attached to the Form 5500, the filing is subject to rejection as incomplete and penalties may be assessed.

Caution: *A welfare benefit plan that uses a Code section 501(c)(9) trust, is generally not exempt from the requirement to engage an independent qualified public accountant. See page X of the Form 5500 instructions under* ***Lines and Schedules To Complete.***

Lines 3a(1) through 3a(4) - These boxes identify the type of opinion offered by the accountant. Enter the name and EIN of the accountant in the space provided.

Line 3a(1).- Check if an unqualified opinion was issued. Generally, an unqualified opinion is issued when the auditor concludes that the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the period audited, and the changes in its financial status for the period under audit are in conformity with generally accepted accounting principles.

Line 3a(2).- Check if a qualified opinion was issued. Generally a qualified opinion is issued by an independent qualified public accountant when the plan's financial statements present fairly, in all material respects, the financial position of the plan as of the end of the audit period and the results of its operations for the audit period in conformity with generally accepted accounting principles, except for the effects of one or more matters that are described in the opinion.

Line 3a(3).- Check if a disclaimer of opinion was issued. A disclaimer of opinion is issued when the independent qualified public accountant does not express an opinion on the financial statements because he or she has not performed an audit sufficient in scope to enable him or her to form an opinion of the financial statements.

Line 3a(4).- Check if the plan received an adverse accountant's opinion. Generally an adverse opinion is issued by an independent qualified public accountant when the plan's financial statements do not present fairly, in all material respects, the financial position of the plan as of the end of the audit period and the results of its operations for the audit period in conformity with generally accepted accounting principles.

Line 3b(1).- Check this box only if the Schedule FIN is being filed for a CCT, PSA, or MTIA.

Line 3b(2).- Check this box if the plan has elected to defer attaching the accountant's opinion for the first of 2 consecutive plan years, one of which is a short plan year of 7 months or less. The Form 5500 for the first of the 2 years must be complete and accurate, with all attachments except for the accountant's report; and the Form 5500 for the second year must include: (a) financial schedules and statements for both plan years; (b) a report of an independent qualified public accountant with respect to the financial schedules and statements for each of the 2 plan years (regardless of the number of participants covered at the beginning of each plan year); and (c) a statement identifying any material differences between the first plan year Form 5500's unaudited financial information, and the audited financial information filed for the first year. See 29 CFR 2520.104-46 and 29 CFR 2520.104-50.

Line 3c.- Check this box only if the scope of the plan's audit was limited pursuant to DOL regulations 29 CFR 2520.103-8 and 2520.103-12(d) because the examination and report of an independent qualified accountant did not extend to: (a) information prepared and certified to by a bank or similar institution or by an insurance carrier which is regulated and supervised and subject to periodic examination by a state or Federal agency, or (b) information included with the Form 5500 filed for a 103-12 IE. See 29 CFR 2520.103-8 and 2520.103-12(d).

Note: *These regulations do not exempt the plan administrator from engaging an accountant or from attaching the accountant's report to the Form 5500.*

Part IV - Transactions During Plan Year

Line 4a.- Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3-102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file Form 5330 with the IRS to pay any applicable excise tax on the transaction. If no participant contributions were received or withheld by the employer during the plan year, answer "No."

Line 4b.- Plans that check "Yes" must enter the amount and complete Part I of Schedule G. The

due date, payment amount and conditions for determining default in the case of a note or loan are usually contained in the documents establishing the note or loan. A loan by the plan is in **default** when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally loans and fixed income obligations are considered **uncollectible** when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate.

Line 4c.- Plans that check "Yes" must enter the amount and complete Part II of Schedule G. A lease is an agreement conveying the right to use property, plant or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

Line 4d.- Plans that check "Yes" must enter the amount and complete Part III of Schedule G. Check "Yes" if any non exempt transaction with a party-in-interest occurred regardless of whether the transaction is disclosed in the accountant's report, unless the transaction is: (1) statutorily exempt under Part 4 of Title I of ERISA, (2) administratively exempt under ERISA section 408(a) or exempt under Code sections 4975(c) and 4975(d), or (3) a transaction of a 103-12 IE with parties other than the plan. You may indicate that an application for an administrative exemption is pending. See the instructions for Part III of the Schedule G (Form 5500) concerning non-exempt transactions and party-in-interest. If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant or legal counsel or both.

Line 4e.- If "Yes" is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide and disclose that the figure is an estimate, such as "Approximately $1,000." Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. Generally, a person shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and DOL regulations 29 CFR 2580 provide the bonding requirements, including the definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), the amount of the bond (29 CFR 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412-23).

***Note:** Willful failure to report is a criminal offense. See ERISA section 501.*

Line 4f. - An accurate assessment of fair market value is essential to a plan's ability to comply with the requirements set forth in the Code (e.g., the exclusive benefit rule of Code section 401(a)(2), the limitations on benefits and contributions under Code section 415, and the minimum funding requirements under Code section 412.) Examples of assets that may not have a readily determinable value on an established market include real estate, nonpublicly traded securities, shares in a limited partnership, and collectibles. Do not check "Yes" on line 4f if the plan is a defined contribution plan and the only assets the plan holds, that do not have a readily determinable value on an established market, are: (1) participant loans not in default, or (2) assets over which the participant exercises control within the meaning of section 404(c) of ERISA. Although the fair market value of plan assets must be determined each year, there is no requirement that the assets (other than certain nonpublicly traded employer securities held in ESOPS) be valued every year by independent third-party appraisers.

Enter in the amount column the fair market value of the assets referred to on line 4f that were not valued by an independent third-party appraiser in the plan year. See Revenue Ruling 59-60, 1959-1 C.B. 237, for guidance on determining fair market value.

Line 4i. - Check "Yes" if all plan assets were used to buy individual annuity contracts and the contracts were distributed to the participants, or if all plan assets were legally transferred to the control of another plan or brought under the control of PBGC.

Line 5a. - Check "Yes" if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If "Yes" is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter "-0-" if no reversion occurred during the current plan year.

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Caution: *A Form 5500 must be filed for each year the plan has assets, and, in the case of a welfare benefit plan, if the plan is still liable to pay benefits for claims which were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).*

Line 5b.- Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spin-offs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, PN, and EIN of the other plan(s) involved on Lines 5b(1), (2) and (3).

Note: *A transfer of all or part of an individual participant's account balance that is reportable on Form 1099-R should not be included on line 5b but must be included in plan expenses and benefit payments reported in Part II.*

Caution: *Form 5310-A, Notice of Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310-A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC (see PBGC Form 10 and Form 10-Advance).*

FIN

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

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Instructions for Schedule FIN-SP (Form 5500)

Financial Information for Small Plans

"ERISA" refers to the Employee Retirement Income Security Act of 1974.
"Code" refers to the Internal Revenue Code.

General Instructions

Who Must File

The Schedule FIN-SP (Form 5500) must be attached to a Form 5500 filed for pension benefit plans and welfare benefit plans that covered fewer than 100 participants as of the beginning of the plan year. If a Form 5500-C/R was filed for the plan for the 1997 plan year and the plan covered fewer than 121 participants as of the beginning of this plan year, the Schedule FIN-SP may be completed instead of a Schedule FIN.

Exception: Certain insured, unfunded or combination unfunded/insured welfare plans are exempt from filing the Form 5500 and the Schedule FIN-SP. In addition, certain fully insured pension plans are exempt from completing the Schedule FIN-SP. See the Form 5500 instructions for ***Pension and Welfare Plans Excluded From Filing*** on page X and ***Limited Pension Plan Reporting*** on page Y for more information.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule FIN-SP is attached.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule FIN-SP is attached.

Use either the cash, modified cash, or accrual basis for recognition of transactions, as long as you use one method consistently. Round off all amounts reported on the Schedule FIN-SP to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

Caution: *Do not mark through the printed line descriptions and insert your own description as this may cause additional correspondence due to a computerized review of the Schedule FIN-SP.*

If the assets of two or more plans are maintained in one fund other than a DFE, such as when an employer has two plans that are funded through a single trust, include the plan's allocable part of each line item. If assets of one plan are maintained in two or more trust funds, report the combined financial information.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at time of the determination. See ERISA section 3(26).

Part I - Small Plan Financial Information

Total plan assets at the beginning of the plan year plus the net income (loss) and any net transfers for the plan year must equal the total plan assets at the end of the plan year.

Plan Assets and Liabilities

Amounts reported on line 1a, 1b, and 1c for the beginning of the plan year must be the same as reported for the end of the plan year for corresponding line items on the 1997 return/report. Do not include contributions designated for the 199X plan year in column (a).

Line 1a.- Enter the total plan assets at the beginning and end of the plan year. Plan assets may include, among other things:

1. Cash, including both interest and noninterest bearing. This includes all cash on hand or in a financial institution including money market accounts;

2. Receivables, including all contributions due to the plan from the employer and participants, income earned, but not yet received by the plan, and receivables from any other source; and

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3. Investments including securities (stocks, bonds, U.S. Government obligations, municipal obligations, etc.); real property (e.g., land, buildings), personal property (e.g., gold, collectibles); loans (mortgages, promissory notes, etc.); and all other investments (certificates of deposit, repurchase agreements, land contracts, units of participation in common/collective trusts and pooled separate accounts, shares of mutual funds, interests in master trusts and 103-12 IEs, etc).

A plan with assets held in common/collective trusts, pooled separate accounts, master trust investment accounts, and/or 103-12 IEs must also attach Schedule D (Form 5500).

Use the same method for determining the value of the insurance contracts reported here as you used for line 3 of Schedules A (Form 5500), or, if line 3 is not required, line 6.

Do not include contributions designated for the 199X plan year in the total assets at the beginning of the plan year entered on Line 1a.

Line 1b.- Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to plan participants; however, the amount to be entered in line 1b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid;
2. Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid; and
3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 1c.- Enter the net assets as of the beginning and end of the plan year. (Subtract line 1b from 1a.)

Income, Expenses, and Transfers In The Plan Year

Line 2a.- Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Line 2a(1) - Plans using the accrual basis of accounting should not include contributions designated for the year before the 199X plan year on line 2a(1).

Line 2a(2). - For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension plans, participant contributions, for purposes of this item, also include elective contributions under a qualified cash or deferred arrangement (Code section 401(k).

Line 2b. Use the current value, at date contributed, of securities or other noncash property.

Line 2c.- Enter the total of all cash contributions (line 2a(1) through (3)), noncash contributions (2b), and other plan income during the plan year. A negative figure should be placed in parenthesis. Plan income received and/or receivable may include, among other things:

1. Interest on investments (including money market accounts, sweep accounts, STIF accounts, etc.).
2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)
3. Rents from income-producing property owned by the plan.
4. Royalties.
5. Net gain or loss from the sale of assets.
6. Other income such as unrealized appreciation (depreciation) in plan assets. To compute this amount subtract the current value of all assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of all assets at the end of the year minus assets disposed of during the plan year.

Line 2d.- Include:

1. Payments made (and for accrual basis filers payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance);
2. Payments to insurance companies and similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, health insurance, vision care, dental coverage, etc.); and
3. Payments made to other organizations or individuals providing benefits. Generally, the payments discussed in (3) are made to individual providers of welfare benefits such as legal services, day care services, and training and apprenticeship services. If securities or other property are distributed to plan participants or beneficiaries, include the current value on the date of distribution. These benefits are to be included in the amount of the expenses entered in line 2e.

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Line 2e.- Enter the total of all benefits paid or due as reported on line 2d and all other plan expenses during the year. Expenses (paid and/or payable) may include, among others:

1. Salaries to employees of the plan;

2. Expenses for accounting, actuarial, legal, and investment services.

3. Fees and expenses for trustees including reimbursement for travel, seminars, and meeting expenses; and

4. Fees paid for valuations and appraisals.

Line 2f.- Enter the net income (loss). Subtract line 2d from line 2b. If the result is a negative number, enter it in parentheses.

Line 2g. - Enter the net value of all assets transferred to and from the plan during the plan year including those resulting from mergers and spin-offs. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Transfers out at the end of the year should be reported as occurring during the plan year. If the result is a negative number, enter it in parentheses.

Note: A transfer of all or part of an individual participant's account balance that is reportable on Form 1099-R should not be included on line 2g but must be included in plan expenses and benefit payments reported on line 2d.

Specific Assets

Line 3a.- Enter the value of the plan's participation in a partnership or joint venture, unless the partnership or joint venture filed a Form 5500 as a 103-12 IE. See page X.

Line 3b. - The term "employer real property" means real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer. For purposes of determining the time at which a plan acquires employer real property for purposes of this line, such property shall be deemed to be acquired by the plan on the date on which the plan acquires the property or on the date on which the lease to the employer (or affiliate) is entered into, whichever is later.

Line 3d.- An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes and commercial paper.

Line 3e. - Enter on this line all loans to participants including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account made in accordance with 29 CFR 2550.408b-1 and which are secured solely by a portion of the participant's vested accrued benefit. When applicable, combine this amount with the current value of any other participant loans.

Line 3f.- Enter all loans made by the plan except participant loans reported on line 1c(7). These include loans for construction, securities loans, mortgage loans (either by making or participating in the loans directly or by purchasing loans originated by a third party), and other miscellaneous loans. Include on this line residential mortgage loans that are not subject to Code section 72(p).

Line 3g.- Include all property that has concrete existence and is capable of being processed, such as goods, wares, merchandise, furniture, machines, equipment, animals, automobiles, etc. This includes collectibles, such as works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, musical instruments, and historical objects (documents, clothes, etc.). Do not include the value of a plan's interest in property reported on lines 3a through 3f, or intangible property, such as patents, copyrights, goodwill, franchises, notes, mortgages, stocks, claims, interests, or other property that embodies intellectual or legal rights.

Part II - Transactions During Plan Year

Line 4a.- Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3-102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file Form 5330 with the IRS to pay any applicable excise tax on the transaction. If no participant contributions were received or withheld by the employer during the plan year, answer "No."

Line 4b.- Plans that check "Yes" must enter the amount. The due date, payment amount and conditions for determining default in the case of a note or loan are usually contained in the documents

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establishing the note or loan. A loan by the plan is in **default** when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally loans and fixed income obligations are considered **uncollectible** when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate.

Line 4c.- Plans that check "Yes" must enter the amount. A lease is an agreement conveying the right to use property, plant or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

Line 4d.- Plans that check "Yes" must enter the amount. Check "Yes" if any non exempt transaction with a party-in-interest occurred regardless of whether the transaction is disclosed in the accountant's report, unless the transaction is: (1) statutorily exempt under Part 4 of Title I of ERISA, (2) administratively exempt under ERISA section 408(a) or exempt under Code sections 4975(c) and 4975(d), or (3) a transaction of a 103-12 IE with parties other than the plan. You may indicate that an application for an administrative exemption is pending. If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant or legal counsel or both.

Party-in-Interest - For purposes of this form, **party-in-interest** is deemed to include a disqualified person—see Code section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan—

A. any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. a person providing services to the plan;

C. an employer, any of whose employees are covered by the plan;

D. an employee organization, any of whose members are covered by the plan;

E. an owner, direct or indirect, of 50% or more of—(1) the combined voting power of all classes of stock entitled to vote, or the total value of shares of all classes of stock of a corporation, (2) the capital interest or the profits interest of a partnership, or (3) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in **C** or **D**;

F. a relative of any individual described in **A, B, C,** or **E**;

G. a corporation, partnership, or trust or estate of which (or in which) 50% or more of: (1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in **A, B, C, D,** or **E**;

H. an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in **B, C, D, E,** or **G,** or of the employee benefit plan; or

I. a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in **B, C, D, E,** or **G.**

Line 4e.- If "Yes" is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide and disclose that the figure is an estimate, such as "Approx. $1,000." Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. Generally, a person shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his other duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR 2580 provide the bonding requirements, including the definition of "handling" (2580.412-6), the permissible forms of bonds (2580.412-10), the amount of the bond (2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption for plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (2580.412-23).

***Note:** Willful failure to report is a criminal offense. See ERISA section 501.*

Line 4f. - An accurate assessment of fair market value is essential to a plan's ability to comply with the requirements set forth in the Code (e.g., the exclusive benefit rule of Code section 401(a)(2), the limitations on benefits and contributions under Code section 415, and the minimum funding requirements under Code section 412.) Examples of assets that may not have a readily determinable value on an established market include real estate, nonpublicly traded securities, shares in a limited partnership, and collectibles. Do not check "Yes"

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on line 4f if the plan is a defined contribution plan and the only assets the plan holds, that do not have a readily determinable value on an established market, are: (1) participant loans not in default, or (2) assets over which the participant exercises control within the meaning of section 404(c) of ERISA. Although the fair market value of plan assets must be determined each year, there is no requirement that the assets (other than certain nonpublicly traded employer securities held in ESOPS) be valued every year by independent third-party appraisers.

Enter in the amount column the fair market value of the assets referred to on line 4f that were not valued by an independent third-party appraiser in the plan year. See Revenue Ruling 59-60, 1959-1 C.B. 237, for guidance on determining fair market value.

Line 4i. - Check "Yes" if all plan assets were used to buy individual annuity contracts and the contracts were distributed to the participants, or if all plan assets were legally transferred to the control of another plan or brought under the control of PBGC.

Line 5a. - Check "Yes" if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If "Yes" is checked, enter the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter "-0-" if no reversion occurred during the current plan year.

Caution: *A Form 5500 must be filed for each year the plan has assets, and, in the case of a welfare benefit plan, if the plan is still liable to pay benefits for claims which were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).*

Line 5b.- Enter information concerning assets and/or liabilities transferred from this plan to another plan(s) (including spin-offs) during the plan year. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Enter the name, PN, and EIN of the other plan(s) involved on Lines 5b(1), 5b(2) and 5b(3).

Note: *A transfer of all or part of an individual participant's account balance that is reportable on Form 1099-R should not be included on line 5b but must be included in plan expenses and benefit payments reported in Part I.*

Caution: *Form 5310-A, Notice of Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, must be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing Form 5310-A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC (see PBGC Form 10 and Form 10-Advance).*

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

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Instructions for Schedule G (Form 5500)

Financial Transaction Schedules

"ERISA" refers to the Employee Retirement Income Security Act of 1974.
"Code" refers to the Internal Revenue Code.

General Instructions

Who Must File

The Schedule G (Form 5500) must be attached to the Form 5500 filed for a plan, MTIA, GIA, or 103-12 IE when lines 4b, 4c, and/or 4d of the Schedule FIN (Form 5500) is checked "Yes." In addition, the Schedule G (Form 5500) must be attached to the Form 5500 filed for a 103-12 IE when lines 4b and/or 4c of the Schedule FIN (Form 5500) is checked "Yes."

Check the appropriate box on Part II, line 8 of the Form 5500 and enter the total number, if any Schedules G have been attached.

Schedule G, Part I reports any loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan or DFE year. Part II reports any leases in default or classified as uncollectible. Part III reports any nonexempt transactions. This Part should not be completed for a 103-12 IE.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule G is attached.

Part I - Loans or Fixed Income Obligations in Default or Classified as Uncollectible

List all loans by the plan or fixed income obligations in default or determined to be uncollectible as of the end of the plan, group insurance arrangement, master trust investment account or 103-12 IE year. Provide an explanation of what steps have been taken or will be taken to collect overdue amounts for each loan listed.

Include all fixed income obligations which have matured, but have not been paid, for which it has been determined that payment will not be made; fixed obligations where the required payments have not been made by the due date; and loans that were renegotiated during the plan year.

Identify all persons known to be a party-in-interest to the plan, by entering an asterisk (*) in column (a).

The due date, payment amount and conditions for determining default in the case of a note or loan are usually contained in the documents establishing the note or loan. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. Obligations which require periodic repayment can default at any time. Generally loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate.

***Note:** Defaulted participant loans may be aggregated for the purposes of Part I and reported for an individual account plan with investment experience* segregated for each *account, if they (1) were made in accordance with 29 CFR 2550.408b-1; and (2) are secured solely by a portion of the participant's vested accrued benefit, provided the amount of each defaulted loan does not exceed the individual participant's account balance. If aggregated, enter "Secured Participant loans" in column (b).*

Part II - Leases in Default or Classified as Uncollectible

List any leases in default or classified as uncollectible. A lease is an agreement conveying the right to use property, plant or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

Part III - Nonexempt Transactions

All nonexempt party-in-interest transactions must be disclosed, regardless of whether noted in the accountant's report, unless the nonexempt transaction is:
(1) statutorily exempt under Part 4 of Title I of ERISA;
(2) administratively exempt under ERISA section 408(a); or
(3) exempt under Code sections 4975(c) or 4975(d).

Non-exempt transactions with a party-in- interest include any direct or indirect:

a. Sale or exchange, or lease, of any property between the plan and a party-in- interest.

b. Lending of money or other extension of credit between the plan and a party-in- interest.

c. Furnishing of goods, services, or facilities between the plan and a party-in-interest

d. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

e. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of Code section 407(a).

f. Dealing with the assets of the plan for a fiduciary's own interest or own account.

g. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

h. Receipt of any consideration for his or her own personal account by a party-in- interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant or legal counsel or both.

You may indicate that an application for an administrative exemption is pending. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, a Form 5330 should be filed with IRS to pay the excise tax on the transaction.

For purposes of this form, party-in-interest is deemed to include a disqualified person—see Code section 4975(e)(2).

The term "party-in-interest" means, as to an employee benefit plan—

A. any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. a person providing services to the plan;

C. an employer, any of whose employees are covered by the plan;

D. an employee organization, any of whose members are covered by the plan;

E. an owner, direct or indirect, of 50% or more of—(1) the combined voting power of all classes of stock entitled to vote, or the total value of shares of all classes of stock of a corporation, (2) the capital interest or the profits interest of a partnership, or (3) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in C or D;

F. a relative of any individual described in A, B, C, or E;

G. a corporation, partnership, or trust or estate of which (or in which) 50% or more of: (1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in A, B, C, D, or E;

H. an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

Department of the
Treasury
Internal Revenue Service

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Instructions for Schedule P (Form 5500)

Annual Return of Fiduciary of Employee Benefit Trust

"Code" refers to the Internal Revenue Code.

Purpose of Form

You may use this schedule to satisfy the requirements under Code section 6033(a) for an annual information return from every section 401(a) organization exempt from tax under section 501(a). Filing this form will start the running of the statute of limitations under section 6501(a) for any trust described in section 401(a), which is exempt from tax under section 501(a).

Who May File

Every trustee of a trust created as part of an employee benefit plan as described in Code section 401(a), and every custodian of a custodial account described in Code section 401(f).

How To File

File Schedule P for the trust year ending with or within any participating plan's plan year. Attach it to the Form 5500 or 5500-EZ filed by the plan for that plan year. A separately filed Schedule P will not be accepted. If the trust or custodial account is used by more than one plan, file one Schedule P. If a plan uses more than one trust or custodial account for its funds, file one Schedule P for each trust or custodial account. Check the appropriate box on Part II, line 8 of the Form 5500 and enter the total number, if any Schedules P have been attached.

Trust's Employer Identification Number

Enter the trust employer identification number (EIN) assigned to the employee benefit trust or custodial account, if one has been issued to you. The trust EIN should be used for transactions conducted for the trust. If you do not have a trust EIN, enter the EIN you would use on Form 1099-R to report distributions from employee benefit plans and on Form 945 to report withheld amounts of income tax from those payments.

Note: *Trustees who do not have an EIN may apply for one on Form SS-4, Application for Employer Identification Number. You must be consistent and use the same EIN for all trust reporting purposes.*

Signature

The fiduciary (trustee or custodian) must sign this schedule. If there is more than one fiduciary, the fiduciary authorized by the others may sign.

Other Returns and Forms That May Be Required

Form 990-T-- For trusts described in Code section 401(a), a tax is imposed on income derived from business that is unrelated to the purpose for which the trust received a tax exemption. Report this income and tax on **Form 990-T,** Exempt Organization Business Income Tax Return. (See Code sections 511 through 514 and the related regulations.)

Form 1099-R--If you made payments or distributions to individual beneficiaries of a plan, report those payments on Form 1099-R. (See the instructions for Forms 1099, 1098, 5498, and W-2G.)

Form 945--If you made payments or distributions to individual beneficiaries of a plan, you may be required to withhold income tax from those payments. Use Form 945, Annual Return of Withheld Federal Income Tax, to report taxes withheld from nonpayroll items. (See Circular E, Employer's Tax Guide (Pub. 15), for more information.)

P

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

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Instructions for Schedule PEN (Form 5500)

Pension Plan Information

"ERISA" refers to the Employee Retirement Income Security Act of 1974.
"Code" refers to the Internal Revenue Code.

General Instructions

Who Must File

The Schedule PEN (Form 5500) must be attached to a Form 5500 filed for both tax qualified and nonqualified pension benefit plans. The parts of the Schedule PEN that must be completed depend on whether the plan is subject to the minimum funding standards of Code section 412 and ERISA section 302.

Exception: The Schedule PEN should not be completed when the Form 5500 is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, a tax deferred annuity arrangement under Code section 403(b)(1), a custodial account for regulated investment company stock under Code section 403(b)(7), and/or individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 instructions for ***Lines and Schedules To Complete*** on page Y for more information.

Check the appropriate box on Part II, line 8 of the Form 5500 if a Schedule PEN has been attached.

Purpose of Schedule

The Schedule PEN reports certain information on participant coverage, plan distributions, and funding, and the adoption of amendments increasing the value of benefits in a defined benefit pension plan.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule PEN is attached.

Box E. - Indicate whether this plan is intended to be qualified under Code section 401(a) or 403(a). If "Yes" is checked, the Schedule Q (Form 5500) may have to be attached to the Form 5500. If "No" is checked, code 3C must be entered on Form 5500, Part II, line 6a.

Part I - Participants

Line 1a. - Enter on this line the number of participants covered by the plan who have separated from employment and are currently receiving, or whose beneficiaries are currently receiving, benefits under the plan.

Line 1b. - Enter on this line the number of participants covered by the plan who have separated from employment and who retain, or whose beneficiaries retain, a right to vested benefits under the plan or under an insurance contract purchased by the plan. Do not count any participant counted on line 1a.

Line 1c. - Enter the number of active participants as of the end of the plan year.

The number of active participants includes all individuals in current employment who have satisfied the plan's eligibility conditions and are earning or retaining credited service under the plan who are not included on lines 1a or 1b. Count individuals who are covered under the plan, but because of plan offset, plan limitations, or employee election, are not currently accruing a benefit. For example, count individuals who are eligible to elect to have the employer make payments to a Code section 401(k) qualified cash or deferred arrangement, regardless of whether an election was made.

Line 1d. - If this is a defined contribution plan, enter the number of participants included on line 1a, 1b, or 1c who had account balances as of the end of the year.

Line 1e. - Include any participant who terminated employment during this plan year, whether or not the participant incurred a break in service.

PEN

Multiemployer and collectively bargained multiple-employer plans do not have to complete line 1e.

Part II - Distributions

For purposes of Part II:

"Distribution" includes only payments of benefits during the plan year, in cash, in kind, or by purchase for the distributee of an annuity contract from an insurance company. It does not include corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions. It does not include a loan treated as a distribution under Code section 72(p).

"Participant" means any present or former employee who at any time during the plan year had an accrued benefit (account balance in a defined contribution plan) in the plan.

"Qualified joint and survivor annuity" means an immediate annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent and not more than 100 percent of the amount payable during the joint lives of the participant and the spouse, and which is (1) in the case of a defined contribution plan, the amount of benefit which can be purchased with the participant's vested account balance, or (2) in the case of a defined benefit plan, the actuarial equivalent of the normal form of benefit, or, if greater, any optional form of benefit. In the case of an unmarried participant it means an immediate life annuity for the life of the participant.

"Qualified preretirement survivor annuity" means an annuity for the life of the surviving spouse of a participant who dies before the annuity starting date which meets the requirements of Code section 417(c).

Line 2. - Enter the total value of all distributions made during the year (regardless of when the distribution began) in any form other than cash, annuity contracts issued by an insurance company, or publicly traded employer securities.

Line 3. - Enter the EIN(s) of any payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the plan year. If more than two payors made such payments during the year, enter the EINs of the two payors who paid the greatest dollar amounts during the year. For purposes of this line 3, include all payments made in cash, regardless of when the payments began. Include payments from an insurance company under an annuity only in the year the contract was purchased. Do not include distributions in kind reported on line 2.

Line 4.- A distribution to be made in a series of payments in two or more plan years should be reported only for the year in which the first such payment is made. Such a distribution should not be reported in this line 4 in the second or subsequent plan years in which payments are made.

Example: During the plan year beginning 1-1-9X, the participant retired, and the plan began distributing the participant's account balance in a series of payments to be made over 10 years. The distribution to be made in a series of payments over 10 years should be reported in Part I, line 4, on the plan's Form 5500 for 199X only, and not for 199Y or subsequent years.

Line 4.- Enter the number of living or deceased participants to or for whom distributions from the plan began during the plan year in any form other than a qualified joint and survivor annuity, qualified preretirement survivor annuity, or life annuity (if unmarried). Include any participant or deceased participant with respect to whom a distribution began to any alternate payee or beneficiary. Also include any living or deceased participant for whom a distribution was made in the form of a direct rollover to the trustee or custodian of a qualified plan or individual retirement arrangement.

Part III - Funding Information

Complete Part III if the plan is subject to the minimum funding requirements of Code section 412 or ERISA section 302.

All qualified defined benefit and defined contribution plans are subject to the minimum funding requirements of Code section 412 unless they are described in the exceptions listed under section 412(h). These exceptions include profit-sharing or stock bonus plans, insurance contract plans described in section 412(i), and certain plans to which no employer contributions are made.

Nonqualified employee pension benefit plans are subject to the minimum funding requirements of ERISA section 302 unless specifically exempted under ERISA sections 4(a) or 301(a).

The employer or plan administrator of a defined benefit plan that is subject to the minimum funding requirements must file Schedule B as an attachment to Form 5500. Schedule B is not required to be filed for a money purchase defined contribution plan that is subject to the minimum funding requirements unless the plan is currently amortizing a waiver of the minimum funding requirements.

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Line 5.- Check "yes" if, for purposes of computing the minimum funding requirements for the plan year, the plan administrator is making an election intended to satisfy the requirements of Code section 412(c)(8) or ERISA section 302(c)(8). Under Code section 412(c)(8) and ERISA section 302(c)(8) a plan administrator may elect to have any amendment that is adopted after the beginning of the plan year for which it applies, treated as having been made on the first day of the plan year if all of the following requirements are met:

1. The amendment is adopted no later than two and one-half months after the close of such plan year (two years for a multiemployer plan);

2. The amendment does not reduce the accrued benefit of any participant determined as of the beginning of such plan year;

3. The amendment does not reduce the accrued benefit of any participant determined as of the adoption of the amendment unless the plan administrator notified the Secretary of the Treasury of the amendment and the Secretary either approved the amendment or failed to disapprove the amendment within 90 days after the date the notice was filed.

Line 6. - If a money purchase defined contribution plan has received a waiver of the minimum funding standard, and the waiver is currently being amortized, lines 3, 9 and 10 of Schedule B must be completed. The Schedule B must be attached to Form 5500 but it need not be signed by an enrolled actuary.

Line 7a. - The minimum required contribution for a money purchase defined contribution plan for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 7b. - Include all contributions for the plan year that are made not later than eight and one-half months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed, i.e., do not include receivable contributions for this purpose.

Line 7c. - If this amount is greater than zero there is an accumulated funding deficiency for the plan year and Form 5330 should be filed with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing Form 5330 on time.

Line 8. - A revenue procedure providing for automatic approval for a change in funding method for a plan year does not apply unless the plan sponsor or plan administrator explicitly agrees to the change. If a change in funding method that is made pursuant to such a revenue procedure is to be applicable for the current plan year, this line must be checked "Yes."

Skip line 9 if the plan is a multiemployer plan or a plan with 100 or fewer participants during the prior plan year. A plan has 100 or fewer participants in the prior plan year only if there were 100 or fewer participants (both active and nonactive participants) on each day of the preceding plan year, taking into account participants in all defined benefit plans maintained by the same employer who are also employees of that employer.

Line 9. - The transition rule of Code section 412(l)(11) and ERISA section 302(d)(11) provides an alternative method of computing the additional required funding charge. For such an election to apply for the current plan year check "yes" for this line.

Part IV - Amendments

Line 10. - Check "Yes" if an amendment was adopted during the plan year that increased the value of benefits in any way. This includes an amendment providing for an increase in the amount of benefits or rate of accrual, more generous early retirement factors, more generous lump sum factors, cost of living adjustments, more rapid vesting, additional payment forms, and earlier eligibility for some benefits.

PEN

Department of the
Treasury
Internal Revenue Service

199X

Instructions for Schedule Q (Form 5500)

Qualified Pension Plan Coverage Information

"Code" refers to the Internal Revenue Code.

General Instructions

Who Must File

The Schedule Q (Form 5500) must be attached to the Form 5500 to report coverage information for a pension benefit plan (including profit-sharing and stock bonus plans) that is intended to be qualified under Code section 401(a) or 403(a). More than one Schedule Q may be required. See the specific instructions for lines 1 and 2.

Check the appropriate box on Part II, line 8 of the Form 5500 and enter the total number, if any Schedules Q have been attached.

Purpose of Schedule

Schedule Q (Form 5500) is used by certain qualified pension benefit plans to provide information concerning the plan's compliance with the minimum coverage requirements of Code section 410(b).

Substantiation Guidelines

Revenue Procedure 93-42, 1993-2 C.B. 540, provides guidelines designed to reduce the burdens of substantiating compliance with the coverage and nondiscrimination requirements that apply to qualified pension benefit plans. Generally, Rev. Proc. 93-42 sets forth guidelines for: (1) the quality of data used in substantiating compliance with the coverage and nondiscrimination rules, (2) the timing of coverage and nondiscrimination testing, (3) the identification of highly compensated employees, (4) the testing cycle of a plan, and (5) the qualified separate lines of business (QSLOB) rules. The substantiation guidelines may be used in completing Schedule Q, if applicable.

When to File

Plans using the three-year testing cycle rule in Revenue Procedure 93-42 must file Schedule Q for the first year in the plan's testing cycle. Schedule Q need not be filed for the second or third year in the cycle if the employer is permitted to rely on the earlier year's testing. If the employer does not or cannot use the three-year testing rule, the Schedule Q must be filed annually.

Specific Instructions

Lines A, B, C and D. - This information should be the same as reported in Part II of the Form 5500 to which this Schedule Q is attached.

For purposes of the Schedule Q (Form 5500), "employer" means the employer and all entities aggregated with the employer under Code section 414(b), (c) or (m). For purposes of the Schedule Q (Form 5500), "employee" means any self-employed individual, common-law employee, or leased employee (within the meaning of Code section 414(n)) of the employer or any entity aggregated with the employer.

Line 1. - If Schedule Q is required to be filed to provide coverage information regarding the noncollectively bargained employees in a plan maintained by more than one employer, file a separate Schedule Q for each participating employer that has noncollectively bargained employees benefiting under the plan, as if the portion of the plan benefiting such employees constituted a separate plan. Enter on line 1 the name and employer identification number of the participating employer to which the coverage information in lines 2 and 3 relates. Otherwise, leave line 1 blank.

Line 2. - See Income Tax Regulations section 1.414(r). Do not complete lines 2a through 2d unless the employer maintaining the plan operates QSLOBs.

Line 2c. - See Regulations sections 1.414(r)-1(c) and 1.414(r)-8.

Line 2d. - If the plan benefits the employees of more than one QSLOB, and the employer applies the minimum coverage requirements on a QSLOB basis, file a separate Schedule Q for each QSLOB that has employees benefiting under the plan for which the Form 5500 is being filed, as if each portion of the plan that benefits the employees of a particular QSLOB constituted a separate plan. Identify on line 2d the particular QSLOB to which the coverage information in lines 3 and 4 relates. Otherwise, leave line 2d blank.

Line 3. - Check box 3a, 3b, 3c or 3d to indicate if you meet any of the exceptions they describe. If box 3a, 3b, 3c or 3d is checked, skip line 4.

Box 3a. - Check this box if, during the plan year, the employer employed only highly compensated employees (within the meaning of Code section 414(q)), excluding employees who were collectively bargained employees (within the meaning of Regulations section 1.410(b)-6(d)(2)) .

Box 3b. - Check this box if, during the plan year, the plan benefited no highly compensated employees (within the meaning of Code section 414(q)), excluding employees who were collectively bargained employees (within the meaning of Regulations section 1.410(b)-6(d)(2)) . See the instructions for line 4c(5) for the definition of "benefiting." This line should also be checked if no employee received an allocation or accrued a benefit under the plan for the plan year.

Box 3c. - Check this box if, during the plan year, the plan benefited only collectively bargained employees (within the meaning of Regulations section 1.410(b)-6(d)(2)). However, do not check this box if more than 2% of the employees covered by the plan were professional employees (within the meaning of Regulations section 1.410(b)-9).

Box 3d. - Check this box if, during the plan year, the plan benefited 100% of the nonexcludable nonhighly compensated employees of the employer. The nonhighly compensated employees of the employer include all the self-employed individuals, common-law employees, and leased employees (within the meaning of Code section 414(n)) employed by the employer or any entity aggregated with the employer under Code section 414(b), (c) or (m) at any time during the plan year, excluding highly compensated employees (within the meaning of Code section 414(q)). Any such employee is a nonexcludable employee unless the employee is in one of the following categories:

1. Employees who have not attained the minimum age and service requirements of the plan.

2. Collectively bargained employees within the meaning of Regulations section 1.410(b)-6(d)(2).

3. Nonresident aliens who receive no U.S. source income.

4. Employees who fail to accrue a benefit solely because they: (a) fail to satisfy a minimum hour of service or a last day requirement under the plan; (b) do not have more than 500 hours of service for the plan year; and (c) are not employed on the last day of the plan year.

Line 4. - In general, a plan must satisfy the coverage requirements under one of three testing options. Under the daily testing option, the plan must satisfy the coverage requirements on each day of the plan year taking into account only employees who are employees on that day. A plan will satisfy the coverage requirements under the quarterly testing option if it satisfies them on at least one day in each quarter, taking into account only employees who are employees on that day, provided the quarterly testing dates reasonably represent the coverage of the plan over the entire plan year. Finally, a plan will satisfy the coverage requirements under the annual testing option if it satisfies them as of the last day of the plan year, taking into account all employees who were employees on any day during the plan year.

Rev. Proc. 93-42 also allows an employer to substantiate that a plan satisfies the coverage requirements on the basis of the employer's workforce on a single day during a plan year, taking into account only employees who are employees on that day, if that day is reasonably representative of the employer's workforce and the plan's coverage throughout the year. This is referred to as "snapshot" testing.

If a plan satisfies the coverage and nondiscrimination requirements for a plan year, the employer may generally rely on this for the two succeeding plan years and will not have to test the plan in those years, provided there have not been significant changes.

If the employer is using single day, "snapshot" testing, the data given on lines 4a through 4f should be for the most recent snapshot day.

Enter on line 4 the beginning date of the plan year with respect to which the data on lines 4a through 4f was gathered. This is the first day of the plan

year for which the Form 5500 is being filed or, if the employer is relying on coverage and nondiscrimination testing from one of the two preceding plan years, the first day of such year.

Line 4a. - The definition of leased employee is in Code section 414(n).

Line 4b. - Employers can satisfy coverage by aggregating generally any qualified plans that are not mandatorily disaggregated. See the instructions for lines 4c and 4e regarding mandatory disaggregation. The aggregated plans must also satisfy the nondiscrimination requirements of Code section 401(a)(4) on an aggregated basis. If the employer aggregates this plan with any other plan(s) for the coverage and nondiscrimination requirements, enter the information requested and complete the rest of line 4 for the plans, as aggregated.

Line 4c. - Certain single plans must be disaggregated into two or more separate parts. Each of the disaggregated parts of the plan must then satisfy the coverage and nondiscrimination requirements as if it were a separate plan. Under the regulations, the following plans must be disaggregated:

1. A plan that includes a Code section 401(k) arrangement (a qualified cash or deferred arrangement) and a portion that is not a section 401(k) arrangement.

2. A plan that includes a Code section 401(m) feature (employee and matching contributions) and a portion that is not a Code section 401(m) feature.

3. A plan that includes an ESOP and a portion that is not an ESOP.

4. A plan that benefits both collectively bargained employees (within the meaning of Regulations section 1.410(b)-6(d)(2)) and noncollectively bargained employees.

If the plan is disaggregated because it benefits both collectively bargained employees and noncollectively bargained employees, complete lines 4c and 4d for the part of the plan that benefits noncollectively bargained employees. Do not complete line 4e. If the plan is disaggregated for other reasons, complete lines 4c and 4d for one disaggregated part of the plan. Complete line 4e if the ratio percentage for the other disaggregated part(s) of the plan is different than that entered on line 4d. For example, if the plan is a profit sharing plan that provides nonelective contributions, Code section 401(k) contributions, and Code section 401(m) contributions, you may complete lines 4c and 4d for the nonelective part of the plan. In this case, enter in line 4e the ratio percentage for the 401(k) and/or the 401(m) part of the plan only if different than the ratio percentage for the nonelective part of the plan.

Line 4c(1). - Enter the total number of employees of the employer.

Line 4c(2). - Enter the total number of excludable employees in the following categories:

1. Employees who have not attained the minimum age and service requirements of the plan.

2. Collectively bargained employees within the meaning of Regulations section 1.410(b)-6(d)(2).

3. Nonresident aliens who receive no U.S. source income.

4. Employees who fail to accrue a benefit solely because they: (a) fail to satisfy a minimum hour of service or a last day requirement under the plan; (b) do not have more than 500 hours of service for the plan year; and (c) are not employed on the last day of the plan year. See Regulations section 1.410(b)-6.

5. Employees of QSLOBs other than the one with respect to which this Schedule Q is being filed.

Line 4c(4). - The definition of highly compensated employee is contained in Code section 414(q) and its related regulations.

Line 4c(5). - In general, an employee is "benefiting" if the employee receives an allocation of contributions or forfeitures, or accrues a benefit under the plan for the plan year. Certain other employees are treated as benefiting even if they fail to receive an allocation of contributions or forfeitures or to accrue a benefit solely because the employee is subject to plan provisions that limit plan benefits, such as a provision for maximum years of service, maximum retirement benefits, or limits designed to satisfy Code section 415. An employee is treated as benefiting under a plan (or portion of a plan) that provides for elective contributions under Code section 401(k) if the employee is eligible to make elective contributions to the Code section 401(k) arrangement even if he or she does not actually make elective contributions. Similarly, an employee is treated as benefiting under a plan (or portion of a plan) that provides for after-tax employee contributions or matching contributions under Code section 401(m) if the employee is eligible to make after-tax employee contributions or receive allocations of matching contributions even if none are actually made or received.

Line 4d. - In general, to compute the ratio percentage, divide the number of nonexcludable employees who benefit under the plan and are not highly compensated by the total number of nonexcludable nonhighly compensated employees;

put this result in the numerator (top of the fraction). Divide the number of nonexcludable employees who benefit under the plan and who are highly compensated by the total number of nonexcludable highly compensated employees; put this result in the denominator (bottom of the fraction). Divide the numerator by the denominator, multiply by 100, and enter the result in line 4d. Enter to the nearest 0.1%.

Line 4e. - See the instructions for line 4c. Calculate the ratio percentage for the other disaggregated part(s) of the plan as described above. Enter on line 4e only if different than line 4d. If entering information on line 4e, identify the disaggregated part(s) of the plan as follows: "401(k)," "401(m)," "nonelective," "ESOP," "non-ESOP."

If there are more than three other disaggregated parts of the plan, provide their ratio percentages on an attachment in the same format as line 4(e).

Line 4f. - If the ratio percentage for the plan, or any disaggregated part of the plan, entered on line 4d or line 4e is less than 70%, the plan does not satisfy the ratio percentage test. In this case, the plan will satisfy the minimum coverage requirements of the Code only if it satisfies the average benefit test.

A plan satisfies the average benefit test if it satisfies both the nondiscriminatory classification test and the average benefit percentage test. A plan satisfies the nondiscriminatory classification test if the plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated employees. Under Regulations section 1.410(b)-4, a classification will be deemed nondiscriminatory if the ratio percentage for the plan is equal to or greater than the safe harbor percentage. The safe harbor percentage is 50%, reduced by ¾ of a percentage point for each percentage point by which the nonhighly compensated employee concentration percentage exceeds 60%. The nonhighly compensated employee concentration percentage is the percentage of all the employees of the employer who are not highly compensated employees.

In general, a plan satisfies the average benefit percentage test if the actual benefit percentage for nonhighly compensated employees is at least 70% of the actual benefit percentage for highly compensated employees. See Regulations section 1.410(b)-5. All qualified plans of the employer, including ESOPs, Code section 401(k) plans, and plans with employee or matching contributions (Code section 401(m) plans) are aggregated in determining the actual benefit percentages. Do not aggregate plans that may not be aggregated for purposes of satisfying the ratio percentage test, other than ESOPs and Code section 401(k) and 401(m) plans. In addition, all nonexcludable employees, including those with no benefit under any qualified plan of the employer, are included in determining the actual benefit percentages.

Signature - If the Schedule Q is filed by an employer participating in a plan maintained by more than one employer, the schedule must be signed.

Department of the Treasury
Internal Revenue Service

199X

Instructions for Schedule SSA (Form 5500)

Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits

"ERISA" refers to the Employee Retirement Income Security Act of 1974.
"Code" refers to the Internal Revenue Code.

General Instructions

Purpose of form.-- Use Schedule SSA to report all participants with deferred vested benefit rights who separated from your company during the plan year. Also use Schedule SSA to correct information previously reported concerning participants with deferred vested benefits, if you wish. The information reported on this schedule is given to the Social Security Administration which in turn provides it to participants when they file for Social Security benefits.

Check the appropriate box on Part II, line 8 of the Form 5500 and enter the total number, if any Schedules SSA have been attached.

Who must file.-- The plan administrator is responsible for filing Schedule SSA. Plans that cover only owners and their spouses do not have to file this schedule.

Note: Government, church, or other plans that elect to voluntarily file the Schedule SSA **must** check the appropriate box on the schedule **and** complete lines 4 through 5c.

What to file.-- File this schedule and complete all line items. All attachments to Schedule SSA should have entries only on the front of the page. If you need more space, use either: (1) additional copies of Schedule SSA, or (2) additional sheets the same size as the schedule containing all the information requested on the schedule. The information required in line 3 columns (a) through (j) should be listed in the same format as line 3 on Schedule SSA.

You may send a machine-generated computer listing showing the information required on line 3 instead of completing line 3 on the schedule. Use the same format as line 3 on Schedule SSA. Complete lines 1 and 2 on Schedule SSA and enter on line 3 a statement that a list is attached. On each page of the computer listing, enter all the information from lines 1a through 2b.

When to Report a Separated Participant.-- In general, ***for a plan to which only one employer contributes,*** a participant must be reported on Schedule SSA if:

1. The participant separates from service covered by the plan in a plan year, and
2. The participant is entitled to a deferred vested benefit under the plan.

The separated participant must be reported no later than on the Schedule SSA filed for the plan year following the plan year in which separation occurred. However, you can report the separation in the plan year in which it occurs, if you want to report earlier. Do not report a participant more than once unless you wish to revise or update a prior Schedule SSA (see instructions for line 3, column (a), under codes B, C, or D).

In general, ***for a plan to which more than one employer contributes,*** a participant must be reported on Schedule SSA if:

1. The participant incurs two successive 1-year breaks in service (as defined in the plan for vesting purposes) in service computation periods, and
2. The participant is (or may be) entitled to a deferred vested benefit under the plan.

The participant must be reported no later than on the Schedule SSA filed for the plan year in which the participant completed the second of the two consecutive 1-year breaks in service. The participant may be reported earlier (i.e., on the Schedule SSA filed for the plan year in which he or she separated from service or completed the first 1-year break in service.)

When NOT to Report a Participant.--A participant is not required to be reported on Schedule SSA if, before the date the Schedule SSA is required to be

SSA

filed (including any extension of time for filing), the participant:

1. Is paid some or all of the deferred vested retirement benefit,
2. Returns to service covered by the plan and/or accrues additional retirement benefits under the plan, or
3. Forfeits all the deferred vested retirement benefit.

Separation of a re-employed employee.--If the deferred vested benefit of a separated employee is different from that previously reported, you may use code B (see below) to report that employee's total vested benefit.

Revising prior report.--You are encouraged to voluntarily report on a current Schedule SSA any revisions to pension information for a participant you reported on a previous Schedule SSA (e.g., changes in pension amounts, plan number, etc.). This will ensure SSA's records are correct. This is important since SSA provides Schedule SSA information it has on file to participants when they file for Social Security benefits. If this information is not up to date, the participant may contact the plan administrator to resolve the differences.

Where and how to file--File as an attachment to Form 5500.

Caution: *A penalty may be assessed if Schedule SSA (Form 5500) is not timely filed.*

Specific Instructions

Line 1b.--Enter the sponsor's employer identification number (EIN) shown on line 1b of the 5500-series form used.

Line 3, column (a).--From the following list, select the code that applies and enter that code in column (a).

Code A --Use this code for a participant not previously reported. Also complete columns (b) through (h).

Code B--Use this code for a participant previously reported under the plan number shown on this schedule but only if you wish to modify some of the previously reported information. Enter all the current information for columns (b) through (h).

Code C --Use this code for a participant previously reported under another plan number who will now be receiving his/her future benefit from the plan reported on this schedule. Also complete columns (b), (c), (i), and (j).

Code D --Use this code for a participant previously reported under the plan number shown on this schedule who is no longer entitled to those deferred vested benefits. Also complete columns (b) and (c). If you wish, you may also use this code to report those participants who are already receiving benefits as previously reported.

Note: ***The use of codes B, C, and D are optional.***

Line 3, column (b).--Enter the exact social security number (SSN) of each participant listed. If the participant is a foreign national employed outside the United States who does not have an SSN, enter the word "FOREIGN."

Line 3, column (c).--Enter each participant's name exactly as it appears on the participant's social security card.

Line 3, column (d). -- From the following list, select the code that describes the type of annuity that will be provided for the participant. Enter the code that describes the type of annuity that normally accrues under the plan at the time of the participant's separation from service covered by the plan (or for a plan to which more than one employer contributes at the time the participant incurs the second consecutive 1-year break in service under the plan).

Type of Annuity Code

A A single sum
B Annuity payable over fixed number of ears
C Life annuity
D Life annuity with period certain
E Cash refund life annuity
F Modified cash refund life annuity
G Joint and last survivor life annuity
M Other

Line 3, column (e).--From the following list, select the code that describes the benefit payment frequency during a 12-month period.

Type of Payment Code

A Lump sum
B Annually
C Semiannually
D Quarterly
E Monthly
M Other

Line 3, column (f).--For a defined benefit plan, enter the amount of the periodic payment that a participant is entitled to receive under line 3, column (f). *For a plan to which more than one employer contributes,* if the amount of the periodic

SSA

payment cannot be accurately determined because the plan administrator does not maintain complete records of covered service, enter an estimated amount.

Line 3, column (g).--For a defined contribution plan, if the plan states that a participant's share of the fund will be determined on the basis of units, enter the number of units credited to the participant. If, under the plan, participation is determined on the basis of shares of stock of the employer, enter the number of shares and add the letters "SH" to indicate shares. A number without the "SH" will be interpreted to mean units.

Line 3, column (h).--For defined contribution plans, enter the value of the participant's account at the time of separation.

Line 3, columns (i) and (j).--Show the EIN and plan number of the plan under which the participant was previously reported.

Line 4.--If the Post Office does not deliver mail to the street address and you have a P.O. box, enter the box number instead of the street address.

Signature.--This form must be signed by the plan administrator. If more than one Schedule SSA is filed for one plan, only page one should be signed.

SSA

Form **5500**
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Annual Return / Report of Employee Benefit Plan

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6039D, 6047(3), 6057(b), and 6058(a) of the Internal Revenue Code (the Code).

➤ Type or print all entries in accordance with the instructions to the Form 5500.

OMB Nos.

199X

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For the calendar plan year 199X or fiscal plan year

beginning ➤ MO ☐☐ DAY ☐☐ YEAR ☐☐☐☐ and ending ➤ MO ☐☐ DAY ☐☐ YEAR ☐☐☐☐

A This return / report is: **(1)** ☐ the first Form 5500; **(2)** ☐ an amended Form 5500; or **(3)** ☐ the final Form 5500.

B This return / report is for: **(1)** ☐ a multiemployer plan; **(2)** ☐ a single-employer plan (other than a multiple-employer plan);
(3) ☐ a multiple-employer plan; or **(4)** ☐ a DFE (specify) ➤ ☐

C Check the box, if the plan is a collectively-bargained plan ➤ ☐

D If you filed for an extension of time to file, check the box and attach a copy of the extension ➤ ☐

Part II Basic Plan Information — enter all requested information

1a Name of Plan

1b Three-digit plan number (PN)

1c Effective date of plan

2a Plan sponsor's name (employer, if for single-employer plan)

2b Employer Identification Number (EIN)

Address (should include room or suite no.)

2c Sponsor's telephone number

City

State Zip Code –

2d Business code (see instructions)

3a Plan administrator's name (if same as plan sponsor, enter "Same")

3b Administrator's EIN

3c Administrator's telephone number

Address (if same as plan sponsor, enter "Same")

City

State Zip Code –

DRAFT

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4 Number of participants covered under the plan as of

the **(a)** beginning of the plan year ☐☐☐☐☐☐☐ and **(b)** end of the plan year ☐☐☐☐☐☐☐

5 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return / report below:

5a Sponsor's name

5b EIN

5c PN

6 Benefits provided under the plan (check all applicable boxes and enter all applicable codes): a ☐ Pension benefits b ☐ Welfare benefits c ☐ Fringe benefits

7a Plan funding arrangement (check all that apply):
- (1) ☐ Insurance
- (2) ☐ Section 412(i) insurance contracts
- (3) ☐ Trust
- (4) ☐ General assets of the sponsor
- (5) ☐ Other

7b Plan benefit arrangement (check all that apply):
- (1) ☐ Insurance
- (2) ☐ Section 412(i) insurance contracts
- (3) ☐ Trust
- (4) ☐ General assets of the sponsor
- (5) ☐ Other

8 Schedules attached (enter the number attached, as applicable. See instructions):

Pension Schedules
- **PEN** (Pension Plan Information)
- **Q** (Qualified Pension Plan Coverage Information)
- **B** (Actuarial Information)
- **E** (ESOP Annual Information)
- **SSA** (Separated Vested Participant Information)

Fringe Benefit Schedule
- **F** (Fringe Benefit Plan Annual Information)

Financial Schedules
- **FIN** (Financial Information)
- **FIN-SP** (Financial Information - Small Plan)
- **A** (Insurance Information)

Financial Schedules *(Cont)*
- **C** (Service Provider Information)
- **D** (DFE/Participating Plan Information)
- **G** (Financial Transaction Schedules)
- **P** (Trust Fiduciary Information)

Caution: *A penalty for the late or incomplete filing of this return / report will be assessed unless reasonable cause is established.*

Under penalties of perjury set forth in the instructions, I declare that I have examined this return / report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of plan administrator MO DAY YEAR

Typed or printed name of individual signing as plan administrator

Signature of employer / plan sponsor / DFE MO DAY YEAR

Typed or printed name of individual signing as employer, plan sponsor or DFE

Preparer's name

Preparer's EIN

Classification Code

Printed on recycled paper

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20 46420
Proposed Rules:
648 46470

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 3, 1997

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Potato research and promotion order:

Importers' votes and reporting requirements clarification; published 9-2-97

AGRICULTURE DEPARTMENT

Agricultural Research Service

National Arboretum use; fee schedule; published 9-3-97

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Outer Continental Shelf regulations—

Alaska; consistency update; published 8-4-97

Air quality implementation plans; approval and promulgation; various States:

Arizona; published 8-4-97

Illinois; published 9-3-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Pyrantel tartrate; published 9-3-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Grants administration:

Uniform administrative requirements and definitions; higher education institutions, hospitals, and other nonprofit organizations (OMB A-110)

Miscellaneous amendments; published 8-4-97

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards:

Air contaminants; correction; published 8-4-97

TREASURY DEPARTMENT

Fiscal Service

Treasury certificates of indebtedness, notes, and bonds; State and local government series securities; published 9-3-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Tuberculosis in cattle and bison—

State and area classifications; comments due by 9-9-97; published 7-11-97

Plant-related quarantine, domestic:

Mediterranean fruit fly; comments due by 9-8-97; published 7-10-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Basic provisions and various crop insurance provisions; comments due by 9-11-97; published 8-12-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Magnuson-Stevens Fishery Conservation and Management Act; implementation:

Regional Fishery Management Council nominees, appointees, and voting members; financial disclosure requirements; comments due by 9-8-97; published 8-7-97

Marine mammals:

Incidental taking—

Seismic activities on-ice; ringed seals; comments due by 9-8-97; published 8-8-97

DEFENSE DEPARTMENT

Acquisition regulations:

Equitable adjustment certification requirement for contractors; comments due by 9-9-97; published 7-11-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

New nonroad compression-ignition engines at or below 19 kilowatts—

Replacement engines and two stroke engines on nonhandheld equipment; comments due by 9-8-97; published 8-7-97

Air pollution; standards of performance for new stationary sources:

Nitrogen oxide emissions from new fossil-fuel fired steam generating units; comments due by 9-8-97; published 7-9-97

Air programs:

Ambient air quality standards, national—

Particulate matter; comments due by 9-8-97; published 8-15-97

Clean Air Act—

Carbon monoxide; nonattainment area for Fairbanks, AK; comments due by 9-8-97; published 8-8-97

Emission requirements—

New nonroad spark and marine spark engines; replacement and two stroke engineson certain nonhandheld equipment; comments due by 9-8-97; published 8-7-97

Air quality implementation plans; approval and promulgation; various States:

Illinois; comments due by 9-11-97; published 8-12-97

Pennsylvania; comments due by 9-11-97; published 8-12-97

Tennessee; comments due by 9-11-97; published 8-12-97

Hazardous waste program authorizations:

New York; comments due by 9-11-97; published 8-12-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fomesafen; comments due by 9-8-97; published 7-9-97

Toxic substances:

Significant new uses—

Organosolv lignin, etc.; comments due by 9-12-97; published 8-13-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Florida; comments due by 9-8-97; published 7-24-97

FEDERAL RESERVE SYSTEM

Depository institutions; reserve requirements (Regulation D):

Reserve aggregation, and pass-through account rules; update and clarification; comments due by 9-12-97; published 8-8-97

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift savings plan:

Withdrawing funds; methods; comments due by 9-8-97; published 8-7-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

General and plastic surgery devices—

Tweezer-type epilator; reclassification; comments due by 9-9-97; published 6-11-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

California freshwater shrimp; comments due by 9-9-97; published 7-21-97

Findings on petitions, etc.—

Lesser prairie-chicken; comments due by 9-8-97; published 7-8-97

Endangered Species Convention:

Appendices and amendments; comments due by 9-12-97; published 8-22-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Indiana; comments due by 9-8-97; published 8-8-97

Oklahoma; comments due by 9-8-97; published 8-8-97

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office

Acquisition regulations:

Cost Accounting Standards Board—

Cost accounting practices; comments due by 9-12-97; published 7-14-97

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Equal Access to Justice Act; implementation; comments

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

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