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Rules and Regulations

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

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (the Board) is amending its rules of practice and procedure to prescribe how a Federal employee witness in a Board proceeding may obtain a Board order that the employing agency grant him or her official time for participation in the proceeding. The Board is also amending its rules for enforcement proceedings to clarify that those rules apply to proceedings for enforcement of orders issued in the course of the Board's adjudicatory proceedings, such as an order that an agency provide official time to a Federal employee or a protective order to protect a witness from harassment, as well as to final Board decisions.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: The Board's current rules of practice and procedure, at 5 CFR 1201.33, provide that a Federal employee who appears as a witness in a Board proceeding, or furnishes a sworn statement in connection with such a proceeding, ''will be in official duty status (i.e., entitled to pay and benefits including travel and per diem, where appropriate).'' The current rules, however, provide no explicit guidance as to how a Federal employee is to proceed if his or her employing agency refuses to provide the official time required by section 1201.33.

The Board's case law has affirmed its authority to provide official time to non-parties, but the Board has not addressed the procedures for non-parties to claim official time. *In re Maisto,* 28 M.S.P.R. 436 (1985); *In re Douglas,* 32 M.S.P.R. 389 (1987); and *Sapp* v. *U.S. Postal Service,* 73 M.S.P.R. 189 (1997).

The Board has the authority to order any Federal employee or agency to comply with any order or decision issued by the Board and to enforce compliance with any such order. 5 U.S.C. §1204(a)(2). The Board also has the authority to prescribe such regulations as may be necessary for the performance of its functions. 5 U.S.C. §1204(h).

The Board, therefore, is amending section 1201.33 to prescribe a specific procedure for a nonparty Federal employee who is participating as a witness in a Board proceeding to obtain from the judge an order that the employing agency comply with the official time requirements of that section. The procedure requires that the nonparty Federal employee submit the request to the judge in writing. The judge is then required to act on the request promptly and, where warranted, to order the employing agency to comply with the Board's official time regulation.

Section 1201.33 is amended further to state specifically that a judge's order that an agency provide official time as required by that section may be enforced as provided under subpart F of part 1201, i.e., in the same manner as other Board decisions and orders.

The Board also is amending its enforcement regulations at section 1201.182 to clarify that the regulations in subpart F apply to enforcement proceedings for all Board orders issued in connection with its adjudicatory proceedings, as well as to enforcement proceedings for final Board decisions. Both paragraph (a), covering decisions and orders issued under the Board's appellate jurisdiction, and paragraph (b), covering decisions and orders issued under the Board's original jurisdiction, are amended to provide that they apply to both Board orders and final decisions.

The Board is amending section 1201.182 at paragraph (c) to provide an exception to the requirement that a nonparty file a motion to intervene at the same time as a petition for enforcement where the nonparty is a Federal employee witness seeking enforcement of a Board order for official time or an individual seeking enforcement of a protective order.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 4331, unless otherwise noted.

2. Section 1201.33 is amended by redesignating the existing text as paragraph (a) and by adding paragraphs (b) and (c) to read as follows:

§ 1201.33 Federal witnesses.

* * * * *

(b) A Federal employee who is denied the official time required by paragraph (a) of this section may file a written request that the judge order the employing agency to provide such official time. The judge will act on such a request promptly and, where warranted, will order the agency to comply with the requirements of paragraph (a) of this section.

(c) An order obtained under paragraph (b) of this section may be enforced as provided under subpart F of this part.

§ 1201.182 [Amended]

3. Section 1201.182 is amended at paragraph (a) by adding ''or order'' after ''decision'' in the first sentence.

4. Section 1201.182 is amended at paragraph (b) by removing ''Board order'' in the first sentence and by adding in its place ''final Board decision or order.''

5. Section 1201.182 is amended by revising paragraph (c) to read as follows:

§ 1201.182 Petition for enforcement.

* * * * *

(c) *Petition by an employee other than a party.* (1) Under 5 U.S.C. 1204(e)(2)(B), any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board for enforcement. Except for a petition filed under paragraph (c)(2) or (c)(3) of this section, the Board will

entertain a petition for enforcement from an aggrieved employee who is not a party only if the employee seeks and is granted party status as a permissive intervenor under § 1201.34(c) of this part. The employee must file a motion to intervene at the time of filing the petition for enforcement. The petition for enforcement must describe specifically why the petitioner believes there is noncompliance and in what way the petitioner is aggrieved by the noncompliance. The motion to intervene will be considered in accordance with § 1201.34(c) of this part.

(2) Under § 1201.33(c) of this part, a nonparty witness who has obtained an order from a judge that his or her employing agency provide the witness with official time may petition the Board for enforcement of the order.

(3) Under § 1201.55(d) of this part, a nonparty witness or other individual who has obtained a protective order from a judge during the course of a Board proceeding for protection from harassment may petition the Board for enforcement of the order.

(4) A petition for enforcement under paragraph (c)(1), (c)(2), or (c)(3) of this section must be filed promptly with the regional or field office that issued the order or, if the order was issued by the Board, with the Clerk of the Board. The petitioner must serve a copy of the petition on each party or the party's representative. If the petition is filed under paragraph (c)(1) of this section, the motion to intervene must be filed and served with the petition.

Dated: September 12, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–24750 Filed 9–17–97; 8:45 am]

BILLING CODE 7400–01–U

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Correction of Administrative Errors

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule; amendment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing an amendment to final rules on correction of administrative errors affecting Thrift Savings Plan (TSP) accounts. The effect of the amendment will be that earnings on contributions made to the TSP by a person who is ineligible to participate will be returned to that person and not used to offset TSP adminis trative expenses.

EFFECTIVE DATE: This amendment is effective December 27, 1996.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 942–1661.

SUPPLEMENTARY INFORMATION: A final rule governing the correction of administrative errors affecting Thrift Savings Plan accounts was published in the **Federal Register** on December 27, 1996 (61 FR 68464). That rule revised the final regulations that were published in the **Federal Register** on December 4, 1987 (52 FR 46314). In both sets of regulations the Board provided that when an individual who was not eligible to participate in the TSP nevertheless contributed funds to the TSP, the individual's contributions would be returned, but the earnings on those contributions would be forfeited and used to pay administrative expenses of the TSP. Upon review of this matter, the Board has decided that in promulgating this regulation insufficient emphasis was placed on the ineligible participant's equitable claim to these earnings.

For this reason, § 1605.9(a)(1) of the error correction regulations is being amended to provide that these earnings will be paid to the ineligible participant. Because the equity interest in these earnings by the ineligible participant is so substantial, this amendment is being given retroactive effect to the effective date (December 27, 1996) of the current error correction regulations.

Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will only affect Thrift Savings Plan participants.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Public Law 104–4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments, and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined in section 804(2).

List of Subjects in 5 CFR Part 1605

Administrative practice and procedure, Employee benefit plans, Government employees, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set forth in the preamble, part 1605 of chapter VI of title 5 of the Code of Federal Regulations is amended as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

1. The authority citation for Part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351 and 8474.

2. Section 1605.9 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 1605.9 Miscellaneous provisions.

(a)(1) * * * In that case, the earnings will be removed from the account and paid to the ineligible participant. * * * * * * * * *

[FR Doc. 97–24760 Filed 9–17–97; 8:45 am]

BILLING CODE 6760–01–U

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AA56

Fees for Official Inspection and Official Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is implementing, effective October 1, 1997, a 12.5-percent increase in the administrative service fee for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The fee

adjustment is necessary to cover indirect field office and headquarters operational costs and to maintain a 3-month operational reserve. GIPSA is also deleting from the fee schedule the unit fees for submitted samples and factor only analysis performed online at an applicant's facility.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, at (202) 720–4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in Section 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this proposed rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by statute to make services available and to recover costs of providing such services, as nearly as practicable.

The fee revision applies to entities engaged in the export of grain. Under provisions of the USGSA, most grain exported from U.S. export port locations must be officially inspected and weighed. Mandatory inspection and weighing services are provided by FGIS on a fee basis at 37 export facilities. All of the export facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities as defined under the Regulatory Flexibility Act and the regulations issued thereunder. A 3-percent increase in hourly and certain unit fees went into effect June 15, 1997, and will recover the increased operational costs caused by mandated cost-of-living increases to Federal salaries. That increase is anticipated to generate $218,100 in additional revenue, bringing to $22.21 million the projected total revenue for fiscal year 1997. This 12.5-percent increase in the administrative fee is designed to generate sufficient revenue to cover indirect costs associated with field office and headquarters operations and to maintain the retained earnings at a 3-month operating reserve for the inspection and weighing program. Additional revenue estimated for fiscal year 1998 is projected to be $440,000 at an 85.6 million metric ton level. The 12.5-percent increase will not have a significant economic impact on small entities.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements contained in Part 800 have been previously approved by the Office of Management and Budget under control number 0580–0013.

Background

The USGSA requires GIPSA to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, FGIS' costs for performing these services, including related administrative and supervisory costs.

Effective October 1, 1996, GIPSA changed the methodology it uses for fees charged for its inspection and weighing services. The current fee structure for these services consists of three basic components: (1) An hourly rate charged to recover the direct labor costs of providing service; (2) a unit test or service rate; and (3) a per metric ton administrative charge to recover the indirect costs, such as salaries and benefits for office management and support staff and rent, incurred both at field offices and headquarters. Fees charged in the first two components of the structure were increased by approximately 3 percent effective June 15, 1997 (62 FR 31701, June 11, 1997, corrected at 62 FR 34342, June 25, 1997), to cover increased costs due to mandated Federal cost-of-living increases. At that time, GIPSA noted that a further adjustment of fees, including an adjustment to the administrative fee to recover the indirect costs of field offices and headquarters and to replenish the operating reserve, would be addressed in future rulemaking.

The current USGSA administrative fee was published in the August 22, 1996, **Federal Register** (61 FR 43301) and became effective on October 1, 1996. The per metric ton administrative charge recovers the indirect costs and administrative costs of FGIS field offices and headquarters such as the salaries and benefits for office management and support staff, Departmental charges, Animal and Plant Health Inspection Service and Agricultural Marketing Service charges, management of computers and software, utilities, and rent. The 3-percent increase that became effective June 15, 1997, was intended to recover only increases to the salaries of service personnel responsible for inspection and weighing of grain. The administrative fee is assessed on all outbound grain inspected and/or weighed at an applicant's facility.

Six levels of fees exist, ranging from 1 metric ton or less to over 7,000,001 metric tons, with fees decreasing as the number of metric tons inspected increases. The charge is assessed in addition to the hourly rate. At the beginning of each fiscal year (October 1), all applicants pay the same per metric-ton-fee. Once a level has been reached, the fee for additional metric tons is reduced until the maximum volume is reached.

ADMINISTRATIVE FEES

Metric tons	Current fees	Proposed fees
1–1,000,000	$0.090	$0.1013
1,000,000–1,500,000	.082	.0923
1,500,001–2,000,000	.042	.0473
2,000,001–5,000,000	.032	.0360
5,000,001–7,000,000	.017	.0192
7,000,000 + ...	.002	.0023

This 12.5-percent increase in the administrative fee is designed to generate additional revenue to cover the indirect costs associated with field office and headquarters operations and maintain the retained earnings at a 3-month operating reserve for the inspection and weighing program.

GIPSA estimates collecting $22.2 million in revenue for fiscal year 1997 under the current fee schedule. This is $1 million less than the $23.2 million estimated cost of operations for fiscal year 1997. Similar losses have occurred for the past 3 years, with $753,000 in

fiscal year 1994; $630,000 in fiscal year 1995; and $1,273,000 in fiscal year 1996. These losses resulted in a retained earning balance of only $922,000 at the beginning of fiscal year 1997, significantly below a desired 3-month operating reserve of $6 million.

Indirect costs for the inspection and weighing program are estimated at $4.68 million, or 20 percent of the total $23.2 obligation for the program. Because of a downturn in metric tons exported, the current administrative fee will generate only an estimated $3.5 million for fiscal year 1997, resulting in an estimated loss of $1.18 million. The administrative fee must be increased to ensure sufficient revenue is collected to recover indirect costs for an average export volume year. This will permit any excess revenue collected during high volume years, such as 89.9 million metric tons in fiscal year 1996, to offset low volume years such as this year, estimated at 76 million metric tons.

The current administrative fee generates an estimated $4.09 million at the 5-year average export volume of 85.6 million metric tons. The 12.5-percent increase will generate an estimated $4.53 million at the 85.6 million metric ton level, or increase actual revenue by $440,000, or 10.75 percent.

Comment Review

A proposed rule was published in the **Federal Register** on July 18, 1997, (62 FR 38488). GIPSA received five comments from trade associations and industry representatives during the 30-day comment period. All five commentors opposed the 12.5-percent increase.

In general, the commentors recommended that GIPSA initiate action to reduce administrative costs prior to any fee increase and that fee increases should not be used as the primary tool to reverse declining financial conditions. GIPSA agrees that all efforts should be taken to control administrative costs before proposing fee increases. This has been done in the past and GIPSA will continue to contain costs, as practicable, in the future.

The administrative fee implemented on October 1, 1996, was designed to collect sufficient revenue to recover fiscal year 1993 indirect costs which were $4.09 million. Since fiscal year 1993, the Agency has experienced an estimated $1.7 million increase in indirect costs primarily due to Federal pay increases, coupled with a redistribution of indirect costs associated with headquarters operations beginning in fiscal year 1995. GIPSA has reduced its indirect costs by $1.1 million by staff reductions, consolidating financial management into the Department's Animal and Plant Health Inspection Service, and reducing the number of field locations from 31 to 23.

Despite the Agency's aggressive cost containment efforts, indirect costs have increased $590,000 over the $4.09 million fiscal year 1993 base and must be recovered. The suggestions by several commentors that overhead (indirect costs) be further reduced in general or by specific percentages, is not practical at this time. GIPSA has and will continue to reduce costs as is appropriate and cost effective where feasible.

While the fee increase generally addresses cost recovery by GIPSA for original inspection and weighing services performed at export locations, several commentors suggested that these costs be passed on to all users of GIPSA services. In addition, commentors stated that the proposed fee increase would adversely impact on the competitive position of U.S. grain exports. Further, references were made that increased costs associated with export operations would be passed on to other industry members, including farmers, with one commentor indicating that the fees would have an economic impact on small entities as defined in the Regulatory Flexibility Act.

With regard to expanding the base for cost recovery to all users of GIPSA's services, GIPSA has gone to great lengths to identify specific costs associated with the vast number of different customers we serve. This has allowed us to develop separate fee schedules that specifically address services to these unique customers. This process has worked well and GIPSA sees no need to change it based on the suggestions.

An exporters' ability to compete in the international market place is influenced by many factors, not just the cost of inspection and weighing services. All inspection and weighing costs, regardless of where they are incurred in the marketing chain, i.e., farmer to exporter, are just one item used to determine the overall cost of a product. The additional $440,000 in fees, when spread over the total volume of grain traded in both the domestic and export markets, will not create a significant impact.

Several commentors questioned whether the fees and the expenses upon which they are based were reasonable under the USGSA. GIPSA has reviewed this issue and determined that the proposed fees and expenses are consistent and reasonable under the provisions of the USGSA.

One commentor suggested that the projected revenue from the proposed fee increase did not represent an across the board 12.5-percent increase and should be $510,000 instead of the stated $440,000. They apparently based this on a straightline projection of 12.5 percent of total cost. They further questioned how the proposed increase will offset the projected $1.18 million loss.

In order to calculate additional revenue for the administrative fee, one must first consider the existing fee structure. With the administrative fee decreasing as the number of metric tons increases and the volume of grain handled by export elevators varies, the estimated revenue collected from a 12.5 percent fee increase cannot be determined using a straightline projection. As stated in the proposal, an increase of 12.5 percent will generate an estimated $4.53 million at the 85.6 million metric ton level, or increase actual revenue by $440,000, or 10.75 percent.

Also, as stated in the proposal, GIPSA expected to collect only $3.5 million in administrative fees in fiscal year 1997. With projected costs at $4.68 million, there is a $1.18 million shortfall. The current fees are set to collect $4.09 million at 85.6 million tons. As stated in the proposal, the proposed fee level is designed to collect $4.53 million at an export volume of 85.6 million metric tons. Consequently, a revenue shortfall such as $1.18 million in 1997 with exports at 76 million metric tons will be offset by increased revenue during high-volume years such as 89.9 million metric tons in 1996. GIPSA is setting its fees at a reasonable level based on a 5-year level of exports.

One commentor suggested that GIPSA make previously recommended program changes prior to proposing fee increases. The commentor had recommended the suggested program changes during GIPSA's overall review of existing regulations. The suggested program changes are being considered and will be addressed in a separate rulemaking, as appropriate.

GIPSA has and will continuously monitor and adjust its resources to obtain optimum utilization of its personnel, in both direct and indirect areas, prior to proposing fee increases. However, as previously stated, GIPSA must recover its expenses for providing services and maintenance of a 3-month operating reserve and therefore must do so by implementing a 12.5-percent increase in the administrative fees.

No comments were received in response to the proposal to delete Table I (3)(ii), fees for submitted samples and

factor only analysis performed online at an applicant's facility.

Final Action

Effective October 1, 1997, the Agency will apply a 12.5-percent increase to Administrative Fees in 7 CFR 800.71, Table 1 (3), and will delete fees for Additional Service (assessed in addition to all other fees) in Table 1 (3)(ii).

Good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because an October 1, 1997, effective date corresponds to the beginning of the 1998 fiscal year and the start of a new accounting cycle.

List of Subjects in 7 CFR Part 800:

Administrative practice and procedure; Grain.

For the reasons set out in the preamble, 7 CFR Part 800 is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.71 is amended by revising Table 1(3) in Schedule A of paragraph (a) to read as follows:

§ 800.71 Fees assessed by the Service.

(a)

* * * * *

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

* * * * *

(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier).	
(i) All outbound carriers (per-metric-ton) [4]	
(a) 1–1,000,000	$0.1013
(b) 1,000,001–1,500,000	.0923
(c) 1,500,001–2,000,000	.0473
(d) 2,000,001–5,000,000	.0360
(e) 5,000,001–7,000,000	.0192
(f) 7,000,001 +	.0023

[1] Fees for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

* * * * *

[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

* * * * *

Dated: September 12, 1997.

James R. Baker,

Administrator.

[FR Doc. 97–24814 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for K. C. Pharmacal, Inc.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Judith O'Haro, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–3664.

SUPPLEMENTARY INFORMATION: K. C. Pharmacal, Inc., 1310 Atlantic, P.O. Box 7496, North Kansas City, MO 64116, has informed FDA of a change of sponsor address to K. C. Pharmacal, Inc., 8345 Melrose Dr., Lenexa, KS 66214. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor address.

List of Subjects in 21 CFR Part 510

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the sponsor address for ''K. C. Pharmacal, Inc.'' and in the table in paragraph (c)(2) in the entry for ''038782'' by revising the sponsor address to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * * *
K. C. Pharmacal, Inc., 8345 Melrose Dr., Lenexa, KS 66214	038782
* * *	* * * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * * *
038782	K. C. Pharmacal, Inc., 8345 Melrose Dr., Lenexa, KS 66214
* * *	* * * *

Dated: September 4, 1997.

George A. Mitchell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 97–24736 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Cyclosporine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health. The supplemental NADA provides for use of cyclosporine ophthalmic ointment on dogs for management of chronic superficial keratitis (CSK) and changing the approved label claim to management of chronic keratoconjunctivitis sicca (KCS).

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health, Schering-Plough Corp., P.O. Box 529, Kenilworth, NJ 07033, has filed supplemental NADA 141–052 Optimmune® (cyclosporine) ophthalmic ointment that provides for use on dogs for the management of chronic superficial keratitis (CSK) and changing the approved label claim from treatment to management of chronic keratoconjunctivitis sicca (KCS) in dogs. The term management reflects the complexity of the therapy for the diseases. The drug is limited to use by or on the order of a licensed veterinarian. The supplement is approved as of August 26, 1997, and the regulations are revised in 21 CFR 524.575(c)(2) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 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.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this approval for use in nonfood-producing animals qualifies for 3 years of marketing exclusivity beginning August 26, 1997, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new indication for management of CSK in dogs.

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

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

2. Section 524.575 is amended by revising paragraph (c)(2) to read as follows:

§ 524.575 Cyclosporine ophthalmic ointment.

* * * * *

(c) * * *

(2) *Indications for use.* For management of chronic keratoconjunctivitis sicca (KCS) and chronic superficial keratitis (CSK) in dogs.

* * * * *

Dated: September 10, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–24850 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 96N–0299]

Investigational Device Exemptions; Treatment Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing procedures to allow for the treatment use of investigational devices. These procedures are intended to facilitate the availability of promising new therapeutic and diagnostic devices to desperately ill patients as early in the device development process as possible, i.e., before general marketing begins, and to obtain additional data on the device's safety and effectiveness. These procedures apply to patients with serious or immediately life-threatening diseases or conditions for which no comparable or satisfactory alternative device, drug, or other therapy exists.

DATES: The regulation is effective January 16, 1998.

FOR FURTHER INFORMATION CONTACT: Joanne R. Less, Office of Device Evaluation (HFZ–403), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 22, 1987 (52 FR 19466), FDA published a final rule that codified procedures authorizing the treatment use of investigational new drugs (IND's) (hereinafter referred to as the treatment IND regulation). In publishing the treatment IND regulation, FDA was responding to an increased demand from patients as well as from health professionals to permit broader availability of investigational drugs to treat serious diseases for which there were no satisfactory alternative treatments. For similar reasons, in the **Federal Register** of December 19, 1996 (61 FR 66954), FDA proposed to amend its Investigational Device Exemptions (IDE) regulation (part 812 (21 CFR part 812)) to allow for the treatment use of investigational devices (hereinafter referred to as the treatment IDE regulation). With minor exceptions, the proposal paralleled the treatment IND regulation and extended those provisions to cover the treatment use of investigational devices, including diagnostic devices. The final rule generally codifies the proposal, with some exceptions discussed below. Similar to the proposed rule, this final rule is intended to facilitate the availability of promising new devices to patients as early in the device development process as possible while safeguarding against commercialization of the device and ensuring the integrity of controlled clinical trials.

FDA received six comments on the proposed rule. These comments were from an institutional review board (IRB), a medical device consultant, a medical device manufacturers' association, a medical device manufacturer, an association of surgeons, and a consumer. The comments generally supported the agency's proposal to provide for expanded access to investigational devices under a treatment IDE. A number of comments sought clarification of specific points, or responded to specific questions raised in the preamble to the proposed rule. No comments opposed codification of the treatment procedures. Interested persons were given until March 19, 1997, to comment on the proposed rule.

II. Highlights of the Final Rule

FDA has retained the basic framework of the proposed rule. Treatment use of an investigational device will be considered when: (1) The device is intended to treat or diagnose a serious or immediately life-threatening disease or condition; (2) there is no comparable or satisfactory alternative device available to treat or diagnose the disease or condition in the intended patient population; (3) the device is under investigation in a controlled clinical trial for the same use under an approved IDE, or all clinical trials have been completed; and (4) the sponsor of the controlled clinical trial is pursuing marketing approval/clearance of the investigational device with due diligence.

Each application for treatment use shall include, among other things, an explanation of the rationale for the use of the device; the criteria for patient selection; a description of clinical procedures; laboratory tests, or other measures to be used to monitor the effects of the device and to minimize risk; written procedures for monitoring the treatment use; information that is relevant to the safety and effectiveness of the device for the intended treatment use; and a written protocol describing the treatment use.

Treatment use may begin 30 days after FDA receives the treatment IDE submission, unless FDA notifies the sponsor earlier than 30 days that the treatment use may or may not begin. FDA may approve the treatment use as proposed, approve it with modification, disapprove it, or withdraw approval of the treatment IDE if FDA finds that certain criteria are satisfied.

Safeguards for treatment use of an investigational device include the: Distribution of the device through qualified experts; maintenance of adequate manufacturing facilities; the submission of certain reports; and compliance with the regulations governing informed consent and institutional review boards (IRB's).

The sponsor of a treatment IDE shall submit progress reports to all reviewing IRB's and FDA and shall be responsible for submitting all other reports required under § 812.150.

In response to comments, FDA has made the following changes in the final rule.

FDA has streamlined the reporting requirements in § 812.36(f). First, FDA decreased the frequency with which sponsors must submit progress reports under § 812.36(f). Under the final rule, the sponsor of a treatment IDE is required to submit progress reports on a semi-annual basis, rather than quarterly, to all reviewing IRB's and FDA. Upon filing of a marketing application, the requirement for progress reports is further reduced to annual reporting in accordance with § 812.150. Second, FDA limited the type of information that is to be submitted in a progress report. Under the final rule, these reports are required to include only the number of patients treated with the device under the treatment IDE, the names of the investigators participating in the treatment IDE, and a brief description of the sponsor's efforts to pursue marketing approval/clearance of the device.

FDA has modified the rule with respect to cost recovery by adding new § 812.36(c)(1)(x). In accordance with this provision, if the device is to be sold, the price to be charged is to be based on manufacturing and handling costs only. This decision was based on the fact that under the general IDE, sponsors are permitted to recover, among other costs, research and development costs. Because the research and development expenditures already are being recovered under the general IDE, FDA concluded that cost recovery under the treatment IDE should be limited to that of supplying the device for the treatment use, i.e., manufacturing and handling costs.

FDA is clarifying the final rule to state that treatment use must be for the same use as that studied under an approved IDE. The preamble to the proposed rule addressed this point at 61 FR 66954 at 66955, column 3, and FDA believes it is important to include it in the codified language. See § 812.36(b)(3). This change reflects the fact that it is those indications studied in the controlled clinical trial for which the agency would have the preliminary evidence of safety and effectiveness needed to support the treatment use.

III. Summary and Analysis of Comments and FDA's Responses

A. General Comments

1. One comment stated that the example FDA provided in the preamble to the proposed rule of an approved device that would have met the treatment IDE criteria, i.e., nonthoracotomy (transvenous) defibrillation leads, was inappropriate. According to the comment, unless patients in need of such leads had a complicating disease or condition that prevented surgery, the surgical placement of approved defibrillation leads would have been a satisfactory alternative to the nonthoracotomy (transvenous) defibrillation leads. The

comment stated that placement of the transvenous leads may present less risk to the patient than the surgical placement of defibrillation leads. The comment noted, however, that the regulation does not incorporate risk considerations. If the intent of the regulation is to permit the use of a device based on risk, then the comment suggested that § 812.36(b)(2) be rewritten to include risk-benefit considerations.

FDA agrees that risk/benefit considerations should be part of treatment IDE decisionmaking, but believes that the agency has already addressed this concern adequately in the criteria established under § 812.36(b)(1) and (b)(2), in conjunction with the bases for disapproval or withdrawal of a treatment IDE under § 812.36(d)(2)(iii) and (d)(2)(iv). In the example FDA provided, clinical data from the general IDE showed that nonthoracotomy (transvenous) defibrillation leads addressed an unmet medical need in a defined patient population, i.e., those patients with postradiation mediastinal fibrosis who could not undergo surgical placement of the approved defibrillation leads. FDA's evaluation of a treatment IDE in this context would necessarily include full consideration of the potential risks and benefits of the device, given the clinical and other scientific information known to date, in light of the seriousness of the disease or condition and availability of alternative therapies.

In addition, FDA notes that once a treatment IDE is made available generally, there still remains a risk/benefit consideration for individual patients within the intended patient population. In this situation, the physician and patient would need to decide, based on the available clinical information and the individual patient's condition, whether the treatment use device would expose that patient to an acceptable level of risk. This is a case-by-case decision to be made by the doctor and the patient.

2. A comment stated that the preamble to the proposed rule could be improved by providing fewer ''disease'' examples, and providing more examples of surgical uses, implants, or injury/accident references, where devices might be utilized.

In response to the recommendation, the agency is providing the following examples to better explain when a treatment IDE would be appropriate.

One example of an approved device that would have met the treatment use criteria is an interactive wound and burn dressing indicated for use as a temporary covering for surgically excised full-thickness and deep partial-thickness thermal burns in patients who require such a temporary covering prior to autograft placement. This device would have met the treatment IDE criteria because: (1) The device is intended to treat immediately life-threatening conditions, i.e., full-thickness and deep partial-thickness thermal burns; (2) there were no comparable or satisfactory alternative devices (the only alternative therapy (cadaver skin) is severely limited in supply and has a risk of disease transmission); (3) the device was under investigation in a controlled clinical trial for the same use under an approved IDE; and (4) the sponsor of the controlled clinical trial was pursuing marketing approval of the device with due diligence.

Another example of an approved device that would have met the treatment use criteria is the low density lipoprotein (LDL) apheresis system indicated for use in performing low density lipoprotein cholesterol (LDL–C) apheresis to acutely remove LDL–C from the plasma of the following high risk patient populations for whom diet has been ineffective and maximum drug therapy has either been ineffective or not tolerated: functional hypercholesterolemic homozygotes with LDL–C > 500/mg/dl; functional hypercholesterolemic heterozygotes with LDL–C ≥ 300 mg/dl; and functional hypercholesterolemic heterozygotes with LDL–C ≥ 200 mg/dl and documented coronary heart disease. This device would have met the treatment IDE criteria because: (1) The device is intended to treat serious conditions, i.e., functional hypercholesterolemic homozygotes/heterozygotes with certain LDL–C levels; (2) there were no comparable or satisfactory alternative devices (the only alternative therapies available to treat these high risk patients are diet, which can be ineffective, and maximum drug therapy, which can be either ineffective or not tolerated); (3) the device was under investigation in a controlled clinical trial for the same use under an approved IDE; and (4) the sponsor of the controlled clinical trial was pursuing marketing approval of the device with due diligence.

Again, these are illustrative examples only.

3. Two comments requested that FDA discuss the differences and relationships among treatment IDE's, emergency use devices, the Office of Device Evaluation's (ODE) memorandum on ''Continued Access to Investigational Devices During Premarket Approval Application (PMA) Preparation and Review,'' expedited review, and custom devices. One of the comments recommended that CDRH issue separate guidance delineating the differences and relationships among these policies/regulations.

With the exception of custom devices, FDA has issued guidance on all of the topics identified in the previous comments. The agency has provided the following summary of each of these policies and has also identified key similarities and differences between them and the treatment IDE regulation.

1. ''Guidance for the Emergency Use of Unapproved Medical Devices''

Under FDA's ''Guidance for the Emergency Use of Unapproved Medical Devices'' (hereinafter referred to as the Emergency Use Policy), that appeared in the **Federal Register** of October 22, 1985 (50 FR 42866), an unapproved medical device is a device that is utilized for a purpose, condition, or use for which the device requires, but does not have, an approved application for premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e) or an approved IDE under section 520(g) of the act (21 U.S.C. 360j(g)). Normally, an unapproved device may be used in human subjects only if it is approved for clinical testing under an IDE. Emergency use of an unapproved device, however, may occur when an IDE for the device does not exist, when a physician wants to use the device in a way not approved under the IDE, or when a physician or institution is not approved under the IDE.

The Emergency Use Policy is different from the treatment IDE regulation in significant ways. First, the Emergency Use Policy is designed for just that—emergencies—and is applied on an individual patient basis. To qualify for emergency use, the treating physician must conclude that: (1) The patient has a life-threatening condition that needs immediate treatment; (2) no generally acceptable alternative treatment for the condition exists; and (3) there is no time to obtain FDA approval due to the immediate need of the patient.

By contrast, treatment use of an investigational device is designed to operate prospectively under a protocol that may cover a large number of patients, so that a treatment IDE application would be submitted to and approved by the agency before patients are treated with the device. Also, the Emergency Use Policy is limited to life-threatening situations, whereas a treatment IDE allows use of the device for serious diseases in addition to those that are immediately life-threatening.

2. ''Continued Access to Investigational Devices During Premarket Approval Application (PMA) Preparation and Review''

Under ODE's policy entitled ''Continued Access to Investigational Devices During PMA Preparation and Review'' (hereinafter referred to as the Continued Access Policy), sponsors of clinical investigations are permitted to continue to enroll subjects while a marketing application is being prepared by the sponsor or reviewed by ODE if there is: (1) A public health need for the device; or (2) preliminary evidence that the device is likely to be effective and no significant safety concerns have been identified for the proposed indication. By allowing sponsors to continue to enroll patients while a marketing application is being prepared and/or reviewed, the Continued Access Policy allows increased patient access and the collection of additional safety and effectiveness data to support the marketing application or address new questions regarding the investigational device. The Continued Access Policy may be applied to any clinical investigation that meets the criteria identified above; however, it is intended to be applied late in the device development process, i.e., after the controlled clinical trial has been completed.

There is significant overlap between the treatment IDE regulation and the Continued Access Policy. Both the Continued Access Policy and the treatment IDE regulation are intended to provide additional access to an unapproved device, once preliminary evidence regarding safety and effectiveness is available to FDA. However, because a treatment IDE can be submitted earlier in the IDE process, i.e., once promising evidence of safety and effectiveness has been collected under the IDE but while the clinical study is ongoing, it could provide access to a wider group of patients at an earlier stage in the IDE process. The treatment IDE regulation also has a more narrow application than the Continued Access Policy in that treatment use is intended to address only those patients who have an immediately life-threatening or serious disease or condition whereas the Continued Access Policy, which is applied later in the process, may be considered for any clinical study.

3.''PMA/510(k) Expedited Review''

According to ODE's ''PMA/510(k) Expedited Review'' policy (hereinafter referred to as the Expedited Review Policy), expedited review of a marketing application may be considered for a device intended for or meeting at least one of the following criteria: (1) Life-threatening or irreversibly debilitating condition with no alternative modality. The condition or potential condition/disease is serious or life-threatening or presents a risk of serious morbidity and no alternative legally marketed diagnostic/therapeutic modality exists; (2) life-threatening or irreversibly debilitating condition with approved alternatives, but where the new device provides for clinically important earlier diagnosis or significant advances in safety and/or effectiveness over the existing alternatives; (3) a revolutionary (breakthrough) device, i.e., the device represents a clear clinically meaningful advantage over existing technology defined as having a major increase in effectiveness or reduced risk compared to existing technology; and (4) a specific public health benefit, i.e., the availability of the device is otherwise in the best interest of the public health.

Under the Expedited Review Policy, granting expedited review ensures that the marketing application will receive priority review, i.e., review before other pending PMA's or 510(k)s. Therefore, the Expedited Review Policy differs from the treatment IDE regulation in that expedited review pertains to the review priority given to marketing applications, whereas treatment use pertains to expanding access to patients of a device during the course of the clinical investigation.

As stated previously, FDA intends to interpret the criteria for treatment IDE's in the same way CDRH applies the criteria for expedited review of marketing applications. FDA anticipates that most requests for treatment use would involve devices that meet the criteria for expedited review, i.e., the device: (1) Is intended for a life-threatening or irreversibly debilitating condition for which there is no alternative therapy or for which the device provides a significant advance in safety and effectiveness over the existing alternatives; or (2) meets a specific public health need. These criteria are similar because the same public health considerations that justify expanding access to an investigational product also justify giving a marketing application for that device top priority. In both cases, the likely patient benefit warrants special policies.

4. Custom Devices

FDA has not issued a guidance document concerning custom devices, but a custom device is defined in § 12.3(b). A custom device is one that: (1) Necessarily deviates from devices generally available or from an applicable performance standard or premarket approval requirement in order to comply with the order of an individual physician or dentist; (2) is not generally available to, or generally used by, other physicians or dentists; (3) is not generally available in finished form for purchase or for dispensing upon prescription; (4) is not offered for commercial distribution through labeling or advertising; and (5) is intended for use by an individual patient named in the order of a physician or dentist, and is to be made in a specific form for that patient, or is intended to meet the special needs of the physician or dentist in the course of professional practice. Because all the preceding criteria must be met for a device to qualify as a custom device and because the use of a custom device is exempt from the IDE regulation (§ 812.2(c)(7)), the provision usually covers only a single device and is not frequently applicable.

FDA believes that the existing guidance documents on these topics, together with the preceding discussion, satisfies the concern raised in the comment.

4. One comment suggested that FDA add a reference to the Emergency Use Policy to permit shipment of devices in emergency situations such as those in 21 CFR 312.36. The same comment asked FDA to clarify that IRB review is not necessary in the case of emergency use for a single patient.

Emergency use for a single patient is governed by FDA's Emergency Use Policy. As noted previously in the Emergency Use Policy, an unapproved device may be shipped without FDA approval to a physician who is faced with an emergency situation that meets the outlined criteria.

The comment's request for clarification regarding IRB review in the case of an emergency use for a single patient is also addressed in the Emergency Use Policy. Under this guidance, in the event that a device is needed to treat a life-threatening disease or condition, FDA would expect the physician to follow as many patient protection procedures as possible. These include, among other things, obtaining the IRB chairperson's concurrence and complying with the institution's requirements regarding such use. Therefore, IRB approval for emergency use would only be required if such review were necessary under the procedures of that particular institution.

5. One comment raised a concern that the treatment IDE review procedures and reporting requirements will create additional work that will delay FDA's review of PMA's.

FDA disagrees. As stated in the preamble to the proposed, FDA anticipates a limited number of treatment IDE's and has estimated it is

likely to receive six annually. (See 61 FR 66954 at 66959.) Although these treatment IDE's will create additional work for the agency, such a limited number will not cause delays in FDA's review of PMA's. Moreover, in the 10 years since the treatment IND rule was issued, the agency has not experienced delays in the review of new drug applications due to the additional work created by the treatment IND review procedures and reporting requirements.

B. Specific Comments

1. A comment noted that § 812.36(a) defines an ''immediately life-threatening disease or condition,'' but does not define a ''serious disease or condition.'' The comment asserted that the term ''serious'' disease or condition should either be defined in or omitted from the regulation because it is likely to be a ''gray area'' with regard to interpretation of the regulation. The comment preferred that the term ''serious'' be omitted because the diseases intended to be included under this definition, i.e., early stages of breast cancer, proliferative vitreoretinopathy, and advanced Parkinson's disease, would meet the definition of an ''immediately life-threatening disease or condition.''

FDA does not intend to add a definition of ''serious disease or condition'' to the final rule. The agency has concluded that defining the term ''serious disease or condition'' could be unduly restrictive and limit the agency's discretion when determining whether certain stages of a disease or condition are ''serious.'' In addition, the agency's experience under the treatment IND regulation demonstrates that a definition is unnecessary; the agency has been successful in identifying the serious diseases or conditions appropriate to treatment IND even though the term is undefined in that regulation. If a sponsor is not sure of whether a particular stage of a disease or condition would be considered ''serious,'' the sponsor should contact the appropriate review division in ODE for clarification.

FDA did not omit the term ''serious disease or condition'' from the regulation because, contrary to the comment's assertion, the diseases or conditions intended to be included under the serious disease or condition definition would not meet the definition of immediately life-threatening disease or condition in all circumstances. For example, advanced Parkinson's disease would normally be considered a serious disease or condition rather than an immediately life-threatening disease state, i.e., there is not a reasonable likelihood that death will occur within a matter of months nor is premature death likely without early treatment.

2. One comment stated that the definition of ''immediately life-threatening disease or condition'' is severe in its limitations. As a result, the comment suggested that FDA adopt the definition used for expedited review, i.e., a condition or disease that is irreversibly debilitating with no alternative treatment modalities or meets a specific public health need. The comment believed that this would cover serious disease states but not restrict those diseases to those likely to result in imminent death. The comment stated that this definition is appropriate because FDA intends to interpret the criteria for treatment use IDE's in the same way FDA applies the criteria for expedited review of PMA's.

FDA disagrees with the recommendation to modify the definition of ''immediately life-threatening disease or condition.'' As stated in the preamble to the proposed rule, with minor exceptions, the treatment IDE regulation parallels the treatment IND regulation and extends those provisions to cover treatment use of investigational devices. FDA does not believe that this definition will be problematic in light of the fact that FDA is adopting the same definition in the treatment IDE regulation that is used in the treatment IND regulation. Since the implementation of the treatment IND regulation in 1987, FDA has not had any experience that would indicate that the definition is severe in its limitations. The agency also believes that adopting the same definition of immediately life-threatening disease or condition in both treatment regulations will promote consistency.

3. One comment recommended that FDA expand the definition of an ''immediately life-threatening disease or condition'' to include diseases or conditions that threaten the integrity of the nervous system. According to the comment, an investigational device might prevent devastating neurological illness even though death is not imminent.

FDA disagrees with expanding the definition of immediately life-threatening disease or condition to include neurological illnesses not resulting in imminent death because the agency intended that such illnesses be included under the definition of a serious disease or condition. For example, as stated in the proposed rule, advanced Parkinson's disease, which causes severe neurological impairment, would be considered a serious disease or condition appropriate for a treatment IDE. (See 61 FR 66954 at 66955.) Likewise, advanced multiple sclerosis would also be considered a serious disease or condition because, although it does not result in imminent death, it causes severe neurological impairment.

4. A comment requested that § 812.36(b)(3) be clarified to read that patients who were in the ''parent'' controlled clinical trial under the approved IDE be allowed to continue under the treatment IDE, after the parent controlled clinical trial has been completed, but before FDA approval is received. The comment referred to the July 15, 1996, memorandum entitled, ''Continued Access to Investigational Devices During Premarket Approval Application (PMA) Preparation and Review.''

FDA agrees that patients who were originally enrolled in the ''parent'' controlled clinical trial, which is now complete, could qualify for continued access to the device under the Continued Access Policy described in section III.A.2 of this document. The agency does not believe a change to the regulation is needed to accommodate this situation.

5. In the preamble to the proposed rule in § 812.36(e), FDA solicited comments on the appropriate approach to take with respect to charging for devices under treatment IDE's. (See 61 FR 66954 at 66958.) Specifically, FDA posed the following questions in connection with § 812.36(e):

1. Do the IDE and Treatment IDE Regulations Provide Sufficient Protection Against Commercialization?

FDA received one comment, which stated that the IDE regulation, the proposed rule on treatment IDE's, market forces, and expedited review procedures, where appropriate, protect against commercialization of devices distributed under IDE's or treatment IDE's. First, according to the comment, §§ 812.40 and 812.43 and proposed § 812.36(e) limit distribution of investigational devices by ensuring that only qualified investigators receive the device. Failure of the manufacturer to control distribution often draws attention from competitors who report such violations to FDA, thus adding an additional commercialization control element. Secondly, the comment pointed out that § 812.7(c) and proposed § 812.36(e) prohibit sponsors from unduly prolonging an investigation. Thirdly, according to the comment, proposed § 812.36(f) adds another layer of control over commercialization of treatment investigational devices by requiring sponsors to provide a description of their efforts to pursue marketing approval/clearance of the device in the progress reports which are

to be submitted to both FDA and the IRB's. Finally, the comment noted that if a device meets the criteria for a treatment IDE, it will also meet the criteria for expedited review of PMA's. Accordingly, the comment suggested that in cases where a treatment IDE is approved, expedited review of the PMA should be automatically granted. Expedited reviews should add another layer of control against clinical trial prolongation once the trial has been completed and the PMA is pending because it is anticipated that the PMA would be reviewed more quickly.

FDA agrees that the IDE and treatment IDE regulations should provide sufficient protection against commercialization of the investigational device. In the general IDE regulation, § 812.7(c) prohibits sponsors from unduly prolonging an investigation, § 812.43(b) limits distribution of the investigational device to qualified investigators, and § 812.150(b)(5) requires the submission of progress reports to FDA and the IRB's. Under § 812.36(e), sponsors of treatment IDE's are subject to all of the requirements of the general IDE regulation. Sponsors of treatment IDE's are also subject to § 812.36(f), which requires sponsors to describe their efforts to pursue marketing approval/clearance of the device in their progress reports.

2. Is It Appropriate for Sponsors to Recover Research and Development Costs in Addition to the Costs of Manufacturing and Handling of an Investigational Device?

One comment stated that it is not appropriate for sponsors to recover research and development costs when charging for devices under a treatment IDE because the assignment of such costs to the limited number of devices under the treatment IDE will result in the device being extremely costly and, therefore, not used. The comment also stated that delaying recovery of the research and development costs until device approval will provide an incentive for the sponsor to obtain such approval.

Three other comments stated that sponsors should be able to recover research and development costs as well as manufacturing and handling costs, as is the case with IDE's in general. According to two of the comments, not allowing sponsors to recover these costs will result in a reduction of the number of IDE's and treatment IDE's. One of the comments noted that charging a lower price for a device under a treatment IDE than under the IDE in general could dissuade sponsors from submitting treatment IDE applications. According to the second comment, the majority of devices that would be under treatment IDE's are breakthrough technologies developed by small start-up and medium sized companies, which often depend upon venture capital to develop new devices. The comment further asserted that these companies cannot afford the costs of a clinical trial unless they are compensated. Alternatively, the comment noted that larger companies may opt not to apply for an IDE or treatment IDE if the costs of research, development, manufacturing, and handling as well as the expense of the trial itself cannot be adequately recovered by postapproval sales.

Upon consideration of the comments, FDA has decided that it is not appropriate for sponsors to recover research and development costs under treatment IDE's. FDA acknowledges that the investment cost of developing a device may be high and that the actual cost recovered by the sponsor may be a factor in proceeding with development of the device. (See 43 FR 20726 at 20742.) Nevertheless, it is a well-established principle, that no profit should be made on experimental devices. (See 45 FR 3732 at 3741, January 18, 1980; Medical Devices; Procedures for IDE's; Final rule.) Based on this principle, and on the fact that research and development expenditures may be recovered under the general IDE, FDA has concluded that cost recovery during a treatment IDE should be limited to those direct costs of supplying the device for the treatment use, i.e., manufacturing and handling costs. In this way, manufacturers would not incur additional costs as a result of participating in a treatment IDE. FDA recognizes, however, that manufacturing and handling costs per unit may be higher during production of a limited number of units than during full commercial distribution.

3. Should Prior FDA Approval for Charging Be Required?

One comment stated that § 812.20(b)(8), which requires a sponsor to justify why the price charged for the device does not exceed research, development, manufacturing, and handling costs, should also be part of the treatment IDE application. Another comment believed that sponsors should inform FDA in the treatment IDE application if and how much they intend to charge for the device. The comment stated that the sponsor should provide a justification for the charge based on actual manufacturing and handling costs only, and FDA approval of the charge would be implied when FDA approves the treatment IDE application. Another comment stated that prior FDA approval of costs is not appropriate because such approval would result in a longer treatment IDE approval process.

FDA agrees that, as with IDE's in general, prior approval for charging for the treatment use device should be required. Therefore, FDA has added § 812.36(c)(1)(x), which states that if the device is to be sold, the treatment IDE sponsor is required to submit the price charged for the treatment use device and a statement indicating that the price is based on manufacturing and handling costs only.

FDA disagrees that prior approval of costs will result in a longer approval process for treatment IDE applications. Under § 812.30(a) of the general IDE regulation, FDA is required to notify a sponsor in writing of its decision to approve the investigation as proposed, approve it with modifications, or disapprove it within 30 days of receipt of the application. That review includes a review of the sponsor's decision to charge for the device. Under § 812.36(d)(1), FDA is also required to review treatment IDE applications within the 30-day timeframe; there is no reason to assume the approval process for treatment IDE's will be protracted.

6. According to one comment on § 812.36(f), quarterly reports to the IRB's and FDA should be subject to restrictions intended to protect confidential information.

FDA agrees that treatment IDE progress reports ordinarily should be kept confidential. As provided for under § 812.38(a) of the IDE regulation in general, FDA will not disclose the existence of an IDE until FDA approves a marketing application for the device unless its existence has previously been publicly disclosed or acknowledged. Even if the existence of an IDE has been disclosed or acknowledged by the sponsor, as is likely with respect to treatment IDE's, the information contained in an IDE or treatment IDE, including progress reports submitted under § 812.36, is generally protected from disclosure.

A second comment on proposed § 812.36(f) alleged that quarterly reporting is an unnecessary burden on sponsors. The comment noted that the parallel IND regulation does not require additional quarterly reporting. The comment also alleged that this requirement conflicts with the Paperwork Reduction Act, in that it adds a layer of paperwork never before required for IDE's. According to the comment, the adverse reporting procedures for IDE's would provide enough safeguards for treatment IDE's without adding a new layer of paperwork.

FDA agrees in part with the comment. Upon reconsideration, FDA has concluded that such frequent reporting, in addition to the annual reporting requirement under the regular IDE, is not necessary. Therefore, FDA has revised the reporting requirements to include those elements needed to monitor the size and scope of the treatment IDE, and to assess the sponsor's due diligence in seeking marketing approval. Under final § 812.36(f), the sponsor of a treatment IDE is required to submit progress reports on a semi-annual basis to all reviewing IRB's and FDA until the filing of a marketing application. These reports shall be based on the period of time since initial approval of the treatment IDE and shall include only three items: (1) The number of patients treated with the device under the treatment IDE; (2) the names of the investigators participating in the treatment IDE; and (3) a brief description of the sponsor's efforts to pursue marketing approval/clearance of the device. Upon filing of a marketing application, progress reports will be required to be submitted annually in accordance with § 812.150(b)(5). At the sponsor's option, the annual report for the treatment IDE may be combined with the annual report for the general IDE or may be submitted separately.

FDA disagrees that the submission of progress reports conflicts with the Paperwork Reduction Act. In accordance with § 812.150(b)(4), the sponsor of an IDE is required to submit to FDA, at 6-month intervals, a current list of all investigators participating in the investigation. Furthermore, under § 812.150(b)(5), at regular intervals and at least yearly, the sponsor of an IDE is required to submit progress reports to all reviewing IRB's and FDA. Under final § 812.36(f), the sponsor of a treatment IDE will be required to submit reports on the treatment use at 6 month intervals, the same frequency required for updating information about investigators of controlled clinical trials. Although the content of the semi-annual report differs, the information required is minimal, but nevertheless necessary, to maintain control over the treatment use. Therefore, FDA believes that semi-annual reporting for treatment IDE's is consistent with the reporting requirements for IDE's in general and does not conflict with the Paperwork Reduction Act.

Finally, FDA agrees that the adverse event reporting requirements for IDE's in general should provide adequate patient protection for treatment IDE's. (See § 812.150(b)(1).) Under final § 812.36(f), semi-annual progress reports for treatment IDE's are no longer required to include a summary of anticipated and unanticipated adverse device effects because this information will be captured in the annual progress reports of § 812.150(b)(5) and by the 10-day reporting requirements of § 812.150(b)(1).

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this final rule 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.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C.601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because relevant information should already be available to FDA in the sponsor's IDE, limited additional information relative to the safety and effectiveness of the device for treatment use would be required in the treatment IDE application. In fact, applications for treatment use may be submitted as supplements to the IDE for the controlled clinical trial in order to eliminate additional burden that could result if sponsors were required to submit new applications. As a result, this final rule will not impose significant economic impact on any small entities. The Commissioner, therefore, certifies that the final rule will not have a significant economic impact on a substantial number of small entities. In addition, this final rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis pursuant to section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains information collections requirements that are subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection requirements are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Investigational Device Exemptions; Treatment Use.

Description: This regulation establishes the procedures for the treatment use of investigational devices. The purpose of this regulation is to permit broader availability of investigational devices to treat serious or immediately life-threatening diseases or conditions for which there are no satisfactory alternative treatments. Under the final rule, treatment use of an investigational device would only be considered when the following criteria are satisfied: (1) The device is intended to treat or diagnose a serious or immediately life-threatening disease or condition; (2) there is no comparable or satisfactory alternative device or other therapy available to treat or diagnose that stage of the disease or condition in the intended patient population; (3) the device is under investigation in a controlled clinical trial for the same use under an approved IDE, or all clinical trials have been completed; and (4) the sponsor of the controlled clinical trial is pursuing marketing approval/clearance of the investigational device with due diligence.

The burdens connected with the requirements for applications for treatment use are limited, but consistent with protecting patient safety and monitoring proper use. Each application would include, among other things, an explanation of the rationale for the use of the device; the criteria for patient selection; a description of clinical procedures, laboratory tests, or other measures to be used to monitor the effects of the device and to minimize risk; written procedures for monitoring the treatment use; information that is

relevant to the safety and effectiveness of the device for the intended treatment use; and a written protocol describing the treatment use. Sponsors of an approved treatment IDE would be required to submit semi-annual progress reports until a marketing application is filed, and annual reports thereafter.

Description of Respondents: Businesses or other for profit organizations.

ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
812.36(c)	6	1	6	120	720
812.36(c)	6	2	12	20	240
Total					960

There are no operating and maintenance costs or capital costs associated with this information collection.

Based on its experience with the treatment use of drugs and FDA's knowledge of the types of devices that may meet the treatment use criteria, FDA estimates that an average of six applications will be submitted each year. Based upon FDA's knowledge of the preparation of IDE's, FDA estimates that it will take approximately 120 hours to prepare a treatment use IDE. Thus, the total annual burden for preparing applications will be 720 hours.

Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection requirements in this final rule. 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.

List of Subjects in 21 CFR Part 812

Health records, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 812 is amended as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

1. The authority citation for 21 CFR part 812 continues to read as follows:

Authority: Secs. 301, 501, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701, 702, 704, 721, 801, 802, 803 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 372, 374, 379e, 381, 382, 383); secs. 215, 301,351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263b–263n).

2. New § 812.36 is added to subpart B to read as follows:

§ 812.36 Treatment use of an investigational device.

(a) *General.* A device that is not approved for marketing may be under clinical investigation for a serious or immediately life-threatening disease or condition in patients for whom no comparable or satisfactory alternative device or other therapy is available. During the clinical trial or prior to final action on the marketing application, it may be appropriate to use the device in the treatment of patients not in the trial under the provisions of a treatment investigational device exemption (IDE). The purpose of this section is to facilitate the availability of promising new devices to desperately ill patients as early in the device development process as possible, before general marketing begins, and to obtain additional data on the device's safety and effectiveness. In the case of a serious disease, a device ordinarily may be made available for treatment use under this section after all clinical trials have been completed. In the case of an immediately life-threatening disease, a device may be made available for treatment use under this section prior to the completion of all clinical trials. For the purpose of this section, an ''immediately life-threatening'' disease means a stage of a disease in which there is a reasonable likelihood that death will occur within a matter of months or in which premature death is likely without early treatment. For purposes of this section, ''treatment use''of a device includes the use of a device for diagnostic purposes.

(b) *Criteria.* FDA shall consider the use of an investigational device under a treatment IDE if:

(1) The device is intended to treat or diagnose a serious or immediately life-threatening disease or condition;

(2) There is no comparable or satisfactory alternative device or other therapy available to treat or diagnose that stage of the disease or condition in the intended patient population;

(3) The device is under investigation in a controlled clinical trial for the same use under an approved IDE, or such clinical trials have been completed; and

(4) The sponsor of the investigation is actively pursuing marketing approval/clearance of the investigational device with due diligence.

(c) *Applications for treatment use.* (1) A treatment IDE application shall include, in the following order:

(i) The name, address, and telephone number of the sponsor of the treatment IDE;

(ii) The intended use of the device, the criteria for patient selection, and a written protocol describing the treatment use;

(iii) An explanation of the rationale for use of the device, including, as appropriate, either a list of the available regimens that ordinarily should be tried before using the investigational device or an explanation of why the use of the investigational device is preferable to the use of available marketed treatments;

(iv) A description of clinical procedures, laboratory tests, or other measures that will be used to evaluate the effects of the device and to minimize risk;

(v) Written procedures for monitoring the treatment use and the name and address of the monitor;

(vi) Instructions for use for the device and all other labeling as required under § 812.5(a) and (b);

(vii) Information that is relevant to the safety and effectiveness of the device for the intended treatment use. Information from other IDE's may be incorporated by reference to support the treatment use;

(viii) A statement of the sponsor's commitment to meet all applicable responsibilities under this part and part 56 of this chapter and to ensure compliance of all participating investigators with the informed consent requirements of part 50 of this chapter;

(ix) An example of the agreement to be signed by all investigators participating in the treatment IDE and

certification that no investigator will be added to the treatment IDE before the agreement is signed; and

(x) If the device is to be sold, the price to be charged and a statement indicating that the price is based on manufacturing and handling costs only.

(2) A licensed practitioner who receives an investigational device for treatment use under a treatment IDE is an ''investigator'' under the IDE and is responsible for meeting all applicable investigator responsibilities under this part and parts 50 and 56 of this chapter.

(d) *FDA action on treatment IDE applications.* (1) *Approval of treatment IDE's.* Treatment use may begin 30 days after FDA receives the treatment IDE submission at the address specified in § 812.19, unless FDA notifies the sponsor in writing earlier than the 30 days that the treatment use may or may not begin. FDA may approve the treatment use as proposed or approve it with modifications.

(2) *Disapproval or withdrawal of approval of treatment IDE's.* FDA may disapprove or withdraw approval of a treatment IDE if:

(i) The criteria specified in § 812.36(b) are not met or the treatment IDE does not contain the information required in § 812.36(c);

(ii) FDA determines that any of the grounds for disapproval or withdrawal of approval listed in § 812.30(b)(1) through (b)(5) apply;

(iii) The device is intended for a serious disease or condition and there is insufficient evidence of safety and effectiveness to support such use;

(iv) The device is intended for an immediately life-threatening disease or condition and the available scientific evidence, taken as a whole, fails to provide a reasonable basis for concluding that the device:

(A) May be effective for its intended use in its intended population; or

(B) Would not expose the patients to whom the device is to be administered to an unreasonable and significant additional risk of illness or injury;

(v) There is reasonable evidence that the treatment use is impeding enrollment in, or otherwise interfering with the conduct or completion of, a controlled investigation of the same or another investigational device;

(vi) The device has received marketing approval/clearance or a comparable device or therapy becomes available to treat or diagnose the same indication in the same patient population for which the investigational device is being used;

(vii) The sponsor of the controlled clinical trial is not pursuing marketing approval/clearance with due diligence;

(viii) Approval of the IDE for the controlled clinical investigation of the device has been withdrawn; or

(ix) The clinical investigator(s) named in the treatment IDE are not qualified by reason of their scientific training and/or experience to use the investigational device for the intended treatment use.

(3) *Notice of disapproval or withdrawal.* If FDA disapproves or proposes to withdraw approval of a treatment IDE, FDA will follow the procedures set forth in § 812.30(c).

(e) *Safeguards.* Treatment use of an investigational device is conditioned upon the sponsor and investigators complying with the safeguards of the IDE process and the regulations governing informed consent (part 50 of this chapter) and institutional review boards (part 56 of this chapter).

(f) *Reporting requirements.* The sponsor of a treatment IDE shall submit progress reports on a semi-annual basis to all reviewing IRB's and FDA until the filing of a marketing application. These reports shall be based on the period of time since initial approval of the treatment IDE and shall include the number of patients treated with the device under the treatment IDE, the names of the investigators participating in the treatment IDE, and a brief description of the sponsor's efforts to pursue marketing approval/clearance of the device. Upon filing of a marketing application, progress reports shall be submitted annually in accordance with § 812.150(b)(5). The sponsor of a treatment IDE is responsible for submitting all other reports required under § 812.150.

3. Section 812.150 is amended by revising paragraph (b)(5) to read as follows:

§ 812.150 Reports.

* * * * *

(b) * * *

(5) *Progress reports.* At regular intervals, and at least yearly, a sponsor shall submit progress reports to all reviewing IRB's. In the case of a significant risk device, a sponsor shall also submit progress reports to FDA. A sponsor of a treatment IDE shall submit semi-annual progress reports to all reviewing IRB's and FDA in accordance with § 812.36(f) and annual reports in accordance with this section.

* * * * *

Dated: August 20, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–24735 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Expedited Arbitration

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: This addition to the arbitration regulations is intended to create a new service know as ''expedited arbitration.'' This service will provide a streamlined arbitration process for non-precedential and non-complex grievance arbitration cases while encouraging the parties to select new arbitrators in order to enhance their career development. This new service is the result of specific recommendations of the Arbitration Focus Group by FMCS on March 27, 1997.

EFFECTIVE DATE: This regulation is effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Peter Regner, 202–606–8181.

SUPPLEMENTARY INFORMATION: The Federal Mediation and Conciliation Service, in an effort to receive public input on its proposed new service of expedited arbitration, published the draft version of its proposed rule in the June 30, 1997 issue of the **Federal Register** (62 FR 35112). Nine arbitrators responded in writing to the proposed rule. In general, all individuals supported the new service. Almost all of them, however, objected to limiting eligibility to deliver this service to those arbitrators listed on the FMCS Roster of Arbitrators for five (5) years or less. More specific information about the public response is contained in the following section-by-section analysis.

Subpart D—Expedited Arbitration

Section 1404.17 Policy

The first section was further clarified by adding the ''unique'' issues would also be inappropriate for expedited arbitration, as would complex or precedential issues.

Section 1404.18 Procedures for Requesting Expedited Panels

Subsection (d). The procedures for requesting expedited arbitrators were modified slightly by allowing the parties to select a second arbitrator from the panel submitted to them in the event their first choice was not available to serve. This was in response to one comment opposing a direct appointment by FMCS in the event the original arbitrator selected by the parties was not able to serve. The parties now have an additional option.

Section 1404.19 Arbitration Process

Subsection (c). The language has been clarified to state that ''post hearing'' will not be allowed. This permits the parties to present pre-hearing summaries or briefs of their positions. One comment expressed concern that the ''no transcript'' provision of the rule might be interpreted to mean that the arbitrator could not tape the hearing for his/her own use. This is not the intention of the rule. Arbitrators may tape the proceedings, if both parties agree, as a supplement to his/her notes.

Section 1404.20 Arbitrator Eligibility

Eight of the nine individuals submitting comments about the proposed rule objected to the policy of having only arbitrators with five (5) years or less experience on the FMCS Roster automatically placed on the expedited arbitration panels. Some argued fairness, others stated that in order to be able to render quick decisions, more arbitration experience was required. FMCS has modified its policy to that at lease two more senior arbitrators will be listed on every expedited panel. Given the number of arbitrators with five (5) years of less listing on the Roster, it is possible that many, if not most, expedited arbitration panels will contain more than two more senior arbitrators. The parties continue to have the right to jointly request any special qualifications that they feel necessary.

The Federal Mediation and Consiliation Service amends 29 CFR part 1404 as follows:

PART 1404—ARBITRATION SERVICES

1. The authority citation for part 1404 continues to read as follows:

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

2. By adding Subpart D to read as follows:

Subpart D—Expedited Arbitration

Sec.
1404.17 Policy.
1404.18 Prcedures for requesting expedited panels.
1404.19 Arbitration process.
1404.20 Arbitrator eligibility.
1404.21 Proper use of expedited arbitration.

Subpart D—Expedited Arbitration

§ 1404.17 Policy

In an effort to reduce the time and expense of some grievance arbitrators, FMCS is offering expedited procedures that may be appropriate in certain non-precedential cases or those that do not involve complex or unique issues. Expedited Arbitrator is intended to be a mutually agreed upon process whereby arbitrator appointments, hearings and awards are acted upon quickly by the parties, FMCS, and the arbitrators. The process is streamlined by mandating short deadlines and eliminating requirements for transcripts, briefs and lengthy opinions.

§ 1404.18 Procedures for requesting expedited panels.

(a) With the excepting of the specific changes noted in this Subpart, all FMCS rules and regulations governing its arbitration services shall apply to Expedited Arbitration.

(b) Upon receipt of a joint Request for Arbitration Panel (Form R–43) indicating that expedited services are desired by both parties, the OAS will require a panel of arbitrators.

(c) A panel of arbitrators submitted by the OAS in expedited cases shall be valid for up to 30 days. Only one panel will be submitted per case. If the parties are unable to mutually agree upon an arbitrator or if prioritized selections are not received from both parties within 30 days, the OAS will make a direct appointment of an arbitrator not on the original panel.

(d) If the parties mutually select an arbitrator, but the arbitrator is not available, the parties may select a second name from the same panel or the OAS will make a direct appointment of another arbitrator not listed on the original panel.

§ 1404.19 Arbitration process.

(a) Once notified of the expedited case appointment by the OAS, the arbitrator must contact the parties within seven (7) calendar days.

(b) The parties and the arbitrator must attempt to schedule a hearing within 30 days of the appointment date.

(c) Absent mutual agreement, all hearings will be concluded within one day. No transcripts of the proceedings will be made and the filing of post-hearing briefs will not be allowed.

(d) All awards must be completed within seven (7) working days from the hearing. These awards are expected to be brief, concise, and not required extensive written opinion or research time.

§ 1404.20 Arbitrator eligibility.

In an effort to increase exposure for new arbitrators, those arbitrators who have been listed on the Roster of Arbitrators for a period of five (5) years or less will be automatically placed on expedited panels submitted to the parties. However, all panels will also contain the names of at least two more senior arbitrators. In addition, the parties may jointly request a larger pool of arbitrators or a direct appointment of their choice who is listed on the Roster.

§ 1404.21 Proper use of expedited arbitration.

(a) FMCS reserves the right to cease honoring request for Expedited Arbitration if a pattern of misuse of this becomes apparent. Misuse may be indicated by the parties' frequent delay of the process or referral of inappropriate cases.

(b) Arbitrators who exhibit a pattern of unavailability of appointments or who are repeatedly unable to schedule hearings or render awards within established deadlines will be considered ineligible for appointment for this service.

John Calhoun Wells,

Director.

[FR Doc. 97–24727 Filed 9–17–97; 8:45 am]

BILLING CODE 6732–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OR–1–0001; FRL–5891–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oregon; Correction

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; correction.

SUMMARY: On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (Act), the EPA promulgated new source performance standards (NSPS) applicable to new Municipal Waste Combustors (MWCs) and Emission Guidelines applicable to existing MWCs. On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated 40 CFR part 60, subparts Cb and Eb, as they apply to MWC units with capacity to combust less than or equal to 250 tons/day of municipal solid waste (small MWCs), consistent with the opinion in *Davis County Solid Waste Management and Recovery District* v. *EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997). As a result, 40 CFR part 60, subparts Eb and Cb, apply only to large MWC units which are defined as units with individual capacity to combust more than 250 tons/day of municipal solid waste.

In a July 10, 1997, **Federal Register** document (62 FR 36995), the EPA approved the State Plan submitted by Oregon to implement and enforce

Subpart Cb, as it applies to large MWC units only. However, the approval action inadvertently included the Coos County, Coos Bay, Oregon, waste combustor site. This MWC has the capacity to combust less than or equal to 250 tons per year of municipal solid waste. As such, this source is designated a ''small source,'' and is not subject to the requirements of the approved State Plan. This action corrects the list of identified sources by removing ''Coos County, Coos Bay, Oregon,'' from 40 CFR § 62.9505 Identification of Sources (see 62 FR 36997).

Since the affected sources in the area are presently aware of this correction, no reopening or extension to the comment period is planned. However, a reopening to the comment period will be considered if requested by an interested person, based on a showing that additional time for comment is necessary in light of this correction.

DATES: This correction is effective September 18, 1997.

ADDRESSES: Written comments should be addressed to: Catherine Woo, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Catherine Woo, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1814.

SUPPLEMENTARY INFORMATION: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

In rule FR Doc. 97–18082 published on July 10, 1997, make the following correction. On page 36997, col. 3, § 62.9505 *Identification of Sources* is corrected by removing and reserving paragraph (b).

Dated: September 4, 1997.

Chuck Clarke,

Regional Administrator.

[FR Doc. 97–24696 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5893–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Hranica Landfill Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Hranica Landfill Superfund Site (Site) in Buffalo Township, Pennsylvania from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Pennsylvania have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the Commonwealth of Pennsylvania have determined that remedial actions conducted at the Site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 18, 1997.

ADDRESSES: Comprehensive information on this Site is available through the public docket which is available for viewing at the Site information repositories at the following locations: Hazardous Waste Technical Information Center, 9th Floor, EPA Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–5364. Buffalo Township Municipal Building, 109 Bear Creek Road, Buffalo Township, PA 16055, (412)–259–2648.

FOR FURTHER INFORMATION CONTACT: Garth Connor, Remedial Project Manager, EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107, 215–566–3209.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Hranica Landfill, Buffalo Township, Pennsylvania.

A Notice of intent to delete for this site was published June 19, 1997 (62 FR 33381). The closing date for comments on the notice of intent to delete was July 21, 1997. EPA received no comments.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Superfund, Water supply.

Dated: September 9, 1997.

W. Michael McCabe,

Regional Administrator, EPA Region III.

For the reason set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site ''Hranica Landfill, Buffalo Township, Pennsylvania.''

[FR Doc. 97–24547 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5893–3]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Bruin Lagoon Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Bruin Lagoon Site (Site) in Bruin Borough, Pennsylvania from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Pennsylvania have determined that all appropriate Fund-financed responses under CERCLA have been implemented. Moreover, EPA and the Commonwealth of Pennsylvania have determined that remedial actions conducted at the Site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 18, 1997.

ADDRESSES: Comprehensive information on this Site is available through thepublic docket which is available for viewing at the Site information repositories at the following locations: Hazardous Waste Technical Information Center, 9th Floor, EPA Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–5364. Bruin Borough Fire Hall, 161 Water Street, Bruin Borough, PA 16022, (412)–753–2622.

FOR FURTHER INFORMATION CONTACT: Garth Connor, Remedial Project Manager, EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107. 215–566–3209.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Bruin Lagoon, Bruin Borough, Pennsylvania.

A notice of intent to delete for this site was published July 17, 1997 (62 FR 38239). The closing date for comments on the notice of intent to delete was August 18, 1997. EPA received no comments.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental Protection, Air pollution control, Chemicals, Hazardous substances, Hazardous substances, Hazardous waste, Intergovernmental relations, Superfund, Water supply.

Dated: September 9, 1997.

W. Michael McCabe,

Regional Administrator, EPA Region III.

For the reason set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 191 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site ''Bruin Lagoon, Bruin Borough, Pennsylvania.''

[FR Doc. 97–24546 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 5

[ET Docket No. 93–266; ET Docket No. 94–124, RM–8784; CC Docket No. 92–297, RM–7872, PP–22; GEN Docket No. 90–314, PP–68; GEN Docket No. 90–357, PP–25; IB Docket No. 97–95, RM 8811; RM–7784, PP–23; RM–7912, PP–34, et. al.; FCC 97–309]

Pioneer's Preference Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to recent Congressional legislation, this Order terminates the Commission's pioneer's preference program and dismisses all pending pioneer's preference requests.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket 93–266, FCC 97–309, adopted August 29, 1997, and released September 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of the Order

1. Our pioneer's preference program was initiated in 1991. The program provided preferential treatment in our licensing processes for parties that made significant contributions to the development of a new spectrum-using service or to the development of a new technology that substantially enhanced an existing spectrum-using service. Approximately 140 parties applied for pioneer's preferences in various services, and five preferences were granted.

2. The Commission no longer has the authority to grant pioneer's preferences. On August 5, 1997, the President signed into law the Balanced Budget Act of 1997 (Budget Act), Public Law 105–33, 111 Stat. 251 (1997). The Budget Act amends section 309(j)(13)(F) of the Communications Act to provide that ''[t]he authority of the Commission to provide preferential treatment in licensing procedures * * * shall expire on the date of enactment of the Balanced Budget Act of 1997.'' Thus, as of August 5, the Commission's authority to grant any applicant a pioneer's preference expired.

3. The Commission has the following pioneer's preference requests pending before it:

- Suite 12 Group (now CellularVision U.S.A.), filed on September 23, 1991 in the 28 GHz Local Multipoint Distribution Service proceeding (PP–22 in RM–7872 and CC Docket No. 92–297);
- Sky Station International, filed on March 20, 1996 for a global stratospheric telecommunications service in the 47.2–47.5 GHz and 47.9–48.2 GHz bands (RM–8784 and ET Docket No. 94–124);
- Qualcomm Incorporated, filed on May 4, 1992 in the broadband Personal Communications Services proceeding (PP–68 in GEN Docket No. 90–314);

• Strother Communications, Inc., filed on July 30, 1991 in the Digital Audio Radio Service proceeding (PP–25 in GEN Docket No. 90–357);
• Motorola Satellite Systems, Inc., filed on September 4, 1996 for a non-geostationary Fixed Satellite Service in the 36–51 GHz band (RM–8811 and IB Docket No. 97–95);
• ProNet, Inc., filed on July 30, 1991 for an electronic tracking service in the 216–220 MHz band (PP–23 in RM–7784);
• Maritime Telecommunications Network, Inc., filed on June 2, 1995 for a digital shipboard earth station service (PP–34 in RM–7912);
• CruiseCom International, Inc., filed on April 10, 1992 for a digital shipboard earth station service (RM–7912);
• AfriSpace, Inc., filed on July 30, 1991 for an international satellite sound broadcasting service;
• Inner Ear Communications, Inc., filed on May 21, 1993 for a low-power broadcast service in the 72–76 MHz band;
• Teledesic Corporation, filed on March 14, 1994 for a low-Earth orbit satellite service;
• Web SportsNet, Inc. and Gregory D. Deieso, filed on July 15, 1996 for an Event Broadcast Stations radio service; and
• RadioTour/USA, filed on June 17, 1997 for a low-power FM information broadcasting service.

4. In accordance with the Budget Act, we are immediately terminating our pioneer's preference program and are dismissing these 13 pioneer's preference requests. There may be additional pioneer's preference requests of which we are unaware. If any such requests are identified, the staff will dismiss them on delegated authority.

5. Accordingly, it is ordered that the Commission's pioneer's preference program and ET Docket No. 93–266 are terminated and parts 0, 1, and 5 of the Commission's rules are amended as set forth, effective upon publication in the **Federal Register**. In light of the fact that these rule changes are mandated by Congress and we have no discretion, we find good cause to proceed without notice and comment and to make the rule amendments effective less than 30 days after publication in the **Federal Register**.

6. It is further ordered that the requests for pioneer's preference filed by Suite 12 Group (now CellularVision U.S.A.) on September 23, 1991 (PP–22 in RM–7872 and CC Docket No. 92–297); Sky Station International on March 20, 1996 (RM–8784 and ET Docket No. 94–124); Qualcomm Incorporated on May 4, 1992 (PP–68 in GEN Docket No. 90–314); Strother Communications, Inc. on July 30, 1991 (PP–25 in GEN Docket No. 90–357); Motorola Satellite Systems, Inc. on September 4, 1996 (RM–8811 and IB Docket No. 97–95); ProNet, Inc. on July 30, 1991 (PP–23 in RM–7784); Maritime Telecommunications Network, Inc. on June 2, 1995 (PP–34 in RM–7912); CruiseCom International, Inc. on April 10, 1992 (RM–7912); AfriSpace, Inc. on July 30, 1991; Inner Ear Communications, Inc. on May 21, 1993; Teledesic Corporation on March 14, 1994; Web SportsNet, Inc. and Gregory D. Deieso on July 15, 1996; and RadioTour/USA on June 17, 1997 are dismissed. This action is taken pursuant to sections 4(i), 7(a), 303(g), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(g), 303(r); and section 309(j)(13)(F) of the Communications Act of 1934, as amended by the Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997).

List of Subjects

47 CFR Part 0

Organizations and functions.

47 CFR Part 1

Practice and Procedure.

47 CFR Part 5

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 0, 1, and 5 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

§ 0.241 [Amended]

2. Section 0.241 is amended by removing paragraph (f), and redesignating paragraph (g) as new paragraph (f).

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

§ 1.402 [Removed]

2. Section 1.402 is removed.

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

1. The authority citation in part 5 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

§ 5.207 [Removed]

2. Section 5.207 is removed.

[FR Doc. 97–24821 Filed 9–17–97; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 193

[Docket No. PS–151; Notice 2]

RIN 2137–AC 88

Liquefied Natural Gas Regulations—Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Confirmation of effective date of Direct Final Rule.

SUMMARY: This document confirms the effective date of the amendments of the direct final rule which incorporated safety requirements for mobile and temporary LNG facilities by referencing National Fire Protection Association (NAPA) Standard 59A (1996 edition), Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG).

EFFECTIVE DATES: This document confirms October 15, 1997, as the effective date of the addition of § 193.2019 to part 193 in the direct final rule, published on August 1, 1997, at 62 FR 41312.

FOR FURTHER INFORMATION CONTACT: Mike Israni, telephone: (202) 366–4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or the Dockets Unit (202) 366–5046, for copies of this document or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1997, RSPA published a direct final rule (62 FR 41312) titled ''Liquefied Natural Gas Regulations—Miscellaneous Amendments.'' In that rule, RSPA stated that if no adverse comments were received by September

2, 1997, it would publish a confirmation notice in the **Federal Register** by September 30, 1997, and if an adverse comment was received, RSPA would issue a notice to confirm that fact and would withdraw the direct final rule in whole or in part. The rule also stated that RSPA might then incorporate the adverse comment(s) into a subsequent direct final rule or might publish a notice of proposed rulemaking.

RSPA received three comments. All commenters supported RSPA's action on mobile and temporary LNG facilities. There were no adverse comments. Therefore, this document confirms the addition of § 193.2019 to part 193 in the direct final rule, effective October 15, 1997.

Issued in Washington, DC, on September 15, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–24847 Filed 9–17–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1000, 1001, and 1011

[STB Ex Parte No. 568]

Modifications to the General Provisions of the Board

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Board revises its regulations to reflect: the elimination of certain functions; the closing of field offices; nomenclature changes resulting from the transfer of functions from the Interstate Commerce Commission to the Surface Transportation Board; and the removal of unnecessary rules.

EFFECTIVE DATE: These rules are effective September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: The Surface Transportation Board (Board or STB) is revising parts 1000, 1001, and 1011 of its regulations to reflect changes made by the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (1995) (ICCTA). The ICCTA abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Board. Some of the modifications we are making are only nomenclature revisions (changing Interstate Commerce Commission to Surface Transportation Board, for example). Other rules are being changed to reflect substantive revisions of the statute. Some rules are being revised because the statutes upon which they are based have been eliminated. Other regulations are being removed because they are of limited utility or, even if updated, would basically only repeat what is now in the statute.

Part 1000

We are eliminating §§ 1000.1 and 1000.5. At this time, we are not making any changes in § 1000.10, concerning the availability of decisions not published in the **Federal Register**. We will issue soon a decision dealing separately with the necessary revisions to § 1000.10.

Section 1000.1 concerns the official seal of the ICC. Former 49 U.S.C. 10301(g) provided that the ICC ''shall have a seal that shall be judicially recognized.'' Former 49 U.S.C. 10303(b) stated in part that ''(a) public record * * * certified by the Secretary under the seal of the (ICC) is competent evidence in a proceeding of the Commission and in a judicial proceeding.'' Under the ICCTA, these references to the seal have been deleted: the ICCTA eliminated former section 10303; and it revised former section 10301 (which is now codified at 49 U.S.C. 701), deleting any references to the seal.

The Board has its own seal, which is employed as one method of certifying the index of the record and copies of documents in the record. Because it is not statutorily required, however, we do not believe that it is necessary to include the Board's seal in the Code of Federal Regulations. [1]

Section 1000.5 describes the records and property of carriers and other persons that are subject to inspection and examination by ''special agents, accountants, and examiners.'' It lists the employees who are considered special agents, accountants, and examiners, provides that the Chairman can designate other employees, and contains a facsimile of the ICC's credentials.

The § 1000.5 regulations are based on former section 20(5) of the Interstate Commerce Act, later recodified at former 49 U.S.C. 11144.[2] The ICCTA maintained these provisions in new 49 U.S.C. 11144, 14122, and 15721. Retaining and updating these regulations to reflect the new law is unnecessary, because such rules would simply repeat the provsions set forth in the statute. We will amend 49 CFR 1011.5, however, which covers delegations of authority to the Chairman,[3] to provide that the Chairman of the Board shall specify in writing the employees authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment pursuant to 49 U.S.C. 11144, 14122 , and 15721.

The ICC credentials shown in § 1000.5 are outdated, and we see no point in codifying a facsimile of the Board's credentials. We do not believe that the public would turn to the Code of Federal Regulations to verify a Board employee's credentials. We believe that rules are more appropriately used to provide more meaningful guidance as to Board procedures or Board policy regarding substantive issues.

Part 1001

Part 1001 deals with two separate matters: the availability and certification of records (§§ 1001.1 to 1001.4); and Freedom of Information Act (FOIA) issues (§§ 1001.5 and 1001.6). The FOIA sections were not substantively affected by the ICCTA and, therefore, we are simply changing ICC references to STB references and making other minor changes in those sections. We are also changing the ICC references in the records sections and updating retained statutory references.

The ICCTA made other changes that require modifying the rules. Section 1001.1(a) is being amended to reflect the new tariff and contract summary filing requirements and to recognize that government quotations are no longer filed at the Board. We are removing § 1001.1(c) (concerning reports, maps, and profiles), which is based on repealed 49 U.S.C. 10783. The language of § 1001.1(d) is being simplified and obsolete references are being deleted. We are removing §§ 1001.2 and 1001.3, because the field offices formerly

[1] We are also removing from § 1001.4 the provision that certification of records shall be made under seal, as this is not the only means of certification used by the Board.

[2] The rules were not revised when the statute was recodified in 1978, even though changes to terminology had been made. For example, under section 20(5) of the Interstate Commerce Act, ''any duly authorized special agent, accountant, or examiner'' could copy ''accounts, books, records, memoranda, correspondence, and other documents.'' The regulations in § 1000.5 use this language. However, in the recodification of the Interstate Commerce Act at former 49 U.S.C. 11144, for the sake of clarity ''an employee designated by the Commission'' was substituted for ''any duly authorized special agent, accountant, or examiner'', and, to comport with 5 U.S.C. 552(a) (the Freedom of Information Act), ''records'' replaced ''accounts, books, records, memoranda, correspondence, and other documents.'' H. Rep. No. 1395, 95th Cong., 2d Sess. 147 (1978).

[3] We note that part 1011, concerning delegations of authority, contains a number of obsolete provisions. We will soon be issuing a decision that updates the remainder of part 1011.

maintained by the ICC have been closed and because the Board does not have jurisdiction over international joint ocean-motor through-rate movements.

Because these changes to the regulations are technical, and do not involve substantive revisions of our rules, notice and comment are not needed. Under 5 U.S.C. 553(b)(A), the Administrative Procedure Act's requirements of notice and comment are not applicable to ''rules of agency organization, procedure, or practice.''[4] The rules we are revising fall within these categories.

Small Entities

The Board certifies that these rule changes will not have a significant economic effect on a substantial number of small entities. The changes being made largely pertain to agency management, personnel, and procedure, and should have no impact on small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1000

Administrative practice and procedure, Conflict of interests, Seals and insignia.

49 CFR Part 1001

Confidential business information, Freedom of information.

49 CFR Part 1011

Administrative practice and procedure, Authority delegation (Government agencies), Organization and functions (Government agencies).

Decided: September 9, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, parts 1000, 1001, and 1011 of title 49, chapter X, of the Code of Federal Regulations are amended as follows:

PART 1000—THE BOARD

1. The authority citation for Part 1000 is revised to read as follows:

Authority: 5 U.S.C. 552.

[4] When the ICC issued the § 1000.5 regulations (May 15, 1959 (24 FR 3957), it stated that, because the rules were a clarification of regulations concerning agency personnel, a rulemaking proceeding pursuant to the Administrative Procedure Act was unnecessary.

2. The heading of part 1000 is revised to read as set forth above.

3. The headings ''Subpart A—General'' and §§ 1000.1 and 1000.5 are removed.

4. Part 1001 is revised to read as follows:

PART 1001—INSPECTION OF RECORDS

Sec.

Authority: 5 U.S.C. 552, 49 U.S.C. 702, and 49 U.S.C. 721.

§ 1001.1 Records available at the Board's office.

The following specific files and records in the custody of the Secretary of the Surface Transportation Board are available to the public and may be inspected at the Board's office upon reasonable request during business hours (between 8:30 a.m. and 5:00 p.m., Monday through Friday):

(a) Copies of tariffs and railroad transportation contract summaries filed with the Board pursuant to 49 U.S.C. 13702(b) and 10709(d), respectively.

(b) Annual and other periodic reports filed with the Board pursuant to 49 U.S.C. 11145.

(c) All docket files, which include documents of record in a proceeding.

(d) File and index of instruments or documents recorded pursuant to 49 U.S.C 11301.

(e) STB Administrative Issuances.

§ 1001.2 Certified copies of records.

Copies of and extracts from public records will be certified by the Secretary. Persons requesting the Board to prepare such copies should clearly state the material to be copied, and whether it shall be certified. Charges will be made for certification and for the preparation of copies as provided in part 1002 of this chapter.

§ 1001.3 Requests to inspect other records not considered public under 5 U.S.C. 552.

Requests to inspect records other than those now deemed to be of a public nature shall be in writing and addressed to the Freedom of Information Officer (Officer). The Officer shall determine within 10 days of receipt of a request (excepting Saturdays, Sundays, and legal public holidays) whether a requested record will be made available. If the Officer determines that a request cannot be honored, the Officer must inform the requesting party in writing of this decision and such letter shall contain a detailed explanation of why the requested material cannot be made available and explain the requesting party's right of appeal. If the Officer rules that such records cannot be made available because they are exempt under the provisions of 5 U.S.C. 552(b), an appeal from such ruling may be addressed to the Chairman. The Chairman's decision shall be administratively final and state the specific exemption(s) contained in 5 U.S.C. 552(b) relied upon for denial. Such an appeal must be filed within 30 days of the date of the Freedom of Information Officer's letter. The Chairman shall act in writing on such appeals within 20 days (excepting Saturdays, Sundays, and legal public holidays) of receipt of any appeal. In unusual circumstances, as set forth in 5 U.S.C. 552(a)(6)(B), the time limit may be extended, by written notice to the person making the particular request, setting forth the reasons for such extension, for no more than 10 working days. If the appeal is denied, the Chairman's order shall notify the requesting party of his or her right to judicial review. Charges shall be made as provided for in § 1002.1(f) of this chapter.

§ 1001.4 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Interstate Commerce Commission or the Board shall not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section. For such purposes, the following definitions apply:

(1) *Confidential commercial information* means records provided to the government by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the government. The term ''submitter'' includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice to submitters.* Except as provided in paragraph (g) of this section, the Board, to the extent permitted by law, shall provide a submitter with prompt written notice, in accordance with paragraph (c) of this

section, of receipt of an FOIA request encompassing its submissions. This notice shall either describe the exact nature of the information requested or provide copies of the records themselves.

(c) *When notice is required.* Notice shall be given to a submitter whenever:

(1) The Board has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(2) The information has been designated, in good faith by the submitter, as confidential commercial information at the time of submission or within a reasonable time thereafter. Whenever possible, the submitter's claim of confidentiality shall be supported by a statement or certification by an officer or authorized representative of the company that the information in question is in fact confidential commercial information and has not been disclosed to the public.

(d) *Opportunity to object to disclosure.* (1) Through the notice described in paragraph (b) of this section, the Board shall afford a submitter a reasonable period of time in which to provide it with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding the requested information.

(2) When notice is given to a submitter under this section, the Board also shall notify the requester that it has been provided.

(e) *Notice of intent to disclose.* (1) The Board shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to its determination whether or not to disclose the requested information. Whenever the Board decides to disclose the information over a submitter's objection, it shall provide the submitter with written notice containing the following:

(i) A description or copy of the information to be disclosed;

(ii) The reasons why the submitter's disclosure objections were not sustained; and

(iii) A specific disclosure date, which shall be a reasonable number of days after the notice of intent to disclose has been mailed to the submitter.

(2) At the same time that notice of intent to disclose is given to a submitter, the Board shall notify the requester accordingly.

(f) *Notice of lawsuit.* (1) Whenever an FOIA requester brings legal action seeking to compel disclosure of confidential commercial information, the Board shall promptly notify the submitter.

(2) Whenever a submitter brings legal action seeking to prevent disclosure of confidential commercial information, the Board shall promptly notify the requester.

(g) *Exception to notice requirement.* The notice requirements of this section shall not apply if:

(1) The Board determines that the information requested should not be disclosed; or

(2) The information already has been published or otherwise officially made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) Disclosure is required by a Board rule that:

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the Board that are to be released; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or within a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(5) The information requested was not designated by the submitter as exempt from disclosure, when the submitter had an opportunity to do so at the time of submission or within a reasonable time thereafter, unless the Board has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(6) The designation made by the submitter in accordance with these regulations appears obviously frivolous; in such case, the Board must provide the submitter only with written notice of any administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

5. The authority citation for part 1104 is revised to read as follows:

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 701, 721, 11144, 14122, and 15721.

6. The heading for part 1011 is revised to read as set forth above.

7. Section 1011.5 is amended by revising the heading and by adding a new paragraph (a)(9) to read as follows:

§ 1011.5 Delegations to individual Board Members.

(a) * * *

(9) Designation in writing of employees authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment pursuant to 49 U.S.C. 11144, 14122, and 15721.

* * * * *

[FR Doc. 97–24820 Filed 9–17–97; 8:45 am]

BILLING CODE 4915–00–P

Proposed Rules

Federal Register
Vol. 62, No. 181
Thursday, September 18, 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

Federal Crop Insurance Corporation

7 CFR Part 457

General Crop Insurance Regulations, Canola and Rapeseed Endorsement; and Common Crop Insurance Regulations, Canola and Rapeseed Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of canola and rapeseed. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to convert the canola and rapeseed pilot insurance program to a permanent insurance program for the 1998 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business October 20, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Product Development Division, Research and Development, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–3826.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be not significant for the purposes of Executive Order 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations are being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0053. The canola and rapeseed crop insurance provisions are described in the ''Background'' section of this document.

The title of this information collection is ''Multiple Peril Crop Insurance.''

The burden associated with the canola and rapeseed crop insurance provisions is estimated at 18 minutes per response from approximately 8,060 respondents each year for a total number of 2,574 hours. The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of canola and rapeseed that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

FCIC is requesting 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The availability of insurance for the current population of canola and rapeseed entities is limited to the six pilot states that have the majority of the canola and rapeseed production. Under the current pilot program a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three

years. This regulation does not alter those requirements but extends it to the national population of canola and rapeseed producers. New provisions included in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required because the information used to determine eligibility is already maintained in their office. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order No. 12988 Civil Justice Reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.141, Canola and Rapeseed Crop Insurance Provisions. The canola and rapeseed pilot program is an Actual Production History (APH) plan of multiple peril crop insurance. The Canola and Rapeseed Crop Provisions are very similar to other small grain crop provisions. They allow for a variable late planting period by region, however which is different from other crop provisions.

The pilot program for canola and rapeseed has generally worked well. Over 2,000 producers and approximately a quarter million acres from the selected pilot counties in Idaho, Minnesota, Montana, North Dakota, and Washington were covered by the pilot program for both the 1995 and 1996 crop years. Prevented planting losses, however, were high primarily due to poor planting conditions. To address this concern, this proposed rule provides that the late planting period and associated production guarantee reduction may be varied in the Special Provisions. Variance will be on a county-by-county basis, and producers will be notified by copy of the Special Provisions. Also, final planting dates were changed in some counties to reduce prevented planting losses.

Prevented planting provisions will be included in the Basic Provisions (§ 457.8) which are in the proposed rule process. Those provisions also have been adopted in this proposed rule. When the Basic Provisions (§ 457.8) become final, however, the provisions will be removed from the crop provisions as necessary. Prevented planting coverage will be provided for canola and rapeseed if the actuarial table contains levels of prevented planted coverage for canola and rapeseed.

The proposed provisions will be effective for the 1998 and succeeding crop years. These provisions will replace the current unpublished provisions that insure canola and rapeseed under pilot program status.

List of Subjects in 7 CFR Part 457

Crop insurance, Canola and rapeseed crop provisions.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 457.161 is added to read as follows:

§ 457.161 Canola and rapeseed crop insurance provisions.

The Canola and Rapeseed Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Canola and Rapeseed Crop Provisions

If a conflict exists among the Basic Provisions, (§ 457.8) these Crop Provisions, the Special Provisions, and the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions and the Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

1. Definitions.

Canola. A crop of the genus *Brassica* as defined in accordance with the Official United States Standards for Grain—Subpart C—U.S. Standards for Canola.

Days. Calendar days.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

FSA. The Farm Service Agency an agency of the United States Department of Agriculture, or any successor agency.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those generally recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Combining or threshing for seed. A crop that is swathed prior to combining is not considered harvested.

Interplanted. Acreage on which two or more crops or types are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage planted to the insured crop during the late planting period.

Late planting period. The period that begins the day after the final planting date for the insured crop type and ends 25 days after the final planting date, unless otherwise provided by the Special Provisions.

Local market price (Canola). The cash price per pound for U.S. No. 2 grade canola that reflects the maximum limits of quality

deficiencies allowable for the U.S. No. 2 grade canola.

Planted acreage. Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Practical to replant. In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), ''practical to replant'' is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to, moisture availability, condition of the field, marketing window, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Price of damaged production. The cash price per pound for canola that qualifies for quality adjustment in accordance with section 12 of these crop provisions.

Production guarantee (per acre). The number of pounds determined by multiplying the approved Actual Production History (APH) yield per acre by the coverage level percentage you elect.

Rapeseed. A crop of the genus *Brassica* that contains at least 30 percent of an industrial type of oil as shown on the Special Provisions and that is measured on a basis free from foreign material.

Replanting. Performing the cultural practices necessary to replace the insured crop and then replacing the insured crop in the insured acreage with the expectation of growing a successful crop.

Swathed. Severance of the stem and seed pods from the ground and placing into windrows without removal of the seed from the pod.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop type in the county.

Written Agreement. A written document that alters designated terms of a policy in accordance with section 15.

2. Unit Division.

(a) Unless limited by the Special Provisions, a unit as defined in section 1 of the Basic Provisions (§ 457.8) (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described under this section.

(c) If you do not comply fully with these provisions, we will combine all optional units which are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent and the optional units are combined into a basic unit, that portion, of the additional premium paid on the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have provided records by the production reporting date, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) For each crop year, records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit or the production from each unit must be kept separate until after loss adjustment under the policy is completed; and

(4) Each optional unit must meet one or more of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as the equivalent of sections for unit purposes. In areas which have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable record of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

(iii) *Optional units by type as designated by the Special Provisions:* In addition to or instead of establishing optional units by section, section equivalent, FSA Farm Serial Number, or non-irrigated and irrigated acreage, optional units may be established by type where authorized by the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the canola and rapeseed in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each canola and rapeseed type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for a specific type, you must also choose 100 percent of the maximum price election for all other types.

4. Contract Changes.

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date for counties with a March 15 cancellation date, and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates.

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation and termination dates
All counties in Georgia.	September 30.
All other counties without fall planted types specified on the actuarial table..	March 15.
All other counties with fall planted types specified on the actuarial table..	August 31.

6. Insured Crop.

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all canola and rapeseed in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That is planted for harvest as seed; and

(c) That is not, unless allowed by Special Provisions or by written agreement:

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

7. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

(a) Any acreage of the insured crop that is damaged before the final planting date, to the extent that the majority of growers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant; and;

(b) We will not insure any acreage that does not meet the rotation requirements contained in the Special Provisions.

8. Insurance Period.

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the end of the insurance period is October 31 of the calendar year in which the crop is normally harvested.

9. Causes of Loss.

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss which occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife, unless proper measures to control wildlife have not been taken;

(f) Earthquake;

(g) Volcanic eruption; or

(h) Failure of the irrigation water supply, if applicable, caused by an insured cause of loss that occurs during the insurance period.

10. Replanting Payment.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the insured crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage, and it is practical to replant or if we require you to replant in accordance with section 7(a).

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 175 pounds, multiplied by your price election, multiplied by your insured share.

(c) When the canola and rapeseed is replanted using a practice or type that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

11. Duties In The Event of Damage or Loss.

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop that we require must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election for each type, if applicable;

(3) Totaling the results in section 12(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 12(c)) by the respective price election;

(5) Totaling the results in section 12(b)(4);

(6) Subtracting the total in section 12(b)(5) from the total in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

(c) The total production to count (pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us, (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature canola and rapeseed may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Canola and rapeseed production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 8.5 percent. We must be permitted to obtain samples of the production to determine the moisture content.

(2) Canola production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in the canola not meeting the grade requirements for U.S. No. 3 or better (U.S. Sample grade) because of kernel damage (excluding heat damage), or has a musty, sour, or commercially objectionable foreign odor; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss in canola production only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade canola under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health.

(4) Canola production that is eligible for quality adjustment, as specified in sections 12(d) (2) and (3), will be reduced:

(i) In accordance with the quality adjustment factors contained in the Special Provisions; or

(ii) If quality adjustment factors are not contained in the Special Provisions, quality adjustment factors will be determined as follows:

(A) Divide the price of damaged production by the local market price to determine the quality adjustment factor.

(B) The price of damaged production and the local market price will be determined at the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit.

(C) Discounts used to establish the price of damaged production will be limited to those that are usual, customary, and reasonable.

(D) The price of damaged production will not be reduced for:

(1) Moisture content;

(2) Damage due to uninsured causes;

(3) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of the canola; except, if the price of damaged production can be increased by conditioning, we may reduce the price of damaged production after the production has been conditioned by the cost of conditioning but not lower than the price of damaged production before conditioning. We may obtain prices of damaged production from any buyer of our choice. If we obtain prices of damaged production from one or more buyers located outside your local market area, we will reduce such price of damaged production by the additional costs required to deliver the canola to those buyers; or

(4) Erucic acid or glucosinolates in excess of the amount allowed under the definition of canola contained in the Official United States Standards for Grain.

(E) Factors not associated with grading under the Official United States Standards for Grain including, but not limited to protein and oil, will not be considered; and

(F) The number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on an unadjusted weight basis.

13. Late Planting.

Insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The production guarantee or amount of insurance for each acre planted to the insured crop during the late planting period will be reduced by each day planted after the final planting date by:

(1) One percent (1%) for the 1st through the 10th day; and

(2) Two percent (2%) for the 11th through the 25th day; or

(3) Unless otherwise provided by the Special Provisions.

(b) The production guarantee or amount of insurance for each acre of the insured crop that is planted to the insured crop after the late planting period (or after the final planting date for crops that do not have a late planting period) will be the same as the production guarantee or amount of insurance that is provided for acreage of the insured crop that is prevented from being planted (see section 14). Such acreage must have been prevented from being planted by an insurable cause occurring within the insurance period for prevented planting coverage.

(c) The premium amount for insurable acreage planted to the insured crop after the final planting date will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage planted after the final planting date exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

14. Prevented Planting.

(a) A prevented planting payment may be made to you for eligible acreage you were prevented from planting if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence; and

(2) You notify us within 72 hours after the final planting date if you are prevented from planting by such date, whether or not you intend to plant any acreage of the insured crop after the final planting date. In addition to this notice, you must include any acreage of the insured crop that was prevented from being planted on your acreage report.

(b) The Actuarial Table contains the levels of prevented planting coverage that you may elect for the crop on or before the sales closing date. If you do not elect one of the available coverages by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions. If you have a Catastrophic Risk Protection Endorsement, you will receive the lowest level of prevented planting coverage available for the crop.

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will not be considered to be an insurable cause of loss for the purposes of prevented planting unless, on the final planting date:

(1) For non-irrigated acreage, the area that is prevented from being planted is classified by the Palmer Drought Severity Index as being in a severe or extreme drought; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for the crop will be determined as follows:

(1) The base eligible acres for the insured crop will be determined in accordance with the following table.

Type of crop	Base eligible acres (if you have produced the crop for which insurance was available in any of the 4 most recent crop years)	Base eligible acres (if you have not produced the crop for which insurance is available in any of the 4 most recent crop years)
(i)(A) The crop's insurance guarantee is based on APH or the crop does not require yield certification and the crop is not required to be contracted with a processor to be insured.	(B) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop).	(C) The number of acres approved by written agreement in accordance with the provisions in this section and section 15.
(ii)(A) The crop must be contracted with a processor to be insured and the contract specifies a number of acres contracted for the crop year..	(B) The number of acres of the crop specified in the processor contract..	(C) The number of acres of the crop specified in the processor contract.
(iii)(A) The crop must be contracted with a processor to be insured and the processor contract specifies a quantity of production that will be accepted..	(B) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.).	(C) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.)

(2) All requests for written agreement under this section must be submitted to us on or before the sales closing date and include, by crop, the number of acres of all crops for which insurance is offered under the authority of the Act that you intend to plant in the county.

(3) The total number of acres requested for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year.

(4) The number of acres determined in section 14(e)(1)(i)(B) may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us on or before the sales closing date for the insured crop that you have purchased or leased additional land, that acreage will be released from any USDA program which prohibits harvest of a crop, or that the additional acreage has not been cropped in any of the four most recent crop years. Such acreage must have been purchased, leased, released from the USDA program, or intended to be brought into production in time to plant it for the current crop year.

(5) The result of section 14(e)(1) or 14(e)(4), whichever is applicable, will be reduced by subtracting the number of acres of the crop that are timely and late planted.

(f) Regardless of the number of eligible acres determined in section 14(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (We will assume that any prevented planting acreage within a field that contains planted acreage would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and you can prove that you intended to plant such acreage to another crop);

(2) For which the Actuarial Table does not designate a premium rate unless a written agreement designates such premium rate;

(3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year, unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only);

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That is in excess of the number of acres eligible for a prevented planting payment or the number of eligible acres physically available for planting;

(9) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance;

(10) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting; or

(11) Based on a price election, amount of insurance or production guarantee for a crop type that you did not plant in at least one of the four most recent years. Types for which separate price elections, amounts of insurance, or production guarantees are available must be included in your APH database in at least one of the most recent four years, or, crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years.

(g) The prevented planting payment for any eligible acreage within a unit will be determined by:

(1) Multiplying the liability per acre for timely planted acreage of the insured crop (the amount of insurance per acre or the production guarantee per acre multiplied by the price election for the crop, or type if applicable) by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 14(g)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 14(g)(2) by your share.

15. Written Agreements.

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for written agreement must contain all terms of the contract between you and us that will be in effect if the written agreement is not approved.

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year. (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crops years will be in accordance with printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on September 11, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–24769 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–29–AD]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Sikorsky Aircraft Corporation (Sikorsky) Model S–61 A, D, E, L, N, NM, R, and V helicopters. This proposal would require a nondestructive inspection (NDI) for cracks in the main rotor shaft (shaft), and require removal of any shaft with a crack and replacement with an airworthy shaft. This proposal would also require appropriate marking of shafts and log book entries by the operator to determine the shaft retirement life, and would establish a new retirement life for the shaft. This proposal is prompted by four reports of cracks occurring in helicopters that were utilized in repetitive external lift (REL) operations. The actions specified by the proposed AD are intended to detect a fatigue crack in the shaft, that could result in shaft structural failure, loss of power to the main rotor, and

subsequent loss of control of the helicopter.

DATES: Comments must be received by November 17, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, P.O. Box 9729, Stratford, CT 06497–9129. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Walsh, Aerospace Engineer, ANE–150, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7158, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–SW–29–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to Sikorsky Model S–61 A, D, E, L, N, NM, R, and V helicopters. This proposal would require a NDI of the shaft, part number (P/N) S6135–20640–001, S6135–20640–002, or S6137–23040–001, used in REL operations within the next 1,000 hours time-in-service (TIS), or at the next main gearbox overhaul. The NDI would be required to be performed in accordance with Sikorsky Alert Service Bulletin (ASB) No. 61B35–68, dated July 19, 1996. This proposal would also establish retirement lives for certain shafts utilized in REL operations. Therefore, for shafts installed on helicopters utilized in REL operations that have not been modified in accordance with Sikorsky Customer Service Notice (CSN) 6135–10, dated March 18, 1987, and Sikorsky ASB No. 61B35–53, dated December 2, 1981, the retirement life would be 1,500 hours time-in-service (TIS). For shafts installed on helicopters utilized in REL operations that have been modified in accordance with Sikorsky CSN 6135–10, dated March 18, 1987, and Sikorsky ASB No. 61B35–53, dated December 2, 1981, the retirement life would be 2,000 hours TIS. This proposal is prompted by four reports of cracks occurring in helicopters that were utilized in REL operations. The actions specified by the proposed AD are intended to detect a fatigue crack in the shaft, that could result in shaft structural failure, loss of power to the main rotor, and subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky ASB No. 61B35–68, dated July 19, 1996. That ASB describes procedures for determining the TIS during which the helicopter was utilized in REL operations; performing a NDI of the shaft; marking the shafts that have no crack; and acid-etching the letters ''REL'' on airworthy shafts prior to their installation on a helicopter that will be used in REL operations. The ASB also establishes new life limits for the shaft.

Since an unsafe condition has been identified that is likely to exist or develop on other Sikorsky Model S–61 A, D, E, L, N, NM, R, and V helicopters of the same type design, the proposed AD would require determining and recording on the component log or equivalent record the number of hours TIS during which the helicopter was utilized in REL operations, as well as the number of external lifts conducted during each hour TIS in which external lifts were conducted; performing a NDI of the shaft; marking the shafts that have no crack; and acid-etching the letters ''REL'' on airworthy shafts prior to their installation on a helicopter that will be used in REL operations. The proposed AD would also establish a new retirement life for the shaft. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 30 helicopters of U.S. registry that are involved in REL operations would be affected by this proposed AD, that it would take approximately 2.2 work hours per helicopter to accomplish the proposed actions during the next scheduled overhaul, and that the average labor rate is $60 per work hour. Required parts for the inspection would cost approximately $50 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,460, assuming that no shafts will need to be replaced as a result of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Sikorsky Aircraft Corporation: Docket No. 96–SW–29–AD.

Applicability: Model S–61 A, D, E, L, N, NM, R, and V helicopters, with main rotor shaft (shaft), part number (P/N) S6135–20640–001, S6135–20640–002, or S6137–23040–001, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect a fatigue crack in the shaft, that could result in shaft structural failure, loss of power to the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 30 calendar days or 240 hours time-in-service (TIS) after the effective date of this AD, whichever occurs first, determine if the shaft has been used in repetitive external lift (REL) operations. REL operation is defined as operation during which the average number of external lifts equals or exceeds six per flight hour for any 250 hour TIS period during the main gearbox overhaul interval. An external lift is defined as a flight cycle in which an external load is picked up, the helicopter is repositioned (through flight or hover), and the helicopter hovers and releases the load and departs or lands and departs. Record the total number of hours TIS during which external lifts have been conducted, as well as the number of external lifts conducted during each hour, on the component log card or equivalent record. If the number of external lifts cannot be determined, assume 6 external lifts were conducted during each hour TIS in which external lifts were conducted. If the hours TIS of external lift operations cannot be determined, assume REL operations were conducted.

(b) For shafts used in REL operations, within the next 1,000 hours TIS after the effective date of this AD, conduct a non-destructive inspection (NDI) for cracks in the shaft in accordance with the Overhaul Manual. If a crack is discovered in a shaft, remove the shaft and replace it with an airworthy shaft. Mark the removed airworthy shafts and the replacement shafts in accordance with the Accomplishment Instructions in paragraphs 2E and 2F of Sikorsky Aircraft Corporation ASB No. 61B35–68, dated July 19, 1996. Once a shaft has been designated and marked as an REL shaft, it is life-limited accordingly for the remainder of that shaft's airworthy service life.

(c) Retire all shafts that have been used in REL operations as follows:

(1) Shafts that have been modified in accordance with Sikorsky Customer Service Notice 6135–10, dated March 18, 1987, and Sikorsky ASB No. 61B35–53, dated December 2, 1981 (modified REL shafts), must be removed from service on or before attaining 2,000 hours TIS.

(2) Shafts that have not been modified in accordance with Sikorsky Customer Service Notice 6135–10, dated March 18, 1987, and Sikorsky ASB No. 61B35–53, dated December 2, 1981 (unmodified REL shafts), must be removed from service on or before attaining 1,500 hours TIS.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

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

(e) This AD revises the Limitations section of the maintenance manual by establishing new retirement lives of 1,500 hours TIS for unmodified REL shafts and 2,000 hours TIS for modified REL shafts.

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

Issued in Fort Worth, Texas, on September 12, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–24795 Filed 9–17–97; 8:45 am]

BILLING CODE 4910–13–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AE74

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Organization and Procedures; Application of Circuit Court Law

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: These proposed regulations would revise the current regulations governing how we apply holdings of the United States Courts of Appeals that we determine conflict with our interpretation of the Social Security Act or regulations in adjudicating claims under title II and title XVI of the Social Security Act (the Act). The regulations explain the new goal we have adopted to ensure that Acquiescence Rulings (ARs) are developed and issued promptly and the new procedures we are implementing to identify cases pending in the administrative process which might be affected by ARs.

DATES: To be sure your comments are considered, we must have them no later than November 17, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966–2830, sent by E-mail to ''regulations@ssa.gov,'' or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore MD 21235, (410) 965–6243 for information about these rules. For information on eligibility or claiming benefits, call our national toll free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: On January 11, 1990, (55 FR 1012) we published final regulations to implement a revised policy for applying circuit court holdings that conflict with our interpretation of the Act or regulations to subsequent claims within that circuit involving the same issue.

Under those regulations, which are set out at 20 CFR 404.985 and 416.1485, we prepare Acquiescence Rulings which explain the circuit court holdings and provide binding guidance to adjudicators on how to apply the holding to subsequent claims within the circuit involving the same issue. Those regulations reflected the agency's decision in 1985 to abandon its prior policy of applying conflicting circuit court holdings only to the named party or parties to the decision, rather than to other cases pending before an Administrative Law Judge or the Appeals Council involving the same issue or issues. The 1990 regulations expanded the 1985 policy decision to apply an AR to all levels of adjudication, as appropriate.

After the 1990 regulations were adopted, allegations that the agency refused to acquiesce in circuit court decisions with holdings in conflict with our interpretation of the Act or regulations declined dramatically. A major goal of the 1990 regulations has been achieved because the circuit courts have found virtually no cause to cite the agency for failing to adhere to circuit court precedent.

On July 2, 1996, we issued Social Security Ruling 96–1p (61 FR 34470) reaffirming the rules established in the 1990 regulations. Since that time, we have reviewed our rules and our implementing procedures to determine what changes could be instituted to further improve the acquiescence process. Our review has led us to conclude that we should reaffirm an important principle regarding the impact of litigation on claims adjudication and, through these final regulations, amend the 1990 regulations in two significant respects.

The Role of Litigation in the Policymaking Process

Our review indicated that it is important to reaffirm the principle that our goal in administering our programs is to have uniform, national program standards. Our procedures, which provide for acquiescence within the circuit when a circuit court issues a decision containing a holding which conflicts with our interpretation of the Act or regulations, result in differing policies in different sections of the country. This situation is not desirable and ordinarily should not, if possible, continue indefinitely.

Therefore, we wish to make it clear that generally ARs are temporary measures. When we receive a circuit court decision containing a holding which conflicts with our interpretation of the Act or regulations, we consider whether the rule at issue should be changed on a nationwide basis to conform to the court's holding. If we continue to believe that our interpretation of the statute or regulations at issue is correct and we seek further judicial review of the circuit court's decision, we will stay further development of the AR until the judicial review process runs its course. If our assessment shows that we should change our rules and adopt a circuit court's holding nationwide, we will, at the time we publish the AR, have determined the steps necessary to do so. This may require changing our regulations or rulings; it may also require seeking a clarifying legislative change to the Act. In this case, however, we would proceed to issue an AR since adopting the rules nationwide inevitably requires a significant period of time.

Similarly, if our assessment is that our rules are correct but we are unable to resolve the matter by seeking further judicial review, we will issue an AR and at the time we publish the AR have determined the appropriate steps to attempt to address the issue which was the subject of the circuit court's holding. This may mean issuing clarifying regulations or seeking legislation. There are certain instances when an issue cannot be resolved, such as a constitutional issue which the Supreme Court chooses not to review and, therefore, an AR may remain in effect.

Although our goal to have uniform national standards is implicit in the current regulations, we are including in this preamble, an explicit statement of our commitment to maintaining a uniform nationwide system of rules and regulations. In addition to making minor editorial corrections to the current regulations, these proposed rules would amend the regulations in two substantive areas, as follow:

Establishing a Timeliness Goal for Issuing Acquiescence Rulings

A common criticism regarding the current process involves the length of time it takes for SSA to prepare and issue an AR. As a result, we have reassessed our procedures and have decided that we will release an AR for publication in the **Federal Register** no later than 120 days from the time we receive a precedential circuit court decision for which the AR is being issued, unless further judicial review of that decision is pending. We propose to add new sections 404.985(b)(1) and 416.1485(b)(1) so that the public is fully informed of this timeframe.

Identifying Pending Claims Which May Be Affected by an AR

When we published the 1990 regulations, we noted that a number of commenters on the 1988 proposed regulations (53 FR 46628 (November 18, 1988)) urged that we take action to identify and list pending claims that might be affected by an AR. In the response to that comment, we stated:

> As a matter of operational necessity, some time will always elapse between the date of a court decision and the time that we could notify all adjudicators to begin listing cases which might be affected by its holding. Thus, a substantial number of cases would not be listed for later readjudication. The process which these comments suggest presumes instantaneous, comprehensive identification of all cases, which operationally we cannot accomplish. Therefore, despite the fact that requiring claimants to seek readjudication does require some action on their part, we have concluded that this is the most efficient and effective way to proceed and have not adopted these comments in the final regulations.

(55 FR 1012, 1013). The basic facts noted in our response remain valid. Despite improved technology, it is still operationally impossible for us to identify all pending claims that might be affected by an AR. However, we have reassessed this situation and have now decided that it would be a significant benefit to claimants if we were to act as expeditiously as possible to identify pending claims that might be affected by an AR, even though we will not be able to identify all such claims.

Therefore, as described in the proposed new sections 404.985(b)(3) and 416.1485(b)(3), we are implementing the following procedures. As soon as possible after we receive a circuit court decision that we find may contain a holding that conflicts with our interpretation of the Act or regulations, we will develop and provide our adjudicators with criteria that they will use to identify pending claims we are deciding within the relevant circuit that might be affected, if we subsequently determine that an AR is required. If an AR is subsequently released, a notice will be sent informing the claimant in these cases that might be affected by the AR that an AR has been issued that might affect the claim. The notice to the claimant will also explain the procedures for obtaining a readjudication of the claim under the AR. If we develop criteria and begin identifying cases but subsequently determine that an AR is not required, the notices will not be sent.

We will notify adjudicators of the appropriate criteria to be used to identify cases no later than 10 days after

we receive a circuit court decision that we determine may contain a holding which conflicts with our interpretation of the Act or regulations. Although we believe that the new procedure to identify pending claims within the relevant circuit that might be affected will greatly reduce the number of claimants who would have to learn of the issuance of the AR through the **Federal Register** publication of it or otherwise, the new procedure will not capture everyone. For this reason, we have retained the readjudication procedure in sections 404.985(b)(2) and 416.1485(b)(2) to ensure the protection of all claimants. Additionally, if a claimant or an adjudicator brings to our attention that a claim could potentially be affected by a circuit court decision that might become the subject of an AR, we will consider identifying that case pending a decision as to whether an AR is necessary in the circuit court decision in question.

Electronic Version

The electronic version of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules contain reporting requirements in Part 404, section 404.985(b)(2) and 416.1485(b)(2). As required by 42 U.S.C. section 3507, as amended by section 2 of the Paperwork Reduction Act of 1995, we will submit a copy to the Office of Management and Budget for its review.

The regulation sections cited above allow claimants to request application of the published Acquiescence Ruling to a prior determination or decision. Claimants must demonstrate that the application of the Acquiescence Ruling could change the prior determination or decision. Claimants may do so by submitting a statement. If the claimant can so demonstrate, the information will be used to readjudicate the claim. Thus, claimants, whose determinations or decisions on their claims may be affected by the Acquiescence Ruling, may continue to make submissions to the Agency regarding such claims.

We estimate that the public reporting burden will be 17 minutes per response for between 0 and 50,000 respondents depending on the characteristics of the individual AR, resulting in up to 7083.33 burden hours per AR. We estimate there will be 3 to 4 ARs per year. If you have any comments or suggestions on this estimate, write to OMB and SSA at the following addresses:

Office of Management and Budget, OIRA, Attn: Laura Oliven, Room 10230, New Executive Office Building, Washington, D.C. 20503.
Social Security Administration, DCFAM. Attn: Nicholas E. Tagliareni, 1–A–21 Operations Building, 6401 Security Blvd., Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the time it takes for claimants to request application of the Acquiescence Ruling to the prior determination, including the use of automated collection techniques or other forms of information technology.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.003, Social Security-Special Benefits for Persons Aged 72 and Over; 96.004, Social Security-Survivors Insurance; 96.005, Special Benefits for Disabled Coal Miners; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: September 11, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are proposed to be amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 405 (a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6 (c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.985 is revised to read as follows:

§ 404.985 Application of circuit court law.

The procedures which follow apply to administrative determinations or decisions on claims involving the application of circuit court law.

(a) *General.* We will apply a holding in a United States Court of Appeals decision that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations unless the Government seeks further judicial review of that decision or we relitigate the issue presented in the decision in accordance with paragraphs (c) and (d) of this section. We will apply the holding to claims at all levels of administrative adjudication within the applicable circuit unless the holding, by its nature, applies only at certain levels of adjudication.

(b) *Issuance of an Acquiescence Ruling.* When we determine that a United States Court of Appeals holding conflicts with our interpretation of a provision of the Social Security Act or regulations and the Government does not seek further judicial review or is unsuccessful on further review, we will issue a Social Security Acquiescence Ruling. The Acquiescence Ruling will describe the administrative case and the court decision, identify the issue(s) involved, and explain how we will apply the holding, including, as necessary, how the holding relates to other decisions within the applicable circuit. These Acquiescence Rulings will generally be effective on the date of their publication in the **Federal Register**

and will apply to all determinations and decisions made on or after that date unless an Acquiescence Ruling is rescinded as stated in paragraph (e) of this section. The process we will use when issuing an Acquiescence Ruling follows:

(1) We will release an Acquiescence Ruling for publication in the **Federal Register** for any precedential circuit court decision that we determine contains a holding that conflicts with SSA's interpretation of a provision of the Social Security Act or regulations no later than 120 days from the receipt of the court's decision. This timeframe will not apply when we decide to seek further judicial review of the circuit court decision or when coordination with the Department of Justice and/or other Federal agencies makes this timeframe no longer feasible.

(2) If we make a determination or decision on your claim between the date of a circuit court decision and the date we publish an Acquiescence Ruling, you may request application of the published Acquiescence Ruling to the prior determination or decision. You must demonstrate that application of the Acquiescence Ruling could change the prior determination or decision in your case. You may demonstrate this by submitting a statement that cites the Acquiescence Ruling and indicates what finding or statement in the prior determination or decision conflicts with the Acquiescence Ruling. If you can so demonstrate, we will readjudicate the claim at the level at which it was last adjudicated in accordance with the Acquiescence Ruling. Any readjudication will be limited to consideration of the issue(s) covered by the Acquiescence Ruling and any new determination or decision on readjudication will be subject to administrative and judicial review in accordance with this subpart. Our denial of a request for readjudication will not be subject to further administrative or judicial review. If you file a request for readjudication within the 60-day appeal period and we deny that request, we shall extend the time to file an appeal on the merits of the claim to 60 days after the date that we deny the request for readjudication.

(3) After we receive a precedential circuit court decision and determine that an Acquiescence Ruling may be required, we will begin to identify those claims that are pending before us within the circuit and that might be subject to a readjudication if an Acquiescence Ruling is subsequently issued. When an Acquiescence Ruling is published, we will send notices to those individuals whose cases we have identified which may be affected by the Acquiescence Ruling. The notice will provide information about the Acquiescence Ruling and the right to request a readjudication under that Acquiescence Ruling, as described in paragraph (b)(2) of this section. It is not necessary for an individual to receive a notice in order to request application of an Acquiescence Ruling to his or her claim, as described in paragraph (b)(2) of this section.

(c) *Relitigation of court's holding after publication of an Acquiescence Ruling.* After we have published an Acquiescence Ruling to reflect a holding of a United States Court of Appeals on an issue, we may decide under certain conditions to relitigate that issue within the same circuit. We will relitigate only when the conditions specified in paragraphs (c) (2) and (3) of this section are met, and, in general, one of the events specified in paragraph (c)(1) of this section occurs.

(1) Activating events:

(i) An action by both Houses of Congress indicates that a court case on which an Acquiescence Ruling was based was decided inconsistently with congressional intent, such as may be expressed in a joint resolution, an appropriations restriction, or enactment of legislation which affects a closely analogous body of law;

(ii) A statement in a majority opinion of the same circuit indicates that the court might no longer follow its previous decision if a particular issue were presented again;

(iii) Subsequent circuit court precedent in other circuits supports our interpretation of the Social Security Act or regulations on the issue(s) in question; or

(iv) A subsequent Supreme Court decision presents a reasonable legal basis for questioning a circuit court holding upon which we base an Acquiescence Ruling.

(2) The General Counsel of the Social Security Administration, after consulting with the Department of Justice, concurs that relitigation of an issue and application of our interpretation of the Social Security Act or regulations at the administrative level within the circuit would be appropriate.

(3) We publish a notice in the **Federal Register** that we intend to relitigate an Acquiescence Ruling issue and that we will apply our interpretation of the Social Security Act or regulations at the administrative level within the circuit to claims selected for relitigation. The notice will explain why we made this decision.

(d) *Notice of relitigation.* When we decide to relitigate an issue, we will provide a notice explaining our action to all affected claimants. In adjudicating claims subject to relitigation, decisionmakers throughout the SSA administrative review process will apply our interpretation of the Social Security Act and regulations, but will also state in written determinations or decisions how the claims would have been decided under the circuit standard. Claims not subject to relitigation will continue to be decided under the Acquiescence Ruling in accordance with the circuit standard. So that affected claimants can be readily identified and any subsequent decision of the circuit court or the Supreme Court can be implemented quickly and efficiently, we will maintain a listing of all claimants who receive this notice and will provide them with the relief ordered by the court.

(e) *Rescission of an Acquiescence Ruling.* We will rescind as obsolete an Acquiescence Ruling and apply our interpretation of the Social Security Act or regulations by publishing a notice in the **Federal Register** when any of the following events occurs:

(1) The Supreme Court overrules or limits a circuit court holding that was the basis of an Acquiescence Ruling;

(2) A circuit court overrules or limits itself on an issue that was the basis of an Acquiescence Ruling;

(3) A Federal law is enacted that removes the basis for the holding in a decision of a circuit court that was the subject of an Acquiescence Ruling; or

(4) We subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding that we determined conflicts with our interpretation of the Social Security Act or regulations, or we subsequently publish a new regulation(s) addressing an issue(s) not previously included in our regulations when that issue(s) was the subject of a circuit court holding that conflicted with our interpretation of the Social Security Act or regulations and that holding was not compelled by the statute or Constitution.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for subpart N continues to read as follows:

Authority: Sec. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

2. Section 416.1485 is revised to read as follows:

§ 416.1485 Application of circuit court law.

The procedures which follow apply to administrative determinations or

decisions on claims involving the application of circuit court law.

(a) *General.* We will apply a holding in a United States Court of Appeals decision that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations unless the Government seeks further judicial review of that decision or we relitigate the issue presented in the decision in accordance with paragraphs (c) and (d) of this section. We will apply the holding to claims at all levels of administrative adjudication within the applicable circuit unless the holding, by its nature, applies only at certain levels of adjudication.

(b) *Issuance of an Acquiescence Ruling.* When we determine that a United States Court of Appeals holding conflicts with our interpretation of a provision of the Social Security Act or regulations and the Government does not seek further judicial review or is unsuccessful on further review, we will issue a Social Security Acquiescence Ruling. The Acquiescence Ruling will describe the administrative case and the court decision, identify the issue(s) involved, and explain how we will apply the holding, including, as necessary, how the holding relates to other decisions within the applicable circuit. These Acquiescence Rulings will generally be effective on the date of their publication in the **Federal Register** and will apply to all determinations and decisions made on or after that date unless an Acquiescence Ruling is rescinded as stated in paragraph (e) of this section. The process we will use when issuing an Acquiescence Ruling follows:

(1) We will release an Acquiescence Ruling for publication in the **Federal Register** for any precedential circuit court decision that we determine contains a holding that conflicts with SSA's interpretation of a provision of the Social Security Act or regulations no later than 120 days from the receipt of the court's decision. This timeframe will not apply when we decide to seek further judicial review of the circuit court decision or when coordination with the Department of Justice and/or other Federal agencies makes this timeframe no longer feasible.

(2) If we make a determination or decision on your claim between the date of a circuit court decision and the date we publish an Acquiescence Ruling, you may request application of the published Acquiescence Ruling to the prior determination or decision. You must demonstrate that application of the Acquiescence Ruling could change the prior determination or decision in your case. You may demonstrate this by submitting a statement that cites the Acquiescence Ruling and indicates what finding or statement in the prior determination or decision conflicts with the Acquiescence Ruling. If you can so demonstrate, we will readjudicate the claim at the level at which it was last adjudicated in accordance with the Acquiescence Ruling. Any readjudication will be limited to consideration of the issue(s) covered by the Acquiescence Ruling and any new determination or decision on readjudication will be subject to administrative and judicial review in accordance with this subpart. Our denial of a request for readjudication will not be subject to further administrative or judicial review. If you file a request for readjudication within the 60-day appeal period and we deny that request, we shall extend the time to file an appeal on the merits of the claim to 60 days after the date that we deny the request for readjudication.

(3) After we receive a precedential circuit court decision and determine that an Acquiescence Ruling may be required, we will begin to identify those claims that are pending before us within the circuit and that might be subject to a readjudication if an Acquiescence Ruling is subsequently issued. When an Acquiescence Ruling is published, we will send notices to those individuals whose cases we have identified which may be affected by the Acquiescence Ruling. The notice will provide information about the Acquiescence Ruling and the right to request a readjudication under that Acquiescence Ruling, as described in paragraph (b)(2) of this section. It is not necessary for an individual to receive a notice in order to request application of an Acquiescence Ruling to his or her claim, as described in paragraph (b)(2) of this section.

(c) *Relitigation of court's holding after publication of an Acquiescence Ruling.* After we have published an Acquiescence Ruling to reflect a holding of a United States Court of Appeals on an issue, we may decide under certain conditions to relitigate that issue within the same circuit. We will relitigate only when the conditions specified in paragraphs (c) (2) and (3) of this section are met, and, in general, one of the events specified in paragraph (c)(1) of this section occurs.

(1) Activating events:

(i) An action by both Houses of Congress indicates that a court case on which an Acquiescence Ruling was based was decided inconsistently with congressional intent, such as may be expressed in a joint resolution, an appropriations restriction, or enactment of legislation which affects a closely analogous body of law;

(ii) A statement in a majority opinion of the same circuit indicates that the court might no longer follow its previous decision if a particular issue were presented again;

(iii) Subsequent circuit court precedent in other circuits supports our interpretation of the Social Security Act or regulations on the issue(s) in question; or

(iv) A subsequent Supreme Court decision presents a reasonable legal basis for questioning a circuit court holding upon which we base an Acquiescence Ruling.

(2) The General Counsel of the Social Security Administration, after consulting with the Department of Justice, concurs that relitigation of an issue and application of our interpretation of the Social Security Act or regulations at the administrative level within the circuit would be appropriate.

(3) We publish a notice in the **Federal Register** that we intend to relitigate an Acquiescence Ruling issue and that we will apply our interpretation of the Social Security Act or regulations at the administrative level within the circuit to claims selected for relitigation. The notice will explain why we made this decision.

(d) *Notice of relitigation.* When we decide to relitigate an issue, we will provide a notice explaining our action to all affected claimants. In adjudicating claims subject to relitigation, decisionmakers throughout the SSA administrative review process will apply our interpretation of the Social Security Act and regulations, but will also state in written determinations or decisions how the claims would have been decided under the circuit standard. Claims not subject to relitigation will continue to be decided under the Acquiescence Ruling in accordance with the circuit standard. So that affected claimants can be readily identified and any subsequent decision of the circuit court or the Supreme Court can be implemented quickly and efficiently, we will maintain a listing of all claimants who receive this notice and will provide them with the relief ordered by the court.

(e) *Rescission of an Acquiescence Ruling.* We will rescind as obsolete an Acquiescence Ruling and apply our interpretation of the Social Security Act or regulations by publishing a notice in the **Federal Register** when any of the following events occurs:

(1) The Supreme Court overrules or limits a circuit court holding that was the basis of an Acquiescence Ruling;

(2) A circuit court overrules or limits itself on an issue that was the basis of an Acquiescence Ruling;

(3) A Federal law is enacted that removes the basis for the holding in a decision of a circuit court that was the subject of an Acquiescence Ruling; or

(4) We subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding that we determined conflicts with our interpretation of the Social Security Act or regulations, or we subsequently publish a new regulation(s) addressing an issue(s) not previously included in our regulations when that issue(s) was the subject of a circuit court holding that conflicted with our interpretation of the Social Security Act or regulations and that holding was not compelled by the statute or Constitution.

[FR Doc. 97–24803 Filed 9–17–97; 8:45 am]

BILLING CODE 4190–11–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 111

[Docket No. 95N–0304]

RIN 0901–AA59

Dietary Supplements Containing Ephedrine Alkaloids; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening from September 18, 1997, to December 2, 1997, the comment period on the proposed rule on dietary supplements containing ephedrine alkaloids that was published in the **Federal Register** of June 4, 1997 (62 FR 30678). This action is being taken to provide a renewed opportunity for public comment after the agency has rectified a number of inadvertent omissions from the administrative record. FDA is also providing an opportunity for comment on adverse event reports (AER's) that FDA has received since January 1997 and on new analytical data that FDA is adding to the administrative record. Finally, FDA is reopening the comment period in response to several requests for extensions of the comment period to permit interested persons to submit new scientific data.

DATES: Written comments by December 2, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret C. Binzer, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–401–9859, FAX 202–260–8957 or E-mail ''MBinzer @Bangate.fda.gov''.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 4, 1997, FDA published a proposed rule regarding the formulation and labeling of dietary supplements containing ephedrine alkaloids. FDA proposed this rule in response to serious illnesses and injuries, including multiple deaths, associated with the use of dietary supplement products that contain ephedrine alkaloids and in response to the agency's investigations and analyses of these illnesses and injuries. Interested persons were given until August 18, 1997, to comment on the proposal.

In the **Federal Register** of August 20, 1997 (62 FR 44247), FDA announced that it would reopen the comment period for the proposed rule because the agency had identified a number of inadvertent omissions (i.e., missing pages in several of the AER's and other minor problems) in the administrative record. FDA has reviewed each of the AER's to rectify these omissions, which included: Missing product labels or labeling, affidavits from consumers or health care professionals, investigator followup reports, and individual pages from medical records. FDA has recopied each of the AER files and placed them on display at the Dockets Management Branch. Any followup materials that the agency received after the AER's were made part of the administrative record for this rulemaking in June 1997 are now included in the corresponding AER. For convenience to the users of the administrative record, the agency has also organized the duplicate AER files to make it easier to locate them in the record.

As of January 1997, FDA had received over 800 reports of adverse events associated with the use of more than 100 different dietary supplements that contained, or were suspected of containing, ephedrine alkaloids. Since that time, FDA has continued to receive additional AER's associated with the use of these products. FDA is adding the AER's that it received between January and August 1997 to supplement the administrative record. These documents are filed in the administrative record under the title: ''AER's Associated with the Use of Dietary Supplements Containing Ephedrine Alkaloids that FDA has Received Since the Preparation of the Docket Submission of January 17, 1997.''

Since the time that the proposal was published, FDA has received the results of chemical analyses for several of the dietary supplement products associated with AER's. When an adverse event appears to be clinically significant, FDA routinely requests from the consumer a sample of the remaining portion of the product related to the AER and has its laboratories analyze the sample. These analytical results provide supplementary data on levels of ephedrine alkaloids in the dietary supplements. FDA is adding these analytical results to the administrative record. A summary of these analytical results are filed in the administrative record under the title: ''Analytical Results of Ephedrine Alkaloid-Containing Dietary Supplements Associated With Adverse Events, August 1997.'' These documents will be placed on display in the Dockets Management Branch along with the rest of the administrative record that FDA has compiled to date.

In addition, FDA has received several requests for extensions of the comment period. These requests stated as grounds for an extension, among other things, that there is a need for additional time to review the clinical data and other information in the administrative record and to submit new scientific data to the agency. Several requests were for extensions of 180 days.

Having carefully considered these requests and given the fact that it has added material to the administrative record, the agency has decided to reopen the comment period until December 2, 1997. The reopening of the comment period will provide interested persons with a significant amount of additional time to evaluate all the information in the administrative record that underlies the proposal that FDA published in June 1997 and to formulate any comments that they deem appropriate. The agency particularly encourages small businesses to take advantage of this additional opportunity to participate in the regulatory process.

Because of the serious and significant adverse events associated with the use of dietary supplements containing ephedrine alkaloids, FDA is concerned about the adverse impact that a prolonged comment period may have on the public health. For this reason, the agency decided not to grant the requests for an additional comment period longer than 75 days. The agency's decision to reopen the comment period for 75 days balances the needs of interested persons

to review the data in the corrected administrative record and to submit comments to the agency with the important public health interests involved.

Moreover, the agency does not intend to provide any additional extensions of the comment period. Interested persons will have 75 days to consider these materials and comment to the agency, if desired. Interested persons already have had 75 days to review the concepts in the proposed rule and the data in the administrative record, which represent the great bulk of the material in the updated and corrected administrative record. Much of the material in the administrative record has been on display at the Dockets Management Branch since long before the proposed rule was published on June 4, 1997. A notice appeared in the **Federal Register** of September 21, 1995 (60 FR 49194), announcing: The availability of AER's associated with the use of dietary supplements containing ephedrine alkaloids; redacted copies of accompanying medical records, where available; and a bibliography of published medical and scientific literature relevant to the AER's. Much of the clinical data and other information has been in the administrative record either since October 1995, the date of the meeting of the Special Working Group on Dietary Supplements Containing Ephedrine Alkaloids (Working Group) or since August 1996, the date of the meeting of the Food Advisory Committee and Special Working Group. Other than the new information announced in this document, the agency has not added new data to the administrative record since January 1997. Nevertheless, for the reasons mentioned earlier in this notice, the agency is providing a new, full 75-day comment period that is equal to the comment period that FDA provided when it published the initial proposal. Thus, FDA is providing a total of 150 days for comment in this proceeding.

Interested persons may on or before December 2, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–24734 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI58

Veterans Education: Reduction in Required Reports

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). It proposes to change the nature of the information to be reported by veterans and servicemembers receiving educational assistance under the Montgomery GI Bill—Active Duty program and the number of reports required of educational institutions in which these veterans and servicemembers are enrolled. It appears that these changes would streamline the operation of this program and reduce the information collection burden for this program, while maintaining the program's integrity. This document also requests Paperwork Reduction Act comments concerning the collections of information contained in this document.

DATES: Comments must be received on or before November 17, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI58''. All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: This document proposes to amend the ''ALL VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM (MONTGOMERY GI BILL—ACTIVE DUTY)'' regulations set forth at 38 CFR Part 21, Subpart K. Except for correspondence course enrollments, a veteran or servicemember receiving educational assistance under these provisions is required to verify, after the fact, pursuit of a program of education each month (referred to below as monthly verification). Current regulations specify the information that must be reported in the monthly verification. Except in advance payment and lump sum payment cases, VA does not pay educational assistance until VA receives this monthly verification.

Since pursuit of a program of education is a necessary prerequisite to receipt of educational assistance under the educational programs VA administers, current regulations also require (see § 21.7156) a veteran or servicemember to report, on a ''without delay'' basis (referred to below as ''without delay'' reporting), each change in her or his hours of credit being pursued and any changes in the status of his or her pursuit of the program. This duty to provide ''without delay'' reporting is in addition to the monthly verification described above. Further, under § 21.7156 educational institutions also are required ''without delay'' or within specified time frames (all reporting required of educational institutions ''without delay'' or within specified time frames is referred to below as ''without delay'' reporting) to report changes in the number of hours of credit pursued and changes in attendance.

The common purpose of these information collections is to allow VA to determine whether a veteran or servicemember continues to be entitled to educational assistance and, if so, to release the monthly payment to the veteran or servicemember.

However, it does not appear necessary to obtain monthly verification from a veteran who has received an advance payment for the month in question. Advance payments are not submitted by VA directly to the veteran. Instead, they are delivered to the educational institution where the veteran is pursuing a program of education. If the veteran does not begin training, the educational institution returns the payment to VA instead of delivering it to the veteran. Accordingly, it appears that no useful purpose is served by requiring a veteran to provide a monthly verification concerning pursuit of a program of education for a month for which he or she has received an advance payment. Therefore, it is proposed to amend § 21.7154 to eliminate the requirement that the veteran provide monthly verification for those monthly periods for which

advance payments have been made through the institution. If the veteran does have a change in status or enrollment during that period after receipt of the payment, he or she, and the educational institution, still would remain obligated to provide VA notification by ''without delay'' reporting (see § 21.7156).

By statute (38 U.S.C. 3034(c)) VA is required to make lump-sum payments to veterans and servicemembers for an entire term, quarter, or semester when the veteran or servicemember is attending less than half-time. Inasmuch as these individuals do not receive payments each month, it appears that monthly verification is not needed to release such a payment. Again, the veteran or servicemember and the educational institution would still be obligated to provide VA ''without delay'' reporting of any relevant changes in status or enrollment that may occur after the release of the lump-sum payment (see § 21.7156). Therefore, it appears that no useful purpose is served by requiring these individuals to provide monthly verification. Accordingly, it is proposed to amend § 21.7154 to eliminate this requirement.

Furthermore, under the current § 21.7154 a veteran is required to certify in the monthly verification actual class attendance. Before December 18, 1989, VA was required by statute to reduce an individual's monthly educational assistance if that individual were pursuing a course not leading to a standard college degree and had excessive absences. VA is no longer required by statute to make those reductions. Accordingly, it appears that actual attendance certification is no longer necessary to be included in a monthly verification. It is proposed to amend § 21.7154 to eliminate this requirement.

With respect to veterans in courses not leading to a standard college degree, the regulations require monthly certification of attendance from a veteran. Some have questioned whether the regulations require the veteran's certification also to contain a report from the educational institution. In those cases in which no status change occurred during the previous month, the educational institution's verification was not intended to be included. It is unnecessary and delays receipt of the document by VA. In cases where a change occurs, the educational institution must submit that information within the time frames for ''without delay'' reporting, but may do so separately. Accordingly, it is proposed to change § 21.7156 to more clearly set forth the intended meaning.

Occasionally, a veteran or servicemember will enroll in more hours than the minimum required to be a full-time student under the statute. Often such a student, provided he or she is enrolled in a standard term, quarter, or semester, will add or drop courses with no effect on his or her status as a full-time student and payment to the student will not be affected. It is proposed that under these circumstances, neither the student nor the educational institution would be required to report the changes. Such reporting would not appear to be necessary since the changes would not affect payment to the student. However, when the student is enrolled in a nonstandard term, VA is proposing to continue to require such a student and the educational institution to report all credit hour changes by ''without delay'' reporting. Under the regulatory criteria for determining what constitutes a full-time enrollment in a nonstandard term, complicated computation is necessary in each individual case. Since the student may not be able readily to make those calculations, he or she would be less likely to be able to ascertain whether the change in credit hour status should be reported to VA.

Additional changes are included in the proposed rule for purposes of clarity.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), collections of information are set forth in the proposed 38 CFR 21.7154, 21.7156(a), and 21.7156(b). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the collections of information.

OMB assigns control numbers to collections of information it approves. VA 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.

Comments on the collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI58.''

Title: Monthly verification of pursuit.

Summary of collection of information: The collection of information in the proposed §§ 21.7154 and 21.7156(a) would implement a statutory provision that permits, but does not require, VA to require reports showing an eligible veteran's satisfactory pursuit of a program of education before releasing a payment of educational assistance. The statute specifically allows a monthly certification received from the veteran to satisfy this requirement. VA estimates that adoption of the proposed changes to § 21.7154 would annually eliminate at least 500 reports that individuals are currently required to submit and also would shorten other reports, and thereby reduce the total annual reporting burden on individuals by 5,739 hours.

Description of need for information and proposed use of information: The information that would be required under §§ 21.7154 and 21.7156(a) is needed to help VA determine whether educational assistance should continue to be paid to a veteran and to verify the correct monthly rate of educational assistance payable to a veteran. The monthly rate is based on the student's training time, which in turn is based on the number of credit hours in which the student is enrolled.

Description of likely respondents: Veterans eligible to receive educational assistance under the Montgomery GI Bill—Active Duty program.

Estimated number of respondents: 318,129.

Estimated frequency of responses: Monthly while the veteran continues to pursue a program of education, provided the veteran has not been paid in a lump sum.

Estimated average burden per collection: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 185,571 hours of reporting burden. VA estimates that there will be no recordkeeping burden.

Title: Report of Change in Enrollment.

Summary of collection of information: The collection of information in the proposed revisions to § 21.7156(b) would implement a statutory provision that requires an educational institution to report without delay changes, including interruptions and terminations, in a veteran's or servicemember's enrollment. VA estimates that adoption of these proposed changes would annually eliminate 21,841 reports that educational institutions are currently required to submit and reduce the total annual reporting burden on educational institutions by 1,830 hours.

Description of need for information and proposed use of information: The

information required in § 21.7156(b) is needed to help VA determine the monthly rate of educational assistance payable to a veteran or servicemember. The monthly rate is based on the student's training time, which in turn is based on the number of credit hours in which the student is enrolled.

Description of likely respondents: Educational institutions.

Estimated number of respondents: 7,481.

Estimated frequency of responses: Occasionally, when a veteran or servicemember changes her or his pursuit of a program of education, unless the individual was a full-time student both before and after the change.

Estimated average burden per collection: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 52,230 hours of reporting burden. VA does not believe that there will be additional recordkeeping burden.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proposed performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected;
- Minimizing the burden of the collections 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.

OMB is required to make a decision concerning the proposed collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

Executive Order 12866

This proposed rule has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The adoption of the proposed rule would have only minuscule effects on the activity of any educational institution. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 5, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21, subpart K, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K, is revised to read as follows:

Authority: 38 U.S.C. 501(a), 38 U.S.C. chs. 30, 36, unless otherwise noted.

2. In § 21.7154, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively; newly redesignated paragraph (b)(2)(i) is amended by removing ''payment,'' and adding, in its place, ''payment;''; newly redesignated paragraph (b)(2)(ii) is amended by removing ''period, and'' and adding, in its place, ''period; and''; paragraph (a) is added, and the introductory text for the section, the paragraph heading for newly redesignated paragraph (b), and newly redesignated paragraph (b)(1) are revised, to read as follows:

§ 21.7154 Pursuit and absences.

Except as provided in this section, an individual must submit a verification to VA each month of his or her enrollment during the period for which the individual is to be paid. This verification shall be in a form prescribed by the Secretary.

(a) *Exceptions to the monthly verification requirement.* An individual does not have to submit a monthly verification as described in the introductory text of this section when the individual—

(1) Is enrolled in a correspondence course;

(2) Has received a lump-sum payment for the training completed during a month; or

(3) Has received an advance payment for the training completed during a month.

(Authority: 38 U.S.C. 3034, 3684)

(b) *Items to be reported on all monthly verifications.* (1) The monthly verification for all veterans and servicemembers will include a report on the following items when applicable:

(i) Continued enrollment in and actual pursuit of the course;

(ii) The individual's unsatisfactory conduct, progress, or attendance;

(iii) The date of interruption or termination of training;

(iv) Changes in the number of credit hours or in the number of clock hours of attendance other than those described in § 21.7156(a);

(v) Nonpunitive grades; and

(vi) Any other changes or modifications in the course as certified at enrollment.

* * * * *

3. In § 21.7156, the introductory text and paragraph (a) introductory text are removed; paragraphs (a)(1), (a)(2), (a)(3), (b), and (c) are redesignated as paragraphs (b)(3), (b)(4), (b)(5), (c), and (d), respectively; newly redesignated paragraph (c)(2) is amended by removing ''(b)(1)'' and adding, in its place, ''(c)(1)''; and the section heading is revised, paragraphs (a), (b)(1), and (b)(2) are added, and newly redesignated paragraph (b)(3) is revised, to read as follows:

§ 21.7156 Other required reports.

(a) *Reports from veterans and servicemembers.* (1) A veteran or servicemember enrolled full time in a program of education for a standard term, quarter, or semester must report without delay to VA:

(i) A change in his or her credit hours or clock hours of attendance if that change would result in less than full-time enrollment;

(ii) Any change in his or her pursuit that would result in less than full-time enrollment; and

(iii) Any interruption or termination of his or her attendance.

(2) A veteran or servicemember not described in paragraph (a)(1) of this section must report without delay to VA:

(i) Any change in his or her credit hours or clock hours of attendance;

(ii) Any change in his or her pursuit; and

(iii) Any interruption or termination of his or her attendance.

(Authority: 38 U.S.C. 3680(g))

(b) *Interruptions, terminations, or changes in hours of credit or attendance.* (1) Except as provided in paragraph (b)(2) of this section, an educational institution must report without delay to VA each time a veteran or servicemember:

(i) Interrupts or terminates his or her training for any reason; or

(ii) Changes his or her credit hours or clock hours of attendance.

(2) An educational institution does not need to report a change in a veteran's or servicemember's hours of credit or attendance when:

(i) The veteran or servicemember is enrolled full time in a program of education for a standard term, quarter, or semester before the change;

(ii) The veteran or servicemember continues to be enrolled full time after the change; and

(iii) The tuition and fees charged to the servicemember have not been adjusted as a result of the change.

(Authority: 38 U.S.C. 3034, 3684)

(3) If the change in status or change in number of credit hours or clock hours of attendance occurs on a day other than one indicated by paragraph (b)(4) or (b)(5) of this section, the educational institution will initiate a report of the change in time for VA to receive it within 30 days of the date on which the change occurs.

* * * * *

[FR Doc. 97–24776 Filed 9–17–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MI 52–01–7260; FRL–5894–6]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of the requested revisions to the Michigan State Implementation Plan (SIP) for ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter and lead. The requested revisions are Michigan's Emissions Averaging and Emission Reduction Credit Trading Rules and supporting documents. These rules were submitted by the State of Michigan on April 17, 1996 as an optional revision to the SIP. The EPA has determined through its evaluation of the rules that they can be approvable upon submission of corrections to certain deficiencies that are identified in this notice.

DATES: Comments on this proposed action must be received by October 20, 1997.

ADDRESSES: Written comments should be addressed to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and EPA's analysis (Technical Support Document) are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Alexis Cain or Rick Tonielli before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Alexis Cain at (312) 886–7018 or Rick Tonielli at (312) 886–6068.

SUPPLEMENTARY INFORMATION:

I. Background

Michigan submitted these rules as a SIP revision to allow sources of emissions of ozone precursors (NO_X and VOCs) and non-ozone criteria pollutants (CO, SO_2, NO_2, PM–10 and lead) flexibility in complying with requirements already in the SIP. The program provides emissions sources with a financial incentive to reduce emissions below levels required by applicable Federal and State requirements and below their actual emissions of the recent past. Sources that make these extra reductions beyond requirements generate emission reduction credits (ERCs) that they can use later or sell to other sources. ERCs may be used by sources to comply with emissions limits. The program is not a means of limiting emissions; instead, trading and averaging are meant to provide an opportunity to comply with existing emission limits in a more cost effective manner. Michigan's emissions trading credit and averaging rules are not a required SIP submission under the Clean Air Act (the Act).

Outline of State Program

Michigan's SIP submittal includes both ''open market'' trading and emissions averaging. In an open market trading system, credits are first generated, then subsequently traded, so that generation and use of the credit are separated in time. Open market programs rely on continual credit generation to ensure that use of previously generated credits is balanced by generation of new credits, so that ''spikes'' in emissions are not created by credit use. Sources participating in an open market trading program generate discrete emission reductions, referred to as emission reduction credits (ERCs) in the Michigan program, by reducing emissions below a baseline over a discrete time period. The generation baseline is established by existing requirements, and is determined by the lower of allowable emissions or actual past emissions. Credits can either be used at a later time by the generator source or be sold to another source; the use of credits allows a source to emit above its emission limit while remaining in compliance.

The Michigan program also allows emissions averaging at sources that are subject to Reasonably Available Control Technology (RACT) requirements and are under common ownership and control. Under Michigan's emissions averaging provisions, one source can exceed a permitted emissions limit, as long as there is a simultaneous reduction, equaling 110 percent of the exceedance, at another source under the same ownership or control, but not necessarily at the same location. In both the open market and emission averaging provisions of Michigan's rule, 10 percent of the emission reductions generated are retired for an environmental benefit.

Sources can trade and average emissions of volatile organic compounds (VOCs) as a group, nitrogen oxides (NO_X), and all criteria pollutants other than ozone. VOC and NO_X ERCs must be designated as either ozone season or non-ozone season credits; VOC and NO_X ERCs generated outside of the ozone season cannot be used during the ozone season.

Under the Michigan plan, sources which generate ERCs or engage in emissions averaging must provide the Michigan Department of Environmental Quality (MDEQ) with a notice that includes information about the source

generating the reductions, the methods of generating the reductions, the amount of reductions, and the methods used to measure the reductions. An official representative of the source must certify that the information contained in the notice is ''true, accurate and complete,'' that the emission reductions generated are ''real, surplus, enforceable, permanent and quantifiable,'' and that the reductions have not been used elsewhere for averaging or credit generation. ERCs and averaging plans are not valid until MDEQ certifies that this notice is complete. The rule requires MDEQ to make a determination of completeness within 30 days. Similarly, sources which wish to trade or use ERCs must provide to MDEQ a notice which includes information about the source using the ERCs, the number of ERCs to be used, the requirements being complied with through the use of ERCs, and a copy of the generation notice for the ERCs that will be used. A responsible official must certify that the information is ''true, accurate, and complete'' and that the source will be operated in compliance with all applicable requirements, including requirements for the use of ERCs.

As mentioned previously, the Michigan program requires a retirement of 10 percent of ERCs generated, and of 10 percent of the reductions used in an emission averaging program, to create a benefit for the environment. In addition, VOC and NO_X ERCs are discounted 10 percent per ozone season. All ERCs expire five years after being generated.

Basis for Evaluation of SIP Revision

In 1994, EPA issued Economic Incentive Program (EIP) rules and guidance (40 CFR part 51, subpart U), which outlined requirements for establishing EIPs that States are required to adopt in some cases to meet the ozone and carbon monoxide standards in designated nonattainment areas. Michigan is not required to submit an EIP, so its emission trading and averaging program need not necessarily follow the EIP rule; however, subpart U also contains guidance on the development of voluntary EIPs.

The EPA has also published a proposed policy on open market trading programs (60 FR 39668, August 3, 1995) and a model open market trading rule (60 FR 44290, August 25, 1995), which will be published as guidance. This guidance will describe the elements of an open market trading program that EPA considers to be desirable, and those that are necessary for a program to be approvable as a SIP revision. As of this writing, this guidance has not been finalized. Moreover, Michigan began to develop its emissions trading program prior to the proposed guidance on open market trading. Therefore, EPA does not expect Michigan's rule to conform to this guidance.

Michigan's submittal is being evaluated on the basis of whether it meets the requirements of SIPs as described in section 110 of the Act. In particular, review focuses on whether the SIP as revised would be enforceable, whether the revision would negatively affect the SIP's ability to provide for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), whether it would protect against violations of Prevention of Significant Deterioration (PSD) increments, and whether it would violate any other provisions of the Act.

II. Analysis of State Submittal

A. Size of Tradable Units

Under Michigan's program, ERCs are denominated in tons, but not necessarily in whole tons. While the rule itself does not specify the fractions that can be used, MDEQ staff indicate that credits may be denominated in tenths of tons, if such precision is merited by the measurement accuracy of the quantification protocol. While it would be preferable from EPA's perspective to denominate all credits in whole tons, Michigan's procedure is acceptable. No procedure is identified in the rule for rounding the amount of credits generated or the amount used. The EPA would suggest specifying that ERC users round up to the nearest unit when determining the amount of ERCs needed, and ERC generators must round down to the nearest unit when determining the amount of ERCs generated. Although it is not specified in the rule, MDEQ staff have indicated that they will require use of a similar procedure.

B. Benefit Sharing With the Environment

Michigan appropriately requires that generators of ERCs retire 10 percent of the ERCs generated as an environmental benefit when providing notice of generation.

C. Trading of Oxides of Nitrogen

While the intent of the trading rules is clearly to allow trading of NO_X, the ozone precursor, as well as NO_2, the criteria pollutant, Rule 1203(2) indicates that the program ''applies only to volatile organic compounds as a class of compounds and all criteria pollutants, except ozone.'' In order to allow for trading of NO_X as well as NO_2, this statement must be changed to add NO_X to the list of compounds eligible for trading.

D. Claiming Ownership of ERCs

Michigan's rule does not include a discussion specifying which parties are eligible to generate credits in situations where more than one party has a potential claim. This issue is significant because the rights to credits generated by a particular credit generation strategy will be unclear in some cases. For instance, a manufacturer of a device that reduces automobile emissions might attempt to register credits based on the sale of the device within Michigan. However, an owner of a vehicle fleet might also attempt to register credits based on his or her installation of those same devices within the fleet. Registration of both sets of credits would double count the emission reductions, leading to excess credits being generated.

MDEQ must address the issue of ownership claims in its procedures for approving notices of credit generation. Guidance will be forthcoming on this issue from EPA.

E. ERC Generation Issues

1. ERC Generation Baseline

Rule 1207 explains how the baseline from which a source may generate credits is determined. Calculations must be based on the source's emissions over the most recent 2 years or most recent 2 ozone seasons, unless it can be shown that another time period is more representative of actual emissions. Measurement must be based on continuous emission monitoring (CEM) or parametric monitoring if required by applicable requirement or if practical and reasonable; otherwise, measurement for stationary sources will be based on emission monitoring methods specified by applicable requirement or approved by MDEQ. The baseline is calculated using an equation that includes the lower of the actual or allowable emission rate, a capacity utilization factor representative of the historical production rate of the source, and the average actual operating hours of the source.

The generation baseline is determined by the emissions that occurred prior to ''the initiation of an activity to reduce emissions for the purposes of creating emission reduction credits.'' [1] (Rule 1207(1)) However, Michigan's rule also

[1] For mobile source emissions, the baseline can be established by the emissions projected in the absence of an emissions reduction action, ''where a period of historical operations and actual emission data or activity levels cannot be used to determine emissions.'' (Rule 1207(2)(b)(3))

requires that reductions which generate ERCs be ''surplus,'' defined as ''those emission reductions made below an established source baseline which are not required in the state implementation plan, any applicable federal implementation plan, any applicable attainment demonstration, reasonable further progress plan, or maintenance plan and which are not mandated by any applicable requirement.'' Thus, the generation baseline must be adjusted to reflect new requirements.

The rules do not set any limit on the age of emissions data that can be used to establish a generation baseline, although the requirement to show that other data is more representative when not using the previous 2 years as a baseline should limit, in practice, how far back a source could go. The EPA strongly urges MDEQ to reject the use of any baseline calculated based on data from any date prior to November 15, 1990.

2. ERC Generation Start Date

Michigan's emissions trading rules allow credits to be generated from actions dating back to 1991, accruing starting in 1991. Allowing use of credits generated prior to enactment of the program has potentially troublesome aspects. Credits generated prior to enactment of the rule could flood the market, creating widespread use of cheap credits and discouraging the generation of new credits. With generation of new credits suppressed and abundant old credits in use, total emissions could exceed levels that would have occurred in the absence of the trading program.

However, several aspects of Michigan's program provide some protection against this potential problem. First, credits generated prior to enactment of the rules are discounted 50 percent, rather than the usual 10 percent. Second, credits last only 5 years beyond the time that the reductions occur. Therefore, reductions generated in the early 1990s will have a very limited life. Finally, credits generated from early reductions must be registered within 1 year of enactment—by March 17, 1997, a date which has already passed, allowing the State to determine immediately the total number of pre-enactment credits that are registered and in circulation.

While EPA would prefer that the program not allow credits to be generated prior to enactment of the trading rule, and that credits not be generated from actions taken more than 1 year prior to enactment, it is willing to accept Michigan's approach, contingent upon receipt from the State of the following: an accounting of the number of pre-enactment credits generated and the remaining life of these credits, and an analysis which demonstrates to EPA's satisfaction that the potential use of these credits is unlikely to have a detrimental effect on attainment or maintenance of the NAAQS or on any other requirement of the Clean Air Act.

3. Credit Generation Through Activity Level Reductions

Michigan's program allows stationary sources to generate ERCs through curtailing production, provided that the notice of generation is submitted prior to the curtailment of operations. It also allows sources which are shut down to generate ERCs for 5 years following the shutdown. Therefore, given the 5 year limit on ERC life, shutdown credits could be used a maximum of 10 years after the shutdown occurs.

Maintenance and attainment plans often rely upon emission reductions caused by production decreases at some sources (i.e., shutdowns and curtailments) to help counteract increased emissions caused by higher levels of production at sources subject to emission rate limits, where emission increases are allowed to occur when net production increases. Under Michigan's open-market trading system, however, while increases in production at sources with emission rate limits will still lead to emissions increases, production decreases will not generate offsetting emissions reductions, since the reductions resulting from production decreases can generate ERCs that are used to allow higher emissions elsewhere. Therefore, overall emissions may increase without a net increase in production under the trading program; this is clearly a detriment to the environment.

Another problem potentially created by use of shutdown credits is that load-shifting could occur among small sources such as gas stations or print shops. Such sources could reduce emissions and generate ERCs by shutting down or reducing production; however, the economic activity of these sources will likely be picked up by new or existing sources in the same areas, replacing the emissions for which ERCs were just given. Since emissions created by increased operating rates by other existing sources are not limited, and since new small sources are not subject to an offset or cap requirement, the net effect of allowing shutdowns and curtailments to generate ERCs would be to increase overall emissions. Michigan's rule 1207(5) provides protection against load-shifting among sources under common ownership or control. However, it does not protect against load shifting among sources under different ownership or control.

Moreover, allowing generation of ERCs from shutdowns and curtailments could lead to generation of ERCs from emissions reductions already relied upon in an attainment or maintenance plan, as mentioned previously. Attainment and maintenance plans represent an effort to prevent future violations of the NAAQS by projecting emissions increases that will result from economic growth, factoring in the net of shutdowns and curtailments, and insuring that emissions controls will constrain emissions adequately despite net economic growth.

In order to correct this deficiency, Michigan can pursue one of three options. The simplest and best option, from EPA's perspective, is to prohibit the generation of ERCs from shutdowns and curtailments. A second option is to prohibit the use of shutdown credits for compliance with federal requirements in any area that has or needs an approved attainment or maintenance demonstration. A third option is to prohibit the use of shutdown credits for compliance with federal requirements in any area that needs but lacks an approved attainment or maintenance demonstration, while demonstrating to EPA's satisfaction that none of Michigan's approved maintenance and attainment plans will be compromised by the use of these credits. To make this demonstration, it will be necessary to show that these plans do not rely in any way on emission reductions created by source retirements or curtailments, and that there is not an unacceptable level of risk that these credits would interfere with future attainment or maintenance requirements. If it decides to pursue this option, MDEQ must also seek public comment on this form of credit generation.

4. Overcompliance With an Alternative RACT Determination

Emissions sources which cannot comply with a RACT limit because it would not be technically feasible or economically reasonable can receive an alternate RACT determination. Serious equity concerns would be raised if such sources were allowed to generate credits by reducing emissions below their alternative emission limit, while other sources were required to base credit generation on their RACT limit. Therefore, Michigan's rule appropriately disallows the use of an alternative emission limit above an applicable RACT limit for the purpose of setting a baseline. A source that has an

alternative emission limit can generate credits only by reducing emissions below the RACT limit.

F. ERC Emission Reduction Quantification Protocols

The credibility of an emission trading program depends on the ability of sources and regulatory agencies to judge the value of the currency—in Michigan's case, the emissions reduction credits— used in the program. Thus, it is vital that the criteria used for judging the adequacy of emissions quantification protocols be clearly understood by all parties. Moreover, it is important that sources understand the elements of quantifying emissions reductions in an emission trading program (i.e., the need to establish a baseline, the need to ensure that reductions are not overestimated) that do not arise when quantifying emissions simply for the purpose of demonstrating compliance. In a program where no agency pre-certification of the validity of credits takes place, it is vital that the basis for an enforcement action against generators and users of bad credits be clearly delineated. Furthermore, while EPA does not wish to delay the use of emission trading for sources in categories that do not have EPA-approved quantification protocols, a source in a category that already has an EPA-approved protocol must use it, unless it gains EPA approval for use of an equally-good protocol.

Michigan's emission trading program already contains the requirement that emission reduction credits be real, surplus, enforceable, permanent, and quantifiable. In order to ensure that these criteria are met, Michigan must take two steps; first, incorporate into the emissions trading rules a requirement that sources in categories without EPA-approved protocols must follow a set of EPA-approved protocol development criteria that have been provided to MDEQ (Letter from David Kee to Dennis Drake, July 1, 1997) when developing protocols for their source category, and second, commit in the SIP to require use of existing and future EPA-approved protocols for quantifying emission reductions at applicable sources, and to allow sources to deviate from an EPA protocol only if they first get the approval of EPA.

G. Potential Uses of ERCs

1. RACT Compliance Alternative

The Michigan rule appropriately allows ERCs to be used as a RACT compliance alternative. The EPA recommends that in conjunction with its trading program, Michigan consider halting alternative RACT determinations/variances, given that ERCs provide an alternative means of compliance for sources that cannot otherwise meet RACT. At a minimum, the State should consider the cost and availability of ERCs when making economic feasibility-based alternative RACT determinations.

2. New Source Review Requirements

a. Synthetic minor sources: A ''synthetic minor'' source is one that has the potential to emit at major source levels defined by the New Source Review (NSR) program, but whose emissions are artificially limited by its permit to levels below those that would subject it to the major source requirements of NSR. Michigan's Rule 1204(6) allows a synthetic minor source to use ERCs to make a temporary increase in emissions that would bring its total emissions above the major source threshold, without making the source subject to the requirements that would normally apply to sources which exceed the threshold, such as New Source Review and Title V. This increase must not exceed major modification levels as specified in 40 CFR 52.21; ''temporary increase in emissions'' is defined in Rule 1201(ee) as an increase ''which occurs for less than 12 months and which does not occur more than once in a 24 month period.''

This provision is unacceptable because of its potentially serious environmental consequences. It would allow sources that would otherwise be required to undergo New Source Review to use emission reduction credits to avoid this requirement. For example, assume that a synthetic minor source with a potential to emit of 150 tons per year (tpy) has agreed to a limit of 90 tons per year in order to avoid major source status. Assume that this source wishes to increase its emissions to 117 tpy. Under the Michigan program, the source could purchase 27 tons of ERCs to compensate for the increase. The 27 tons would have been generated by a source or sources which reduced emissions by 30 tons, leading to the retirement of 10 percent of these reductions for an environmental benefit. Thus, the environment would see a net improvement of 3 tons from the trade.

In the absence of the trading program, however, a 90 tpy synthetic minor source that increases its production above 100 tpy would undergo New Source Review; as a result, the source would be required to comply with the provisions of Best Achievable Control Technology (BACT) or Lowest Achievable Emission Rate (LAER), which would frequently result in a reduction of the source's total emissions by an amount substantially larger than 3 tons. This loss of reductions means that the synthetic minor provisions of the Michigan rule could, in many cases, result in a significant loss of environmental benefit. In summary, emissions would be higher under the synthetic minor program than they would be without it, since the emission reductions required by BACT or LAER will usually be greater than the 10 percent reduction for the environment that a trading program would achieve.

The EPA's position is that ERCs may be used to comply with, but not to avoid, Clean Air Act requirements. This policy applies to New Source Review and Title V permit requirements. By allowing this use of ERCs to avoid a requirement, even temporarily, the trading rule allows emissions to be higher than they would be otherwise.

There is also an important legal basis for finding this provision to be deficient. According to 40 CFR 52.21(r)(4): ''At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (s) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.''

This deficiency can be corrected by removing Rule 1204(6) from the SIP submittal. In the absence of Rule 1204(6), synthetic minor sources in Michigan will be prevented from using trading to avoid requirements, but they will still be allowed to use trading to compensate for any emissions increases that would not trigger new requirements in the absence of the trading program.

b. Compliance with NSR and PSD Emission Limits: Michigan's rule prohibits the use of credits in place of installing equipment determined to constitute BACT or LAER requirements under the NSR program. However, credits can be used for compliance with the BACT or LAER emissions rate when the required equipment has been installed and is being properly maintained, but the emissions rate is nonetheless being exceeded. This provision will allow a source that exceeds permitted emissions, despite installing and properly maintaining the required equipment, to remain in compliance until permit limits are revised to reflect the emission

reductions actually achieved by the required technology. The EPA believes that this is an appropriate use of credits, and suggests that the rule could be strengthened by specifying what steps will be taken by the State to limit the amount of time the source remains out of compliance with BACT or LAER.

c. Offsets and Netting: Michigan allows use of credits for offsets or netting at new or modified sources, with the following restrictions:

i. New sources which use ERCs for offsets must cover a minimum of 2.5 years of operation, and modified sources must cover the period of time from issuance of an NSR permit to the date of issuance or renewal of an operating permit.

ii. For renewal of an operating permit, the source must obtain ERCs covering 5 years, or the term of the operating permit.

iii. The NSR permit must contain an enforceable commitment that the source may not receive an operating permit or operating permit renewal unless the operating permit contains an enforceable condition requiring the source to obtain offsets for 5 years or the period of time for which the permit is issued.

iv. ERCs used as offsets or for netting must be generated in the ''nonattainment area where the new or modified source is located or an adjacent nonattainment area of equal or higher classification or other area that contributes to the exceedance of a national ambient air quality standard in the nonattainment area where the new or modified source is located.'' Also, use must be in accordance with Clean Air Act Section 182 and Michigan rule R 336.1220 (the State's ''major offset rule'').

Section 182 of the Clean Air Act requires that offsets obtained from a different nonattainment area must be both from the same or higher classification and must contribute to a NAAQS exceedance in the relevant nonattainment area. This contraction in the rules appears to be an oversight; Rule 1211(3)(a) must be modified to reflect the language of Section 182 of the Clean Air Act.

Michigan's rule would allow ERCs to be banked for the purpose of netting. As stated in the technical support to the SIP, ''the reductions are still required to be made at the same stationary source and must be contemporaneous and of sufficient quantity to qualify under NSR regulations.'' Under the current definition of netting (40 CFR 52.21), emissions increases and decreases considered for the purpose of netting must be ''contemporaneous,'' defined as occurring within a period beginning 5 years before the date that construction is expected to commence on the proposed modification and ending when the increase from the modification occurs. Since ERCs expire 5 years after being generated under the Michigan rule, the contemporaneous requirement would not be violated under Michigan's rule.

For both offsets and netting, the technical support to the trading rule SIP submission indicates that MDEQ's intention is to allow ERCs to be used only in a manner consistent with New Source Review requirements. This intention must be stated explicitly as an enforceable requirement of the rules.

3. NESHAP and NSPS Requirements

Michigan's rule appropriately prohibits the use of credits to comply with National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standard (NSPS) emission limitations or work practice standards.

4. Certain Mobile Source Standards

Michigan's rule appropriately prohibits the use of credits to comply with ''Federally mandated mobile source requirements.''

5. Title IV Acid Rain Requirements

Michigan's rule appropriately prohibits Title IV sources that participate in the Title IV acid rain cap-and-trade program from using SO_2 and NO_X credits generated under Michigan's trading rule to fulfill Title IV requirements.

H. ERC Use Requirements

1. Ownership of Credits Prior to Use

In open market trading programs, it is vital that sources that use credits be required to own the credits prior to use. This requirement ensures that sources will not be able to use trading to avoid the need to maintain a compliance margin by simply using credits to ''true up'' after having exceeded their emission limits. Clearly, it is the intent of the Michigan program to require ownership of credits prior to use—Rule 1208(7) requires that emission reductions be generated prior to being used or traded; Rule 1214(1) requires a user source to submit a Notice of Use to MDEQ (which includes a copy of the Notice of Generation for the credits being used); the price paid for credits must be in the Notice of Use or submitted separately to the State within seven business days of the use or trade; and Rule 1216(1) places liability upon the source for assuring compliance with all applicable requirements. However, the rules do not contain a straightforward requirement that credits must be owned before use, nor do they specify that failure to hold sufficient credits is a violation. These deficiencies must be corrected in the rules.

2. Use Baseline

A trading program must specify the baseline for users of emissions reduction credits, so that users know how to calculate the number of credits that will be needed for compliance. While Michigan's intention seems to be that the baseline will be established by allowable emissions—that is, the maximum level of emissions that would have occurred had the source met its compliance obligations without the use of emission reduction credits—the rules do not make this intention explicit. The rules must include a specific definition of the user source baseline.

3. Temporal Requirements

The Michigan rule appropriately prohibits use during the ozone season of NO_X and VOC ERCs generated outside of the ozone season. The rule allows ERCs generated during the ozone season to be used during the entire year. This provision is appropriate because it could encourage sources to shift emissions of ozone precursors from the ozone season to the winter months, creating environmental benefits.

4. Geographic Requirements

Emission trading involves shifting of emissions from one area to another. An emission trading program requires restrictions on the geographic scope of trading in order to ensure that localized air quality problems are not created. In particular, a trading program must ensure that emission reductions generated in areas of clean air are not used to allow emissions increases in areas of poor air quality. The nature of the geographic restrictions needed depends on the transport characteristics of the pollutant being traded. Pollutants that affect air quality long distances from the location of their emission can potentially be traded over a large area, while pollutants that affect air quality in a small area should not be traded beyond that area.

The Michigan rule includes some provisions to discourage the shifting of emissions from low pollution areas to areas with higher pollution. Under the Michigan rule, trading can occur within the same or a contiguous attainment area, between contiguous nonattainment areas of the same classification, or from a nonattainment area to an attainment

area anywhere else in the state, on a 1:1 ratio. ERCs used in a nonattainment area but generated in an attainment area or a nonattainment area of lower classification elsewhere in the state must be discounted by the ratios specified for the higher classification area in section 182 of the Act, in addition to the 10 percent discount for the environment. For instance, there would be a total 25 percent discount for a trade from an attainment area to a moderate nonattainment area (10 percent for the environment, 15 percent for the geographic shift). The rule does not specifically address the issue of trades between noncontiguous areas of the same classification.

Despite these provisions, the current geographic restrictions in Michigan's SIP are not sufficient to ensure that ERCs will be used in a manner that would maintain or improve air quality. EPA is concerned that sources in attainment areas could generate large numbers of ERCs by reducing emissions from an uncontrolled baseline. These ERCs could then be used to allow for emissions increases or to forego reductions in nonattainment and maintenance areas where emission controls are required and where reductions are necessary to achieve attainment. Moreover, it is unlikely that these trades would be balanced by an equal volume of trades in the opposite direction, since sources in attainment areas are subject to fewer requirements and would have less need of ERCs than sources located in nonattainment areas. For example, Michigan has some VOC RACT rules which apply only in nonattainment and maintenance areas, or that have lower applicability thresholds in those areas. Sources subject to these requirements could potentially use VOC credits that were generated outside the area from an uncontrolled baseline. This would result in a net decrease in air quality, since credits would be shifted into the more highly polluted area where the requirements applied. For these reasons, trading between attainment and nonattainment areas may not balance out, despite the required discounts for attainment area ERCs used in nonattainment areas.

Trading between nonattainment or maintenance areas and attainment areas could be acceptable in cases where the State provides a demonstration that pollution emitted in an attainment area affects a nonattainment or maintenance area. EPA feels that it would be difficult to demonstrate that emissions from the entire State affect air quality in Michigan's nonattainment areas for ozone or for the other criteria pollutants. However, EPA agrees with Michigan that a more regional approach to protecting air quality is needed.

a. Geographic Restrictions on Trading of Ozone Precursors: EPA's proposal for an interim implementation policy (IIP) for a potential new ozone standard (61 FR 65752–65762, December 13, 1996) includes an example of a possible regional approach to trading of VOCs and NO_X. This proposal suggests that nonattainment areas be allowed to take credit for reductions occurring within an expanded area extending 100 km from the nonattainment area boundary for VOCs and 200 km from the nonattainment area boundary for NO_X. While the IIP proposal would allow this expanded geographic area to be used for the purpose of meeting post-1996 and post-1999 rate-of-progress requirements, EPA believes that the same geographic limits could be adopted to fit the trading allowed in the Michigan rule. Revising the Michigan rule to allow trading and averaging of VOC and NO_X emissions within these geographic limits would enable sources to escape the current restrictions caused by attainment and nonattainment area designations, while also ensuring that the air quality in the area where trading occurs will be, on average, improved. Making this revision would eliminate EPA's transport-related approvability issues for NO_X and VOCs. These geographic limits, of course, need apply only to sources which use trading to meet Federal, or SIP, requirements.

b. Restrictions on Trading of Criteria Pollutants other than Ozone: Because of the highly localized impacts that can be created by emissions of the criteria pollutants other than ozone, all trades and averaging involving above *de minimus* levels of these pollutants must be evaluated for their localized impacts. For these pollutants, trading between an attainment area and a nonattainment or maintenance area is unacceptable, and trading above *de minimus* levels even within areas is acceptable only if an evaluation indicates that the trade will not cause an air quality problem.

Trading of emissions of sulfur dioxide, nitrogen dioxide, particulate matter, carbon monoxide and lead, as allowed under Michigan's program, creates concerns that do not arise in the trading of ozone precursor emissions. Trading of criteria pollutants other than ozone raises questions about whether the trading program would be adequately protective of the National Ambient Air Quality Standards (NAAQS), given that stationary source emissions of these pollutants can create highly localized air quality problems (CO and fine particulates can be either an area-wide or a localized problem). Moreover, a shift in emissions of these pollutants from, for instance, a tall stack to a short stack can make a major difference in air quality. Therefore, for criteria pollutants other than ozone, special protections are needed to ensure that use of ERCs does not lead to NAAQS violations. Whereas attainment and maintenance plans for ozone focus on reducing the region-wide emissions of ozone precursors, for the other criteria pollutants, the specific location of the emissions is of vital importance. Rule 1204(1) provides some protection against violations of the NAAQS or of attainment or maintenance plans, stating that:

> emission averaging and the use of emission reduction credits in an attainment area shall not cause a violation of a national ambient air quality standard, allotted prevention of significant deterioration increments, or an applicable attainment area maintenance plan. Emission averaging and the use of emission reduction credits in a nonattainment area shall result in emission reductions consistent with the requirements for reasonable further progress for the nonattainment area and the attainment demonstration and maintenance plan specified in the state implementation plan.

Michigan has developed procedures to ensure proper State review of ERC uses and emission averaging of criteria pollutants other than ozone that could cause concerns, and to ensure that modeling is done to predict the air quality impact of potentially problematic ERC uses and averaging. MDEQ's procedures for review of notices of use and emission averaging, containing adequate modeling requirements, must be submitted as part of the SIP to provide added protection against potential adverse environmental impacts created by trading of criteria pollutants other than ozone.

5. Intersector Trading

Michigan's rule specifies that ERC trading between mobile and stationary sources is allowed. This provision is appropriate, since it increases the number of options for trading.

6. Interpollutant Trading

The Michigan rule appropriately prohibits the use of ERCs for one criteria pollutant or ozone precursor to allow for increases in a different criteria pollutant or ozone precursor, ''except for interstate trading where the use is consistent with a regional ozone control strategy and the state implementation plan.''

I. Notice and Recordkeeping Requirements

The Michigan rule requires that notices of generation or emission

averaging and notices of use and their supporting documentation accompany ERC trades, and establishes responsibility with the ERC users and generators, or emission averagers, to store and maintain this information. Michigan requires that copies of the notices and their supporting documentation be stored on site no less than five calendar years after the date of expiration of the emission averaging plan or after the date the ERC is used, expired, or retired. These recordkeeping requirements are appropriate.

1. Notice of ERC Generation

The Michigan rule requires sources to file a Notice of Intent to Generate credits. For emission reductions generated between January 1, 1991, and the effective date of the rule, sources have 1 year from the effective date of the rule to file such Notices. For post-enactment reductions, there is no specified filing deadline, since credit life is limited to 5 years after the year of generation. The rule appropriately requires that the Notice of Generation be included in the Notice of Use.

The EPA suggests that Michigan require notification of the relevant Metropolitan Planning Organization in the event of mobile source generation activities, and that the Notice of Intent to Generate include a certification that the protocol used to quantify reductions was acceptable.

MDEQ staff have developed a system for tracking ERCs by serial number. While the system assigns serial numbers for each batch of ERCs generated, not for each ton (as EPA would prefer), the Michigan system seems adequate to enable accurate tracking in the registry of each credit throughout its life.

2. Notice of Intent to Use ERCs

Michigan requires that sources submit to the State a Notice of Intent to Use. The State then has 30 days to make a completeness determination of the notice. The notice requires a description of the ''source, process, or process equipment'' where the credits will be applied. The EPA recommends that, to simplify compliance determination, the source, process, or process equipment be identified by permit or identification number.

The party using credits is required to include the price paid for the credits, either within the notice or by separately notifying the State within seven business days of the use or trade. The Michigan rule does not require the user to notify the State when credits are used. However, the Notice of Intent to Use is required to include the effective dates of use of the emission credits (1214(1)(h)). Any methods used and operational changes made to accommodate the use of credits become legally enforceable upon the effective date of the completeness notice issued by the State. Furthermore, the rule requires the State to create an emission trading registry for ''recording and tracking emission averaging and the use and trading of emission reduction credits.'' The EPA feels that these provisions are adequate.

Michigan also requires that notices of intent to use include identification of ''the methods and procedures used to quantify emissions and to determine compliance with all applicable requirements'' and ''calculations demonstrating compliance through the use of emission reduction credits.''

3. Public Availability of Information

EPA policy is that any information required to determine emissions and to judge the quality of an ERC must be publicly available and therefore not designated confidential. Sources that wish to use ERCs must have access to this information, as must the general public. Michigan Rule 1213(5) allows portions of information in notices of ERC use or generation to be determined to be confidential under sections 11(2) and (3) of Act No. 451 of the Michigan Public Acts of 1994. However, Act No. 451 specifies in part that ''data on the quantity, composition, or quality of emissions from any source'' may not be held confidential, and that ''data on the amount and nature of air contaminants emitted from a source shall be available to the public.'' EPA feels that these provisions in Act No. 451, as cited in the trading rule, adequately guarantee public access to the information needed to determine emissions from sources participating in trading and to evaluate the quality of ERCs.

MDEQ must also ensure access to information collected by sources as part of an environmental self-audit that demonstrated erroneous or willful generation or use of invalid credits. As discussed in the following section, these sources may be eligible for a 30-day reconciliation period under certain circumstances; the state must be able to review this information to verify that such an opportunity is appropriate.

J. Enforcement and Compliance Provisions

1. Compliance Certification

If either a generator or user of credits under the Michigan rule self-reports to the State errors in calculations, methods, etc. resulting in the generation or use of invalid credits, a reconciliation period of up to 30 days is generally permitted without penalty for the party at fault to purchase valid credits or to revise its planning to compensate for its errors. This reconciliation period is available to those who provide a notice within 30 days of discovery that includes an explanation that the circumstances causing the credits to be invalid have not occurred before, and a description of corrective steps that will be taken to ensure that the error does not occur again.

The EPA would prefer that no reconciliation period be granted, or that some lesser penalty be identified for those sources that self-report mistakes than those who do not; allowing a reconciliation period without any penalty lessens the incentive for generators and users of credits to ensure that credits are valid. However, this provision of Michigan's rule is acceptable because it limits the relief provided by the reconciliation period; it is available only to those sources self-reporting errors. In addition, granting of a reconciliation period does not bring a source into compliance with the underlying requirement being violated, leaving them subject to enforcement.

2. Violations and Penalties

Generators of credits which are discovered by the State to be invalid must purchase three times the amount of the invalid credits, which are then donated to the environment. The EPA supports the use of this type of penalty and the donation of the credits to the environment, and also recommends that provisions which address the circumstance in which a user knowingly uses invalid credits be added to the rule.

Donation of credits to the environment under this subrule does not exclude a party from other penalties: ''A donation of emission reduction credits under this subrule shall not be considered to be a civil or criminal penalty * * * a person may also be subject to civil and criminal enforcement actions, fines, and imprisonment as provided under the act.'' (1216(3))

3. Assignment of Regulatory Liability

In an open market program where credits are certified, the user can rely on the State's evaluation of credit quality (which is in turn based on an evaluation of the accuracy and validity of quantification methods). Without this certification, it falls upon the user to evaluate the quality of quantification techniques when determining how many credits are needed for compliance purposes, and upon the market to create

financial value for credits based on their quality.

The Michigan rule requires that a credit be registered before use, but not certified; the State performs only a completeness determination of the Notice of Generation. The EPA strongly supports Rule 1216(1), which specifies that both the generator and user are held responsible for the generation of invalid credits. This feature of Michigan's rule provides an added incentive to the user to conduct the checks of credit validity that are not performed due to the absence of a credit certification process in the rule.

This open market program design places considerable importance on the quality of quantification protocols, so that accurate determinations of credit value can be made by potential users. For this reason, the trading rules should include the provisions discussed in Section II (F) of this action requiring that Michigan follow EPA-approved protocols and protocol development criteria.

K. Effect of Trading on Hazardous Air Pollutant Emissions

The Michigan rule 1204(3) prohibits any use of ERCs or averaging that would result in an increase in the maximum hourly emission rate of a toxic air contaminant from an existing stationary source or area source, unless it can be demonstrated to the MDEQ that the increased rate will not cause or exacerbate the exceedance of a toxic air contaminant screening level based on the methodology in State rule R336.1230. This provision places the burden on sources to determine whether increased emissions of toxic air contaminants will result from emission averaging or ERC use. In addition, the Michigan rule allows the MDEQ to prohibit any use of credits or averaging that would result in an increase in any of a list of 14 toxic, persistent pollutants, if it determines that the increase would be ''inconsistent with the act or protection of public health, safety or welfare.'' [2] It would be up to the MDEQ to determine when such an inconsistency arose.

The Michigan approach is considerably different from the one favored by EPA. The EPA's favored approach would not restrict increases in maximum hourly emissions of toxic pollutants, or restrict total mass increases of toxic, persistent pollutants, but rather would require sources that participate in open market trading to disclose all estimated or measured negative effects of credit trading on emissions of the hazardous air pollutants (HAPs) listed in section 112 of the Act.

Many VOCs are listed as hazardous air pollutants (HAPs) in section 112 of the Act, and emissions of particulate matter may include hazardous air pollutants. Emissions of these toxic pollutants are often reduced incidentally by compliance with VOC or particulate matter limitations. Accordingly, ERC generation could have the effect of lowering toxic emissions from a facility. However, trading could also result in higher levels of toxic emissions; if a facility that emits HAPs uses ERCs to satisfy a VOC or particulate matter requirement, the facility's emissions of HAPs could be higher than if the facility had installed controls. This would be an example of a foregone decrease in toxics emissions. Whether or not emissions of toxics are increased or decreased at a given source due to trading or averaging, Federal and State air toxics standards must continue to be achieved.

EPA believes that citizens have the right to know if emissions trading may adversely affect the emissions of HAPs from a nearby facility, and therefore have a possible impact on public health. Disclosure of impacts on toxics emissions would also assist the State in determining if credit generation or use would trigger any air toxics program requirements at a particular facility and would allow identification and potential resolution of environmental justice issues as required in Executive Order 12898. Therefore, EPA requires that a State that implements an open market trading program must, at a minimum, require facilities to disclose the effect of open market emissions trading on HAP emissions. Disclosure must, at a minimum, follow the Toxics Release Inventory reporting requirements. States must also examine the effects of the open market trading program on HAP emissions as part of the periodic program performance audit.

Michigan's Rule 1217(1)(c) requires that audits address ''whether the program has caused any localized adverse effects to the public health, safety, or welfare or to the environment.'' We interpret this provision to require examination of the effects of trading on HAPs, as well as on air quality impacts related to the criteria pollutants. However, Michigan's program lacks a requirement that the effects of trades also be disclosed to the public at the time of registration of use of credits. Michigan must include this requirement in its SIP.

L. Interstate Trading

In order to accommodate a more regional approach to air quality management, it must be recognized that traditional boundaries, such as state lines, do not necessarily accurately reflect the geographic areas that are most relevant for emission trading purposes. For this reason, EPA agrees with Michigan's intent to allow interstate emissions trading.

However, allowing the exchange of credits between two states that may have considerably different air quality management programs raises a variety of issues that must be addressed. Safeguards must prevent multiple uses of the same ERC unit, ensure enforceability of credits generated out of state, and require that States properly account for emission shifts in attainment planning and Reasonable Further Progress milestone demonstrations. Michigan must provide a federally enforceable commitment that it will not allow the use of credits from other states without first entering into an adequate Memorandum of Understanding (MOU) with that State. Michigan may either submit an MOU that addresses these concerns to EPA for approval prior to undertaking trades with another State, or include in its SIP revision a list of items that the State commits to address in each future interstate MOU. With the latter option, a future MOU need not undergo EPA review and approval, but the SIP must ensure that any subsequent MOU addresses the consistency between key trading rule elements in each State, including:

1. The ERC identification system;
2. Sharing of required Notices and a compatible credit tracking system;
3. Geographic limitations (for instance, a VOC trade between Michigan and Colorado should not be allowed);
4. Credit lifetimes and expiration dates;
5. Record retention requirements;
6. The list of acceptable credit generation and use activities;
7. Consistent treatment of credit generation and use protocols;
8. Credit generation base case definitions; and
9. Ozone season definition and any other temporal requirements.

Additionally, an MOU must contain a clear statement that each State will enforce emission limitations under its jurisdiction and a procedure for incorporating emission shifts caused by trading in each State's attainment and

[2] The pollutants are mercury, alkylated lead compounds, cadmium, arsenic, chromium, polychlorinated biphenyls, chlordane, octachlorostyrene, toxaphene, hexachlorobenzene, benzo(a)pyrene, DDT and its metabolites, 2,3,7,8-tetrachlorodibenzo-p-dioxin, and 2,3,7,8-tetrachlorodibenzofuran.

maintenance plans and demonstrations, RFP plans and demonstrations. The MOU must make a determination on which State's laws determine whether a credit is valid. EPA agrees with MDEQ that any out-of-State credit must comply with the user State's requirements.

M. Protection of Class I Areas

The EPA has a policy of providing special protection for Class I areas (pristine environments such as international parks and large national parks and wilderness areas), as required under sections 160 through 169 of the Clean Air Act. This policy includes keeping Federal Land Managers informed of activities that could affect air quality in Class I areas. In accordance with this policy, to receive EPA approval, emissions trading programs must include provisions requiring that the relevant Federal Land Manager be notified 30 days before any ERC use activity occurs in, or within 100 km of, a Class I area. Michigan's rule contains no such notification provisions. This deficiency could be corrected by rule revision, or by procedures submitted as part of the SIP which require MDEQ staff to forward notices of use or notices of emissions averaging which involve increases within 100 km of a Class I area to the Federal Land Manager.

N. Federal Operating Permits

In order to allow for open market emission trading, Michigan must revise its federally required operating permit program to cite the trading rule in order to recognize ERC use as a compliance alternative for permitted sources that are covered by the emissions trading rule. Prior to ERC use, every permitted source that intends to use ERCs or emissions averaging must possess a permit containing language that references the emissions trading and averaging rules and allows ERCs to be used for compliance demonstrations.

O. Open Market Program Audits

Michigan requires an evaluation of the emission trading program and a public report to be made at least every 3 years, or more frequently if deemed necessary by the State. The EPA supports the provisions that specify that an audit evaluate:

—Whether the program is consistent with achievement and maintenance of the NAAQS and has resulted in emission reductions consistent with reasonable further progress toward attainment;
—Whether monitoring, recordkeeping, reporting, and enforcement have resulted in a sufficiently high level of compliance;
—Whether the program has caused any localized adverse effects to public health, safety, or welfare or the environment;
—Whether the program is achieving reductions across a spectrum of sources, including area and mobile sources; and
—Whether individual source audit provisions have resulted in a sufficient number of audits.

P. Contingency Measures

Michigan's rule states that if, after the triennial program evaluation, MDEQ determines that program revisions are necessary, it will revise the program and submit a SIP revision to EPA within 6 months. This provision is appropriate. EPA considers that program revisions would be warranted if ERC generation has been greater than ERC use, resulting in emissions spiking on days of poor air quality or failure to meet area wide RACT-level or other required emission reductions; if trading or averaging has led to an increase in exposure to hazardous air pollutants or criteria air pollutants, or if Class I areas have been adversely affected by the generation or use of ERCs.

Q. Early NO_X Reductions

For EPA to approve an open market trading rule, it needs to be convinced that ERC generation is likely to keep pace with ERC use, so that there will not be significant emissions ''spikes'' created by the use of a large number of ERCs in a short period of time. For VOCs, EPA has determined that the risk that there will be such spikes is sufficiently small that this issue can be dealt with through periodic audits and contingency measures. However, for other pollutants, particularly NO_X, EPA has greater concerns. Under open market trading, large NO_X sources which are not currently subject to any emissions limits would be able to bank large volumes of early reductions generated through early compliance with forthcoming Title IV Acid Rain program requirements. When used later, these large volumes of ERCs could create spikes large enough to compromise attainment.

Michigan's program protects against this problem within the State. Rule 1212(2) limits the life of credits ''generated by emission reductions which are necessary to comply with a proposed applicable requirement and which occur after the date the applicable requirement is proposed but before final compliance dates'' to five calendar years or to one calendar year after the effective date of final compliance, whichever comes first. Therefore all NO_X credits generated through early compliance with Title IV requirements will expire on January 1, 2002, or 1 year after the applicable requirements become effective. As a result of the limited life of these credits, unless a market demand for NO_X credits within Michigan is created prior to January 1, 2002, most or all of the credits generated in this fashion will result in early reductions without risk of being used within Michigan.

Given this protection, EPA's remaining concern is that the NO_X ERCs generated through early compliance with Title IV requirements not be used in other States after January 1, 2002. To allay this concern, MDEQ must outline the existing procedures in the SIP, or add such procedures, that insure that these credits expire in accordance with Michigan rules and cannot be used in other States.

R. Property Rights

Michigan's emissions trading program does not contain a statement that emission reduction credits do not constitute a property right. All tradeable emissions reduction credits or allowances under the Act are limited authorizations to emit pollutants, and do not constitute a property right. Section 403(f) of the Clean Air Act, which deals with sulfur dioxide allowances under the Acid Rain program, states:

> An allowance allocated * * * is a limited authorization to emit sulfur dioxide * * * Such allowance does not constitute a property right. Nothing in this subchapter or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.

Congress included this requirement to ensure that allowance holders understood that they were barred from claiming a governmental taking under the 5th Amendment of the U.S. Constitution. Property status could produce undesired and perverse results, such as requiring a government agency to compensate the owner of a pollution source when its emissions are limited. The absence of property status authorizes the participating air pollution control agency to limit or terminate credit use in extreme circumstances. The same logic applies to emission reduction credits.

States should actually terminate credits only when other options have failed to provide for meeting the State's underlying Act obligations. Although EPA would not expect this to occur, and would expect that the program will

achieve real and cost-effective emissions reductions without having to resort to credit limitation, this contingency measure must be available to provide confidence that States will make continued progress toward their air pollution control goals.

In order to ensure that sources cannot claim that ownership of an ERC issued under Michigan's program grants them a property right, Michigan must include in its SIP a statement that ERCs do not constitute a property right, either directly in the rule or in the form of a letter from the Attorney General.

III. Proposed Action

The EPA is proposing to approve this revision to the Michigan SIP for the reasons outlined above. EPA will not take action toward final approval of this SIP revision until the deficiencies discussed in this document are corrected. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan will be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

EPA's proposed approval of the Michigan's request under section 110 of the Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this approval. Federal approval of the state submittal does not affect its state-enforceability. Moreover, EPA's approval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this approval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements or impose any new Federal requirements.

Under section 202 of the Unfunded Mandate 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 that includes a Federal mandate that may result in estimated costs to State, local or tribal governments in 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 proposed does not include a Federal mandate that may result in estimated cost of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action maintains pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional cost to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Sulfur dioxide, Particulate Matter, Lead, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 4, 1997.

David A. Ullrich,

Acting Regional Administrator.

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Notices

Federal Register

Vol. 62, No. 181

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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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Invitation for Nominations for the Dietary Guidelines Advisory Committee

AGENCY: Food, Nutrition and Consumer Services, and Research, Education, and Economics, U.S. Department of Agriculture; and Office of Public Health and Science, U.S. Department of Health and Human Services.

ACTION: Dietary Guidelines Advisory Committee: Invitation for nominations.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) announce their intention to establish a Dietary Guidelines advisory Committee and invite nominations for the Committee.

FOR FURTHER INFORMATION CONTACT: Junko Alice Tamaki, Co-Executive Secretary from USDA to the Dietary Guidelines Advisory Committee, Agricultural Research Service, 10300 Baltimore Blvd., Room 332, Building 005, Beltsville, MD 20705, (301) 504–6216; William M. Layden, Co-Executive Secretary from USDA to the Dietary Guidelines Advisory Committee, Center for Nutrition Policy and Promotion, 1120 20th St., NW, Suite 200 North Lobby, Washington, DC 20036, (202) 418–2312; or Kathryn McMurry or Linda Meyers, Co-Executive Secretaries from HHS to the Dietary Guidelines Advisory Committee, Office of Public Health and Science, Room 738G, Humphrey Building, 200 Independence Ave., SW, Washington, DC 20201, (202) 205–4872.

SUPPLEMENTARY INFORMATION: The Dietary Guidelines for Americans form the basis of Federal food and nutrition education activities. The Guidelines were first published by USDA and HHS in 1980, with revisions in 1985, 1990, and 1995. The National Nutrition Monitoring and Related Research Act of 1990 (Pub. L. 101–445) requires the Secretaries of USDA and HHS to publish the Dietary Guidelines for Americans at least every five years.

Prospective members of the Dietary Guidelines Advisory Committee should be knowledgeable of current scientific research in human nutrition and be respected and published experts in their fields. They should be familiar with the purpose and application of the Dietary Guidelines and have demonstrated interest in the public's health and well-being through their research and/or educational endeavors. The Committee will determine if revision of the 1995 Nutrition and Your Health: Dietary Guidelines for Americans is warranted based on thorough evaluation of recent scientific and applied literature and, if so, will proceed to develop recommendations for these revisions in a report to the Secretaries of Agriculture and Health and Human Services. Copies of the Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for Americans, 1995 are available upon request from either of the Co-Executive Secretaries from USDA at the addresses listed above.

The Departments invite nominations for Committee membership of individuals qualified to carry out the above-mentioned tasks. Nominations should describe and document the nominee's qualifications in the relevant subject areas. Equal opportunity practices, in line with USDA and HHS policies, will be followed in all membership appointments to the Committee. To ensure that recommendations of the Committee take into account the needs of the diverse groups served by USDA and HHS, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.Nominations must be submitted to William M. Layden, Junko Alice Tamaki, Kathryn McMurry, or Linda Meyers at the addresses above up to 60 days after publication of this notice.

Dated: August 25, 1997.

Pearlie S. Reed,

Acting Assistant Secretary for Administration, Department of Agriculture.

August 28, 1997.

John M. Eisenberg,

Acting Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 97–24825 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Research, Education, and Economics

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Performance Assessment and Public Education Working Group Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture in conjunction with the National Agricultural Research, Extension, Education, and Economics Advisory Board representing 30 constituent categories as specified in section 802 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) announces a meeting of the Advisory Board's Performance Assessment and Public Education Working Group with USDA Communications Office officials.

SUPPLEMENTARY INFORMATION: The Performance Assessment and Public Education Working Group, a subgroup of the Advisory Board, comprised of five Board members, will meet with public communications officials of USDA to gain a better understanding and insight on the structure, function, and potential of USDA in communicating agricultural information to the public. This activity represents an initial information gathering effort by the Working Group addressing public understanding and appreciation of agricultural research, education, and extension (as discussed at the Advisory Board meeting of August 4–5, 1997). The Working Group will take these preliminary findings to the full Advisory Board for their consideration as they develop future recommendations on mechanisms for

improving communication to the public on food and agriculture, as charged by the Secretary of Agriculture.

Also, the Working Group will be joined by a few other Board members, who will meet on October 15 for a planning meeting on priority setting. The purpose of this Working Group meeting is to develop and plan an effective agenda for the Advisory Board meeting in November 1997, which will focus on research, extension, education, and economics priority setting for the FY 2000 Budget.

Dates: October 14, 1997, 12:30 p.m. to 4:30 p.m. and October 15, 1997, 8:30 a.m. to 4:30 p.m.

Place: U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service Conference Room 338C-Aerospace Building, 901 D Street, SW, Washington, DC.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199.

Done at Washington, DC, this 12th day of September 1997.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 97–24815 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Public Briefings on Development of a U.S. Action Plan on Food Security

AGENCY: Foreign Agricultural Service, Agriculture.

ACTION: Notice of meeting postponement.

SUMMARY: Notice is hereby given that public workshops regarding development of a U.S. Action Plan on Food Security originally scheduled for September 23 and 24 have been postponed. The workshops are for the purpose of briefing the public on the draft mini-papers, responding to questions and receiving reactions to the papers in order to facilitate public participation in the process of developing the U.S. Action Plan on Food Security.

DATES: New dates for the workshops will be announced as soon as possible.

SUPPLEMENTARY INFORMATION: Inquiries may be directed to the Office of the National Food Security Coordinator, Foreign Agricultural Service, Room 3008 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW., Washington, DC 20250, telephone (202) 690–0776 or fax (202) 720–6103.

Signed in Washington, DC, September 11, 1997.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 97–24772 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to the Natural Resources Conservation Service's National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, New York State Office.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices, Section IV of the New York State NRCS Field Office Technical Guide (FOTG) for review and comment.

SUMMARY: It is the intention of NRCS to issue a series of new conservation practice standards in its National Handbook of Conservation Practices. These new standards include; Grass Filter Strip (NY393s) and Grass Filter Area (NY393a).

DATES: Comments will be received on or before October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Richard D. Swenson, State Conservationist, Natural Resources Conservation Service (NRCS), 441 S. Salina Street, Fifth Floor, Suite 354, Syracuse, New York, 13202–2450.

Copies of these standards are available from the above individual.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agricultural Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and a final determination of change will be made.

Richard D. Swenson,

State Conservationist, Natural Resources Conservation Service, Syracuse, NY.

[FR Doc. 97–24778 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware

AGENCY: Natural Resources Conservation Service (NRCS) in Delaware.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for review and comment.

SUMMARY: It is the intention of NRCS in Delaware to issue a revised conservation practice standard Wetland Development or Restoration (Code 657) in Section IV of the FOTG.

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agricultural Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Delaware will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Delaware regarding disposition of those comments and a final determination of change will be made.

Dated: September 9, 1997.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 97–24829 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oklahoma

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Oklahoma for review and comment.

SUMMARY: It is the intention of NRCS in Oklahoma to issue a series of new and revised conservation practice standards in Section IV of the FOTG. These new standards include Access Road (Code 560); Forage Harvest Management (Code 511); Irrigation Erosion Control, Polyacrylamide (Code I–444); Low Energy Precision Application (LEPA) Irrigation System (Code I–442A); Stream Crossing (Code I/583A); Well Decommissioning (Code 351); and Wetland Development or Restoration (Code 657). The revised standards include Brush Management (Code 314); Conservation Cover (Code 327); Firebreak (Code 394); Forest Site Preparation (Code 490); Forest Stand Improvement (Code 666); Grade Stabilization Structure (Code 410); Pond (Code 378); Prescribed Grazing (Code 528A); Residue Management, No Till and Strip Till (Code 329A); Residue Management, Mulch Till (Code 329B); Residue Management, Ridge Till (Code 329C); Residue Management, Seasonal (Code 344); Riparian Forest Buffer (Code 391); Terrace (Code 600); Tree/Shrub Establishment (Code 612); Tree/Shrub Pruning (Code 660); Trough or Tank (Code 614); Windbreak Renovation (Code 650); and Windbreak/Shelterbelt Establishment (Code 380). Some of these practices may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Kevin D. Norton, State Resource Conservationist, Natural Resources Conservation Service (NRCS), 100 USDA, Suite 203, Stillwater, OK 74074–2655. Copies of these standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oklahoma will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Oklahoma regarding disposition of those comments and a final determination of change will be made.

Dated: September 3, 1997.

Ronnie L. Clark,

State Conservationist, Stillwater, Oklahoma.

[FR Doc. 97–24830 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Fourth Quarter of 1997

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the fourth quarter of 1997.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the fourth calendar quarter of 1997.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning October 1, 1997, and ending December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, Room 2234-S, Stop 1524, 1400 Independence Avenue, SW, Washington, DC 20250–1500. Telephone: 202–720–1928. FAX: 202–690–2268. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the fourth calendar quarter of 1997 for municipal rate electric loans. RUS regulations at 7 CFR 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to 7 CFR 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in 7 CFR 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Date includes only rates for securities maturing in 1998 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under 7 CFR 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.375 percent.

In accordance with 7 CFR 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the fourth calendar quarter of 1997.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2018 or later	5.375
2017	5.375
2016	5.250
2015	5.250
2014	5.250
2013	5.250
2012	5.125
2011	5.125
2010	5.000
2009	4.875
2008	4.875
2007	4.750
2006	4.625
2005	4.625
2004	4.500
2003	4.500
2002	4.375
2001	4.250
2000	4.125
1999	4.000
1998	3.750

Dated: September 12, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–24757 Filed 9–17–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–557–806]

Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On May 13, 1997 the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on Extruded Rubber Thread from Malaysia for the period January 1, 1995 through December 31, 1995 (62 FR 26289). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds, Kathleen Lockard or Richard Herring, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuate to 19 C.F.R. § 335.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Heveafil Sdn. Bhd., Filmax Sdn, Bhd., Rubberflex Sdn. Bhd., Filati Lastex Elastofibre Sdn. Bhd. (Filati), and Rudfil Sdn. Bhd. Heveafil and Filmax are affiliated parties. (*See Affiliated Parties* section below). This review also covers the period January 1, 1995 through December 31, 1995 and 13 programs.

Since the publication of the preliminary results on May 13, 1997 (62 FR 26289), the following events have occurred. We invited interested parties to comment on the preliminary results. On June 12, 1997, case briefs were submitted by Heveafil, Filmax, Rubberflex, Filati, and Rubfil which exported extruded rubber thread to the United States during the review period.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and U.S. Customs purposes. Our written description of the scope of this review remains dispositive.

Affiliated Parties

Heveafil owns and controls Filmax and both companies produce subject merchandise. Therefore, we determine them to be affiliated companies under section 771(33) of the Act and, consistent with prior reviews of this order, we have calculated a single rate applicable to both of these companies. *See Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review* (61 FR 55272; October 25, 1996) (Malaysian Rubber Thread 1994 Review). For further information, see Memorandum to file from Judy Kornfeld Regarding Status as Affiliated Parties dated March 28, 1997, on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce.

Analysis of Programs

Based upon the responses to our questionnaire, and written comments from the interested parties we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Export Credit Refinancing (ECR) Program. In the preliminary results, we found that both pre- and post-shipment loans under this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, have not led us to change our findings from the preliminary results. Accordingly, the net subsidies for pre-shipment and post-shipment loans remain unchanged from the preliminary results and are as follows:

PRE-SHIPMENT LOANS

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.15
Rubberflex	0.30
Filati	0.00
Rubfil	0.03

POST-SHIPMENT LOANS

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.00
Rubberflex	0.00
Filati	0.15
Rubfil	0.00

2. *Pioneer status.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, have led us to modify our findings from the preliminary results for this program for Rubberflex (*See Department's Position* on *Comment 7*). Accordingly, the net subsidies for this program have changed and are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.74
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

3. *Industrial building allowance.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	[1]
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

[1] Less than 0.005%.

4. *Double deduction for export promotion expenses.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program remain unchanged from the preliminary results as are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.01
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

II. Programs Found To Be Not Used

In the preliminary results, we examined the following programs and determined 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:

- Investment Tax Allowance,
- Abatement of a Percentage of Net Taxable Income Based on the F.O.B. Value of Export Sales,
- Abatement of Five Percent of Taxable Income Due to Location in a Promoted Industrial Area,
- Abatement of Taxable Income of Five Percent of Adjusted Income of Companies due to Capital Participation and Employment Policy Adherence,
- Double Deduction of Export Credit Insurance Payment, and
- Preferential Financing for Bumiputras.

We did not received any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

Analysis of Comments

Comment 1: The Department had no authority to issue a CVD order. Respondents allege that the Department initiated the original investigation pursuant to Section 303(a)(2) of the Act, and, therefore, the Department can impose countervailing duties under this section only if there is an injury determination by the International Trade Commission (ITC). (The ITC discontinued its injury determination under Section 303(a)(2) because the duty-free status of rubber thread from Malaysia was terminated). Respondents contend that without an injury determination, the Department had no authority to issue a countervailing duty order and to require the payment of cash deposits. Respondents further maintain that the Department cannot simply transfer the jurisdiction for an investigation from Section 303(a)(2) to Section 303(a)(1) without issuing a public notice that it intends to proceed with the investigation under a different statutory provision. *See Certain Textile Mill Products and Apparel from Turkey* (50 FR 9817; March 12, 1987); *Certain Textile Mill Products and Apparel from the Philippines* (50 FR 1195; March 26, 1985) and *Certain Textile Mill Products and Apparel from Indonesia* (50 FR 9861; March 12, 1985). Further, because there was no initiation notice or a preliminary determination under Section 303(a)(1), a final determination under that section was not appropriate. If the Department wanted to proceed with the investigation, it was required to reinitiate under the appropriate provision.

In addition, respondents argue that the Department's untimeliness theory in previous reviews is misplaced. They state that the Department has the power to modify its judgments or correct its errors and that *Ceramica Regiomontana* v. *United States*, 64 F.3d 1579 (Fed. Cir. 1995) (*Ceramica 1995*) confirmed the right to challenge the continuing validity of an order during a review proceeding. Respondents also cite to *Gilmore Steel Corp.* v. *United States*, 585 F. Supp. 670, 674 (CIT 1984) (*Gilmore*), to support their ''timeliness'' argument regarding the Department's authority to correct errors, such as ''jurisdictional defects.''

Department's Position: As the Department pointed out in the previous views, respondents' challenge to the Department's authority to issue the order is untimely. Challenges to the issuance of an order must be filed within 30 days of the date the order is published. See 19 U.S.C. Sec. 1516a(a)(2). The countervailing duty order on extruded rubber thread from Malaysia was published on August 25, 1992. Respondents voluntarily withdrew a timely-filed complaint challenging the order on these same grounds. Respondents' attempt to revive that challenge in this proceeding is untimely.

Contrary to respondents' assertions, there was not requirement that the Department reinitiate its investigation as a result of the decision by the United States to terminate the duty-free status of Malaysian rubber thread. Indeed, respondents' interpretation could create an impermissible gap in statutory coverage, which Congress did not intend. *See Techsnabexport. Ltd.* v. *United States*, 802 F. Supp. 469, 472 (CIT 1992). Nor do the administrative cases relied upon by respondents support their position. In those cases, the Department published notice that authority to continue the particular investigations was transferred from section 303 of the Tariff Act of 1930 to title VII of the Act.

In the course of administrative reviews conducted under this order, respondents have misconstrued judicial precedent regarding the correction of ''jurisdictional defects.'' *Gilmore* involved a challenge to the termination of a pending investigation based upon information obtained in the course of that investigation. In particular, the petitioner contended that the Department lacked the authority to rescind the investigation based upon insufficient industry support for the petition after the 20-day initiation period had elapsed. 585 F.Supp. at 673. In upholding the Department's determination, the court recognized that administrative officers have the authority to correct errors, such as ''jurisdictional defects,'' at any time during the proceeding. *Id.* At 674–75. The court did not state or imply that the Department may reverse a decision to issue an antidumping duty order in the context of an administrative review under section 751 of the Act. Indeed, the case did not even involve an administrative review. The court simply held that the administering authority may, in the context of the original investigation, rescind an ongoing proceeding after the expiration of the 20-day initiation period. In short, *Gilmore* says nothing to excuse respondents' failure to timely challenge the issuance of the order in this case.

Similarly, we disagree with respondents' reliance on *Ceramica 1995. Ceramica 1995* challenged the continued imposition of countervailing duties following Mexico's change in status to a ''country under the Agreement'' which entitled it to an injury test. Unlike respondents in the instant review, *Ceramica 1995* did not challenge the validity of the original countervailing duty order, nor did the Federal Circuit determine that the issuance of the order was invalid. Consequently, *Ceramica 1995* is an inappropriate basis to excuse respondents' failure to timely challenge the issuance of the order.

Comment 2: Country-wide subsidy rate. Respondents argue that the Department improperly assigned company-specific rates without first determining whether the overall country-wide subsidy rate was above *de minimis.* They contend that the Department acted contrary to its established practice of applying its two-part test in measuring levels of subsidization. According to respondents, the Department should first calculate the net subsidy on a country-wide basis to determine whether the country-wide rate was above *de minimis,* in accordance with *Ceramica Regiomontana, S.A. v. United States,* 853 Supp. 431,439 (Ct. Intl. Trade 1994) (*Ceramica 1994).* If the country-wide benefit is *de minimis,* the overall subsidy level would be zero. Only if the country-wide rate was above *de minimis* would the Department proceed to the second step of its test to determine if individual rates would apply. Respondents cite *Certain Iron Metal Castings from India, Preliminary Results of Countervailing Duty Administrative Review* (61 FR 25623; May 22, 1996); *Carbon Steel Butt-Weld Pipe Fitting from Thailand; Final Results of Countervailing Administrative Review* (61 FR 4959; Feb. 9, 1996); *Extruded Rubber Thread from Malaysia, Final Results of Countervailing Duty Administrative Review* (60 FR 51982, 51983; October 4, 1995), in which the Department applied its two-step test.

According to respondents, as a precondition to imposing countervailing duties, the statute requires subsidization to occur with respect to imports of the subject merchandise on an overall or aggregated basis. In addition, respondents contend that the URAA altered the assessment provision but not the requirement to determine whether subsidies were being provided on a country-wide basis.

Department's Position: There is no legal basis to support respondent's argument. Pursuant to the URAA, there is no longer a preference for calculating a single country-side subsidy rate in countervailing duty proceedings. The URAA replaced the former practice of calculating subsidies on a country-wide basis in favor of individual rates for investigated or reviewed companies. The procedures for countervailing duty cases are now essentially the same as those in antidumping case, except as provided for in section 777A(a)(2)(B) of the Act. Section 777A(e) requires the calculation of an individual countervailable subsidy rate for each known producer/exporter of the subject merchandise, except where it is not practicable to determine individual countervailable subsidy rates because of the larger number of exporters or producers involved in the investigation or review. This exception was inapplicable in this review as there were only five producers/exporters for which a review was requested.

As a result, the judicial and administrative precedents relied upon by respondents are inappropriate as they refer to the requirements as they existed prior to effective date of the URAA. All of the reviews cited by respondents were requested and initiated prior to January 1, 1995, the effective date of the URAA. More pertinent citations would be to reviews conducted under the URAA. *See, e.g., Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review (1994 Castings Review)* (62 FR 32297; June 13, 1997), since that review was initiated pursuant to requests for administrative reviews filed after January 1, 1995.

Comment 3: Financial contribution. Respondents argue that the Department cannot countervail benefits under the ECR loan program or the Pioneer Industries program because neither involves a financial contribution by the Government of Malaysia (GOM). The WTO Subsidies Agreement defined the term ''subsidy'' as one involving a ''financial contribution,'' therefore adding a new requirement to the pre-existing notion of a subsidy. Accordingly, a program cannot be a countervailable subsidy unless it involves a ''financial contribution.'' In the case of the ECR loans, they argue that there cannot be any financial contribution because the funds that the GOM lends to exporters generate a profit. In the case of the Pioneer Industries program, they argue that because the only company claiming the tax exemption would have paid the same amount of taxes without the exemption, the GOM did not forgo or fail to collect any revenues as a result of the program. Respondents believe that the Department's preliminary determination overlooks this new requirement.

Department's Position: We disagree with respondents that the Department overlooked the requirement of a financial contribution. Under section 771(5)(D) (i) and (ii) of the Act, a financial contribution is defined as ''the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees,'' or ''foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income.'' The ECR Loan and Pioneer Industries tax programs clearly fall within these definitions. We also note that under Article 1.1(a)(1) (i) and (ii) of the Subsidies Agreement, a financial contribution is defined as ''where government practice involves a direct transfer of funds (*e.g.,* grants, loans, and equity infusions), potential direct transfers of funds of liabilities (*e.g.,* loan guarantees)'' or ''government revenue that is otherwise due, is foregone or not collected (*e.g.,* fiscal incentives such as tax credits).''

Respondents mistakenly focus on the ''financial contribution'' concept in terms of the cost to the Malaysian government. As explained in the previous reviews, the Department has a longstanding practice of valuing the benefit to the recipient rather than the cost to the government for the purpose of calculating countervailing duty rates. This practice is now reflected in section 771(5)(E) of the Act, which states that the subsidy benefit ''shall normally be treated as conferred where there is a benefit to the recipient.'' In addition, Article 14 of the Subsidies Agreement defines the method for calculating the amount of a subsidy in terms of the benefit to the recipient.

In the case of ECR loans, the funds that the GOM lends to the exporters are lent on a short-term basis at an interest rate below the amount the exporters would have paid on a comparable commercial loan. In the case of the Pioneer Industries program, a company that has received pioneer status is allowed not to pay taxes otherwise due to the government. (Also, *see Department's Position* on *Comment 7.*) Therefore, under both programs, financial contributions are provided to the recipients (the respondents) and the Department properly treated those benefits as countervailable subsidies.

Comment 4: Short-term loan benchmark. Respondents contend that the benefit from the ECR program was overstated because the Department's benchmark for the ECR pre-shipment loans incorrectly excluded Banker's Acceptances (''BA's'') from the calculated benchmark interest rate and incorrectly included rates on overdrafts in calculating the benchmark.

Department's Position: We disagree with respondents. While the BA rates are an acceptable benchmark for post-shipment loans, pre-shipment financing used by the respondents is based on a line of credit, much like a general short-term loan in the Malaysian market. As such, we used the average of the commercial bank lending rates charged to each company during the POR for revolving lines of credit and overdrafts

as the benchmark. ECR post-shipment loans and BAs are short-term borrowing instruments used to finance specified export shipments, unlike ECR pre-shipment loans that provide a more general line of credit.

Comment 5: Pre-shipment ECR loans do not benefit U.S. exports. Respondents argue that the Department overstated the net subsidy for the review period and for duty deposit purposes because in calculating eligibility for the pre-shipment export financing, the Department failed to take account of the exclusion by Heveafil and Filmax of U.S. exports in obtaining export financing. In addition, respondents claim that the two companies did not use funds from exports to the United States to repay any of the pre-shipment loans. They claim that in a similar situation, the Department concluded that exports to the United States did not receive benefits from short-term financing. *See Suspension of Countervailing Duty Investigation; Certain Forged Steel Crankshafts from Brazil* (52 FR 28177, 28179; July 28, 1987) (*Crankshafts from Brazil*). Although in the first administrative review, the Department rejected this method of eliminating the effect of a subsidy, respondents maintain that Heveafil and Filmax received no benefit with regard to U.S. shipments. Respondents further assert that the Department found a subsidy in this case, in part, because there was no strict segregation of U.S. exports and the materials used in their manufacture from materials and exports to other markets financed with ECR loans. However, according to the respondents, the Department was presented with exactly the same issue in *Crankshafts from Brazil* and in that case the Department did not require that the exporters segregate raw materials purchased with export financing.

Department's Position: The GOM provides ECR financing based on export performance. The explicit purpose of this program is to promote the export of manufactured and approved agricultural products. Two types of ECR financing are available: pre-shipment and post-shipment financing. There is no evidence that the GOM limits these ECR loans to increase exports only to markets other than the United States, nor is there evidence of a provision that prevents exporters from receiving ECR loans for exports to the United States.

During the review period, both Heveafil and Filmax applied for and used pre-shipment financing based on certificates of performance (CP). Pre-shipment financing based on CPs is a line of credit based on previous exports and, when received, cannot be tied to specific sales in specific markets. Where a benefit is not tied to a particular product or market, it is the Department's practice to allocate the benefit to all products exported by a firm where the benefit is received pursuant to an export program. *See e.g., 1994 Castings Review*. Because pre-shipment loans were not shipment-specific, we included all loans in calculating the subsidy rate.

By excluding exports to the United States from their application for ECR pre-shipment export financing, the companies merely reduced the amount of financing they received. Reducing the pool of funds available for total export financing does not eliminate financing to any particular product. Tying occurs in the provision of the subsidy, usually through government mandate requirements or in certain limited situations where the application for the subsidy can be isolated to specific shipments, *e.g.*, post-shipment loans provided on a shipment-by-shipment basis where the company can demonstrate through source documentation that it did not apply for or receive loans on shipments to the United States. *See e.g., 1994 Castings Review*. Hence, the companies did not eliminate ECR pre-shipment financing for U.S. exports.

We disagree with respondents that, in similar circumstances, the Department has concluded that the exclusion of U.S. exports from applications in the manner described by respondents eliminates any countervailable subsidy that would otherwise be present. As stated in the last review of this order, *Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review* (61 FR 55272; October 25, 1996), respondents' reliance on the *Crankshafts from Brazil* suspension agreement is misplaced. Suspension agreements are unusual, negotiated arrangements in which parties to a proceeding agree to renounce countervailable subsidies. As such, unlike final determinations, they do not serve as administrative precedent. Moreover, the *Crankshafts from Brazil* suspension agreement is consistent with our allocation practice.

Comment 6: Pioneer Program is neither specific nor contingent upon export performance. Respondents argue that the Department previously found the Pioneer Status Program not countervailable because it was found to be not specific. *See Carbon Steel Wire Rod from Malaysia: Final Results of Countervailing Duty Administrative Review;* 56 FR 14927 (April 12, 1991) (*Wire Rod*). Respondents assert that it is not countervailable because tax benefits under this program are not limited to any sector or region of the Malaysian economy, nor is the program exclusively available to exporting companies. They contend that the Department confirmed, in the first administrative review, both the *de jure* and *de facto* availability of this program to the entire Malaysian economy, and that the pioneer status tax benefits are not targeted to specific industries or companies in a discriminatory manner. Further, the Department verified in the original investigation that the internal guidelines used to grant pioneers status are characterized by neutral criteria unrelated to exports, location or any other factors that could require a determination that the program is countervailable.

Respondents further argue that the Department verified in the first administrative review that the GOM does not require export commitments, or view them as preponderant, in evaluating applications; that export potential is merely one of 12 factors considered in granting status; and that a product will not be accepted based on export potential alone. Further, respondents argue that the Department verified in the first administrative review that the GOM commonly approves companies that do not make export commitments, as well as some that do make them.

Therefore, export performance is not viewed as a preponderant factor, but as one of many neutral criteria.

Department's Position: We addressed this identical argument in the previous review of this order. In *Wire Rod*, we concluded that benefits were not used by a specific industry or group of industries and that no industry or group of industries used the program disproportionately; accordingly, we found the program not to be countervailable. That determination, however, did not specifically address situations where companies had a specific export condition attached to their pioneer status approval. In the *Wire Rod* investigation, although petitioners raised the issue of an export requirement with respect to pioneer status, the export requirement was not at issue with the companies investigated in *Wire Rod*.

In this case, recipients of the tax benefits conferred by Pioneer Status can be divided into two categories: industries and activities that will find market opportunities in Malaysia and elsewhere, and those that face a saturated domestic market. At verification of the first administrative review, we established that an export requirement may sometimes be applied

to certain industries after it is determined that the domestic market will no longer support additional producers. The extruded rubber thread industry is among these industries.

The combination of the necessary export orientation of the industry due to lack of domestic market opportunities and the explicit export condition attached to pioneer status approval in the rubber thread industry leads us to conclude that the Pioneer Status program constitutes an export subsidy to the rubber thread industry. Whether or not the commitment was voluntary, as respondents suggest, the company has obligated itself to export a very large portion of its production, and that commitment was a condition for approval of benefits. Thus, the Department upholds its decision to countervail this program as an export subsidy.

Comment 7: Overstatement of Pioneer Program. Respondents argue that the Department overstated the benefit from the Pioneer program because it failed to deduct the normal capital allowances that would have been allowed if the program had not been used. Further, they claim, the Department incorrectly allocated pioneer status tax benefits over only export sales even though pioneer status tax benefits are also applicable to profits on domestic sales. According to the respondents, this is inconsistent with the Department's practice to allocate benefits over total sales to which they are ''tied.''

Respondents also argue that the Department countervailed Rubberflex's pioneer benefit in the 1993 review, and must avoid countervailing the same benefit in the 1995 review.

Department's Position: The Department disagrees with the respondents' allegation that it overstated the benefit from the Pioneer Program because of capital allowances. When a company receives pioneer status, it is allowed to accumulate the normal capital allowances for use in future years. Heveafil/Filmax did not pay income taxes during the period of review because of its pioneer status. Therefore, the income tax exemption under the Pioneer Program has conferred a benefit upon the company because it used its pioneer status to offset income. Because Heveafil/Filmax is also able to accumulate capital allowances which can be used to offset taxable income in the future, after its pioneer status expires, there is no basis for adjusting the benefit from the income tax exemption for these allowances. Moreover, export sales should form the denominator because receipt of pioneer status tax benefits is contingent upon exportation. Accordingly, we have not overstated the benefit from the Pioneer Program. *See e.g., Final Affirmative Countervailing Duty Determination: Certain Agricultural Tillage Tools From Brazil* (50 FR 34525; August 26, 1985) and *1994 Castings Review.*

We agree with the respondents' claim that there is no countervailable subsidy to Rubberflex under the Pioneer Program in the instant review. In the 1993 review, the Department used the estimated tax return submitted by Rubberflex to calculate the countervailing duty rate for the Pioneer Program. For the 1995 preliminary review, the year in which Rubberflex for this program. Because we have previously countervailed the benefit from that tax return in our 1993 administrative review of this order, we have not countervailed it again in this review. Therefore, the new *ad valorem* rate for Rubberflex for this program is 0.00% (*See* Section I(A)(2) above).

Final Results of Review

In accordance with 19 CFR § 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1995 through December 31, 1995, we determine the net subsidy for the following companies to be:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.90
Rubberflex	0.30
Filati	0.15
Rubfil	0.03

The Department will instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. As provided for in 19 C.F.R. § 355.7, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis.* Accordingly, for those producers/exporters, no cash deposits will be required.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. (*See Extruded Rubber Thread From Malaysia: Final Results of Countervailing Duty Administrative Review,* 60 FR 51982 (October 4, 1995). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1995 through December 31, 1995, the assessment rates that will be applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This countervailing duty order was determined to be subject to section 753 of the Act (as amended by the Uruguay Round Agreements Act of 1994). *Countervailing Duty Order: Opportunity to Request a Section 753 Injury Investigation,* 60 FR 27,963 (May 26, 1995), amended 60 FR 32,942 (June 26, 1995). In accordance with section 753(a), domestic interested parties have requested an injury investigation with respect to this order with the International Trade Commission (ITC). Pursuant to section 753(a)(4), liquidation of entries of subject merchandise made on or after January 1, 1995, the date Malaysia joined the World Trade Organization, is suspended until the ITC issues a final injury determination. We will not issue assessment instructions for any entries made after January 1, 1995; however, as discussed above, we will instruct Customs to collect cash deposits in accordance with the final results of this administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. § 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 10, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

[Docket No. 970903224–7224–01; I.D. 082297A]

RIN 0648–AK40

National Oceanic and Atmospheric Administration

Administrative Procedures Applicable to the Management of Highly Migratory Species

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

ACTION: Proposed procedural guidelines.

SUMMARY: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) fishery management plans (FMPs) and FMP amendments (FMP amendments) and implementing regulations for the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed revised procedures include opportunities for involvement by the public, the Department of State (DOS), the U.S. Coast Guard (USCG), the Fishery Management Councils (FMCs), the International Committee for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee (IAC), the ICCAT Commissioners, and advisory panels (APs) appointed under the MSFCMA and the Atlantic Tunas Convention Act (ATCA).

DATES: Comments are invited and must be received on or before October 15, 1997.

ADDRESSES: Questions or comments regarding the proposed revised HMS procedures may be mailed or faxed to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 (fax: 301–713–1917). Copies of this notice are also available at this address.

FOR FURTHER INFORMATION CONTACT: Liz Lauck or Jill Stevenson, Highly Migratory Species Management Division, Office of Sustainable Fisheries, NMFS, Telephone: (301) 713–2347.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On November 28, 1990, the President signed into law the Fishery Conservation Amendments of 1990 (Pub. L. 101–627), which amended the Magnuson-Stevens Act. Pub. L. 101–627 gave the Secretary of Commerce (Secretary) the authority to manage tuna, as of January 1, 1992, in the exclusive economic zone (EEZ) in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea under authority of the Magnuson-Stevens Act (16 U.S.C. 1811). Pub. L. 101–627 also transferred from the Councils to the Secretary, effective November 28, 1990, the management authority for the other highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea (16 U.S.C. 1854(f)(3)). In 1996, the Magnuson-Stevens Act was further amended to require APs of balanced representation to be created to assist in the development of FMPs and FMP amendments for Atlantic HMS.

Under the proposed revised procedures, the DOS, USCG, FMCs, IAC, and ICCAT Commissioners (Consulting Parties) would be consulted during the development of FMPs. They would be sent draft FMP documents, including the draft FMP or amendment, proposed rule, and draft EIS. The IAC and FMCs would participate in the HMS APs and, as such, would be consulted during several phases of the HMS process.

B. Purpose and Scope

The Magnuson-Stevens Act, at 16 U.S.C. 1854(f)(3), requires that the Secretary undertake the following three major categories of actions regarding the conservation and management of HMS:

1. Identification of research and information priorities, including observer requirements and necessary data collection and analysis;

2. Preparation and amendment of FMPs; and

3. Diligent pursuit, through international management entities (such as ICCAT), of international fishery management measures.

This document proposes the process that NMFS would follow in undertaking the second category of actions—preparing, issuing, and implementing through final regulations HMS FMPs and amendments. NMFS emphasizes that this process is not intended to address the other two categories of actions except in general terms where they affect the development and implementation of fishery management measures for HMS. The process proposed herein is designed to address the statutory planning and rulemaking requirements of both the Magnuson-Stevens Act and the ATCA regarding management of Atlantic HMS. The process for preparing and amending FMPs for HMS described in this document incorporates ATCA requirements so that they are met whenever the United States acts to implement ICCAT recommendations through the FMP and its implementing regulations.

C. Highly Migratory Species

The Magnuson-Stevens Act, at 16 U.S.C. 1802(14), defines the term ''highly migratory species'' as tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*). Further, the Magnuson-Stevens Act, at 16 U.S.C. 1802(27), defines the term ''tuna species'' as albacore tuna (*Thunnus alalunga*), bigeye tuna (*Thunnus obesus*), bluefin tuna (*Thunnus thynnus*), skipjack tuna (*Katsuwonus pelamis*), and yellowfin tuna (*Thunnus albacares*).

D. Preparation and Amendment of FMPs

As delegated by the Secretary, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) would issue FMPs or FMP amendments for HMS in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. The Magnuson-Stevens Act directs the Secretary to undertake the following actions in preparing and amending FMPs for HMS:

1. Conduct public hearings at appropriate times and places;

2. Establish an AP balanced in its composition to fairly represent the commercial fishing involved for each FMP to be prepared or amended;

3. Consult with and consider the comments and views of affected Councils, the ICCAT Commissioners, the IAC, and the AP;

4. Evaluate the probable effects of conservation and management measures on affected fishery participants, and minimize, to the extent practicable, any disadvantage to U.S. fishermen in relation to foreign competitors; and

5. Review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for HMS has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures contained in the FMP.

6. Pursue comparable international fishery management measures with respect to HMS.

The relationship between the Magnuson-Stevens Act and ATCA is not clearly addressed in either law. This document proposes a planning and rulemaking process for managing HMS species that NMFS believes to be consistent with both the Magnuson-

Stevens Act and ATCA. Whenever practicable, NMFS will issue one regulation under the authority of both statutes. NMFS does not intend that this process, primarily administrative in character, will resolve conflicts and ambiguities between the Magnuson-Stevens Act and ATCA.

II. Process for the Management of HMS

This document proposes the establishment of a general process for the preparation and implementation of: (1) FMPs; (2) FMP amendments; and (3) international management measures for HMS as required by the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and the ATCA, 16 U.S.C. 971 *et seq.* This process would be followed by NMFS in order to fulfill the Secretary's responsibilities for managing HMS under these statutes.

Under the provisions of the Magnuson-Stevens Act and ATCA, several possible regulatory scenarios exist for HMS management, including: (1) An FMP that includes no international fishery management measures (e.g., those species for which ICCAT has made no recommendations to date, such as oceanic sharks); (2) an FMP that includes international fishery management measures authorized by and consistent with both Magnuson-Stevens Act and ATCA requirements; and (3) international fishery management measures, based upon ICCAT recommendations, implemented under ATCA but not yet included within an FMP (e.g., Atlantic tuna regulations promulgated under ATCA before preparation of and inclusion in an FMP). The proposed HMS management process addresses primarily the first two of these alternatives. The process for promulgating Atlantic tuna regulations under ATCA does not require as many steps or as much time as is required for preparation of an FMP or FMP amendment under the Magnuson-Stevens Act; however, it is NMFS'' intent to prepare an FMP (or FMPs) for Atlantic tunas. The rulemaking process for implementation of ICCAT recommendations that would be implemented by regulations in the absence of an FMP is discussed in this notice in abbreviated form. This particular rulemaking process would be used to implement ICCAT recommendations for an interim period until FMPs are prepared for all HMS designated by the Magnuson-Stevens Act, or until any existing HMS FMPs are amended to incorporate ICCAT recommendations.

HMS Management Process—Outline

1. Phase 1—Planning and Scoping
   a. Publish Notice-of-intent to prepare FMP or FMP amendment and (Environmental Impact Statement(EIS)/Environmental Assessment (EA)
   b. Draft issues/options statement
   c. Hold AP meeting
   d. Hold scoping meetings with the public
2. Phase 2—Preparation and Review of Draft Documents
   a. Prepare draft FMP amendment, EIS, proposed rule
   b. International management recommendations
   c. Solicit comments from Consulting Parties
   d. Hold AP meeting
3. Phase 3—Preparation of Proposed FMP or Amendment and Proposed Regulations and Public Review
   a. Notice of availability to the public and proposed regulations published
   b. Public hearings
   c. Hold AP meeting to consider comments
4. Phase 4—Preparation of Final Documents and Final Regulations Prepare final rule, FMP amendment, and Final EIS (FEIS)
5. Phase 5—Approval and Implementation
   a. Publish final rule
   b. Distribute FEIS and FMP amendment
6. Phase 6—Continuing and Contingency Fishery Management
   a. Hold AP meetings as needed
   b. Framework management measures or FMP amendments
   c. Take emergency actions, if necessary, for contingency fishery management

Information Distribution/ Recordkeeping/Comments

The NMFS Office of Sustainable Fisheries would notify fishery interests and FMCs of forthcoming management actions regarding HMS. A ''facsimile transmission list'' of affected FMCs, ICCAT Commissioners and Advisory Committee members, AP members, Federal and state agencies, various fishery interests, and requesting members of the public presently is maintained by that Office to send advance notices of forthcoming actions (to add your name to the ''FAX NETWORK'', call 301–713–2347). The list would be maintained under the proposed procedures. Also, notices of forthcoming hearings, meetings, public review and comment periods, and regulatory actions would be mailed to all who request this service. Copies of important draft, revised, and final documents (e.g., FMPs and amendments) would be mailed to those requesting such documents. Up-to-date quota monitoring and fishery regulation information is presently and would continue to be available on a telephone information hotline (301–713–1279, 508–281–9305). This information as it relates to tunas can presently be accessed and would continue to be accessible through the Atlantic tunas automated telephone permitting system (1–888-USA-TUNA) and on the Internet (http://www.usatuna.com).

Comments received by NMFS during all phases of the HMS process would be considered to determine the need for initiation of rulemaking or changes in the FMP, FMP amendment, or supporting documents. NMFS would maintain a record of all public meetings during all phases of FMP or FMP amendment development. The record would summarize the discussions between NMFS representatives and constituents (including the AP) and would be included in NMFS' administrative record supporting the development and implementation of the subject FMP or amendment.

Consistent with the Administrative Procedure Act (APA), 5 U.S.C. 553, public comments received on proposed regulations (Phase 3) would be summarized and addressed in the preamble to the final regulations (Phase 5) to implement the FMP or amendment. New public comments regarding the draft final (supplemental) environmental impact statement (F(S)EIS) (i.e., comments regarding new or different issues not previously expressed during the Phase 3 public comment period on the draft (supplemental) environmental impact statement (D(S)EIS) would be summarized and addressed in the F(S)EIS (Phase 4) and filed for in the final public review under the National Environmental Policy Act (NEPA) (Phase 5). Council on Environmental Quality (CEQ) regulations require that an agency preparing a FEIS or final supplemental EIS (FSEIS) must: Assess and consider public comments, both individually and collectively, received on the D(S)EIS; respond to such comments by one of several means; and provide a summary of the comments and responses in the F(S)EIS. In this case, these comments would include those received on the D(S)EIS in Phase 2 and on the draft F(S)EIS in Phase 4.

1. Phase 1—Planning and Scoping

The objectives of Phase 1 would be to: (1) Determine the nature and scope of the resource and management issues for

the subject fishery that need to be addressed and identify alternative management approaches for their resolution; (2) provide the AP and the general public an opportunity to communicate views and concerns early in the rulemaking process; (3) develop a clear and concise written summary, for the species under consideration, of the major fishery management issues and options for addressing them (this document is referred to as the ''issues/options statement''); and (4) fulfill the ''scoping'' action requirements for environmental analyses prepared under NEPA (refer to section 1501.7 of 40 CFR parts 1500–1508, the CEQ regulations for implementing NEPA, and to NOAA Administrative Order 216–6, NOAA's guidance for compliance with NEPA).

a. *Notice-of-intent to prepare FMP or FMP Amendment and EIS.* NMFS would publish in the **Federal Register** a notice-of-intent (notice) regarding FMPs and amendments. The notice would serve to notify the public of any scheduled public scoping meetings and would contain: (1) A statement of NMFS' intent to prepare and implement an FMP or amendment, promulgate new or amend existing regulations, and prepare, if applicable, an EIS or supplemental EIS (SEIS); (2) appropriate information concerning the availability of any relevant issues/options statement (see section b below); (3) a preliminary schedule of events; (4) date(s), time(s) and place(s) of the scheduled scoping meeting(s); and (5) a statement of whether or not the FMP or amendment would include any measures intended to implement fishery management recommendations of ICCAT (or any other international fishery management body). If necessary, the above information may be divided and published by more than one notice.

If NMFS is preparing an EIS or SEIS in support of the FMP or amendment, NMFS would include within the notice-of-intent, to be published before beginning the scoping process, those items required under the CEQ regulations (40 CFR parts 1500–1508). These items include the following: (1) A description of the proposed action and possible alternatives; (2) the agency's proposed scoping process, including scoping meeting information, if applicable; and (3) the name and address of an agency contact who can answer questions regarding the proposed action and the (S)EIS.

b. *Draft Issues/options statement.* NMFS would prepare a succinct draft statement of fishery issues, various options for addressing them, and potential management objectives; the ''issues/options statement.'' If ICCAT has recommended management measures for the fishery under consideration, the draft issues/options statement would outline the Secretary's preliminary recommendations as to the appropriate U.S. actions to implement any ICCAT recommendations. The draft issues/options statement would be available to the public upon request, would be summarized in the notice, if appropriate, would be distributed to members of the relevant APs, and would be made available at any public scoping meetings.

c. *AP meeting.* NMFS would consult during Phase 1 with the relevant AP and other affected Federal agencies (e.g., U.S.G.C. or the U.S. Customs Service). Consultation with the AP would take place in an AP meeting, called by NMFS and open to the public. This meeting would focus on concepts, issues, and management options. Documents would be provided to the AP in a timely manner and would generally include the draft issues/options statement. After reviewing comments from the AP, NMFS would revise documents as necessary prior to their preparation for public review and comment. The views and comments of the AP would be part of the permanent official administrative record supporting the development and implementation of the subject HMS FMP or FMP amendment.

d. *Scoping meetings.* At least one scoping meeting would be held during Phase 1. The objectives of the scoping meeting(s) would be to: (1) Allow NMFS representatives to meet directly with the fishery interests; (2) review the draft issues/option statement in a public forum so that each fishery interest is aware of NMFS' views, as well as those of other interests; (3) provide all fishery interests an equal and early opportunity to present their views; and (4) encourage discussion of any mutual concerns relevant to the management of the fishery.

Scoping meetings would be initiated by NMFS, would be open to the public, and would be announced and scheduled at times and places considered convenient for fishery interests. The date, location, and time of each scoping meeting would be announced to the public by timely **Federal Register** notice and directly by NMFS over its FAX NETWORK.

2. Phase 2—Preparation of Draft Documents; Initial Review by Consulting Parties

Draft FMPs or amendments would contain all provisions required by 16 U.S.C. 1853 and 1854 and would comply with all other Magnuson-Stevens Act requirements.

The following objectives of Phase 2 have been identified: (1) To review and consider comments submitted by the AP and the public at the scoping meetings, and to prepare and distribute a revised issues/options statement; and (2) to prepare all draft documents required for regulatory actions to implement or amend an HMS FMP under the Magnuson-Stevens Act and other applicable law;

a. *Prepare draft documents.* The draft documents that would be prepared in Phase 2 could include the following and would be circulated to all Consulting Parties. An AP meeting would be held during this phase to assess comments from the Consulting Parties and recommend revisions of the following draft documents:

1. Draft FMP or FMP amendment: The draft FMP or FMP amendment and supporting analyses would examine fully all appropriate fishery issues, propose alternative management measures to address the identified fishery issues or problems, assess the environmental, economic, and social impacts of each alternative measure, and could identify the preferred measures. Finally, the FMP or amendment would identify research and information priorities, including observer requirements and necessary data collection and analysis, for managing the fishery of concern.

2. Draft proposed regulations: Only draft proposed regulations would be prepared in Phase 2 as opposed to formal proposed regulations consisting of both preamble and regulatory text, which would be prepared and published in Phase 3.

3. Draft NEPA documents (EA, Draft EIS (DEIS), or DSEIS; Draft Regulatory Impact Review (DRIR); and Initial Regulatory Flexibility Analysis (IRFA) if applicable;

4. Draft statement assessing nature and effectiveness of management measures for implementing the ICCAT recommendations;

5. Draft SF–83I and supporting statement for approval of information-collection requirements under the Paperwork Reduction Act.

6. Draft section 7 consultation under the Endangered Species Act;

7. Initial consistency determination under the Coastal Zone Management Act; and

8. Other documents as may be required.

3. Phase 3—Preparation of Revised Documents and Proposed Regulations; Public Review and Comment Period of the Proposed FMP/Amendment and Proposed Rule

The following objectives have been identified for Phase 3: (1) Consider and evaluate all comments received during the public review and comment periods of Phase 2; (2) make necessary changes in preparing ''revised'' documents; (3) prepare proposed regulations for implementing the FMP or amendment that accurately reflect the contents of the revised FMP or amendment and other revised documents and that meet all regulatory requirements necessary for publication in the **Federal Register**; (4) provide a formal period for public review and comment on the FMP or amendment and the proposed implementing regulations, as published in the **Federal Register**; and (5) hold an AP meeting to discuss previously submitted public comments.

Notice of availability to the public and proposed regulations published. NMFS would publish in the **Federal Register** for public review and comment: (1) The notice of availability of the revised FMP or amendment and other revised supporting documents for public review and comment; (2) proposed regulations to implement the FMP or amendment; and (3) notice of any scheduled public hearings, if additional hearings are held.

The Phase 3 period for public comment for the FMP or amendment, proposed regulations, and revised supporting documents would be 60 days. The comment period on proposed regulations that are minor revisions to existing regulations could be less than 60 days. If significant changes are made in the revised FMP or amendment over the draft documents, or if significant new issues are addressed, additional public hearings could be held.

AP meetings. The relevant AP would meet just prior to the close of the public comment period. The purpose of this meeting would be to consider comments received during the comment period and to make recommendations to NMFS in preparation for final rulemaking.

A notice of scheduled public hearings would be published in advance in the **Federal Register**. Public hearings would be held on the draft FMP or FMP amendment, draft supporting documents, draft NEPA documents (D(S)EIS or EA), and proposed regulations. Hearings would be conducted at appropriate times and in appropriate locations in the geographical areas concerned so as to allow all interested persons to be heard. A NMFS official would preside over these hearings and receive the public testimony that would be recorded and become part of the administrative record.

Comment periods for each document are summarized in the following table:

Draft FMP/Amend	60–90 days.
EA	45–60 days.
D(S)EIS	45–60 days.
Proposed Regulations	60 days, unless minor revisions.

As a matter of standard agency practice, NMFS would not respond to or address public comments received during Phase 2 on an individual basis unless such comments are on the D(S)EIS, in which case the F(S)EIS will respond to any comments. All comments received in Phase 2 would be considered carefully and evaluated by NMFS during Phase 3 in preparing the revised FMP or FMP amendment, revised supporting documents, the draft F(S)EIS, and proposed implementing regulations.

The review period for a D(S)EIS would be initiated by a formal filing of the D(S)EIS with the U.S. Environmental Protection Agency (EPA), which would also publish a **Federal Register** notice of the availability of the D(S)EIS for public review and comment.

NMFS would prepare these revised documents based upon review and evaluation of comments from Consulting Parties and the AP received during Phase 2. The revised documents would contain NMFS' preferred proposed management measures and the requisite analyses of expected biological, economic, and social impacts. Revised documents would be subject to all appropriate agency and Federal standards for approval and implementation of final FMPs and FMP amendments.

4. Phase 4—Preparation of Final Documents and Final Regulations

The objectives of Phase 4 would be to: (1) Consider and evaluate all comments received during Phase 3, including those of the AP; (2) determine what final changes are necessary in all final documents; (3) prepare the final documents; and (4) complete all final agency requirements of documentation and regulatory procedure supporting the Phase 5 actions.

If a D(S)EIS was prepared and subjected to public review and comment in Phase 3, a draft F(S)EIS would be prepared in Phase 4. This draft F(S)EIS should meet all legal requirements for an F(S)EIS even though it would not be filed with EPA and subjected to the final NEPA review (cooling-off period) until Phase 5.

Documents To Be Prepared and Document Contents.

(1) The final FMP or amendment, all final supporting documents;

(2) The final F(S)EIS or EA; and

(3) The final implementing regulations in appropriate form for approval, issuance, and implementation. The documents to be prepared in final form during Phase 4 would include all those listed as revised (or draft in the case of the F(S)EIS) under Phase 3.

Based on the public comments received during Phase 3, NMFS could make changes in the FMP or FMP amendment management measures and corresponding analyses of environmental, economic, and social impacts. NMFS would not communicate with fishery interests or members of the public on the rulemaking during Phase 4, except to provide FMP or amendment status information. Furthermore, NMFS would not make public its decisions regarding the contents of a final FMP or FMP amendment, final supporting documents, and final implementing regulations until the Assistant Administrator has approved and issued the FMP or amendment publicly (see Phase 5) and filed the implementing final regulations with the Office of the **Federal Register**.

NMFS may hold consultations in Phase 4 under special circumstances, particularly if ICCAT recommendations are to be implemented through the FMP or amendment and the public comments received during Phase 3 have raised new, significant or problematic issues.

5. Phase 5—Approval and Implementation

The following objectives have been identified for Phase 5: (1) File the F(S)EIS with EPA and complete the final NEPA public review period prior to final agency action to approve and implement the FMP or amendment; (2) approve and issue the final FMP or amendment; and (3) implement the FMP by final regulations.

Approval procedures and timing. Any F(S)EIS prepared for a final FMP or amendment would be filed with EPA prior to the Assistant Administrator's final approval and issuance of such FMP or amendment. As required by the CEQ regulations implementing NEPA, no final agency decision (here the issuance of an FMP, amendment, or a final rule where no FMP is involved) would be made until the later of either 90 days after publication of the notice of availability of the D(S)EIS or 30 days

after publication of the notice of availability of the F(S)EIS.

Approval of the final FMP or amendment and implementing final regulations by the Assistant Administrator, as well as clearance of the final regulations by the Department of Commerce and the Office of Management and Budget for promulgation and publication in the **Federal Register**, would follow standard NOAA and Departmental procedures. The Magnuson-Stevens Act requires that the final regulations must be promulgated within 30 days of the end of the comment period on the proposed regulations.

6. Phase 6—Continuing and Contingency Fishery Management

Once an FMP for a HMS has been approved and implemented by final regulations, there would be a continuing need for monitoring the fishery and the effectiveness of the FMP and undertaking necessary FMP adjustments. Such adjustments would respond to changing fishery or resource conditions and, for certain fisheries, respond to international management actions and recommendations. These actions collectively comprise the ''continuing fishery management phase.'' The AP would be convened whenever necessary to address continuing fishery management issues and to consider necessary actions.

It is anticipated that many of these FMP changes would be made through framework regulatory adjustment measures incorporated in each FMP; accordingly, it should not be necessary to repeat the full FMP amendment process outlined in this notice each time a change in the regulations is required. As examples, annual changes in quotas based upon the latest stock assessment or the latest ICCAT recommendations and in-season regulatory adjustments could be made through framework measures (see discussion below).

Management adjustments would be based upon the latest and best available scientific information concerning the stock and fishery. Under 50 CFR 600.315, NMFS has the responsibility to assure that an annual Stock Assessment and Fishery Evaluation (SAFE) report is prepared, reviewed annually, and changed as necessary for each FMP. The SAFE report would summarize the most recent biological conditions of the managed species, as well as the social and economic conditions of the recreational and commercial fishing sectors and fish processing industries. The SAFE report would also provide a basis for determining annual harvest levels, documenting significant trends or changes in the resource and fishery over time, assessing the effectiveness of the management program, identifying required management adjustments, and identifying fishery data needs.

(a) *Framework management measures*. To the extent possible, NMFS/NOAA intends to include within each HMS FMP framework regulatory adjustment procedures that facilitate making annual and in-season changes in management measure under conditions requiring ''real time'' regulatory responses to fishery circumstances. If ICCAT recommends new fishery management measures or changes in existing measures for a fishery managed under an implemented FMP, NMFS would consider such recommendations and, if consistent with the requirements of both the Magnuson-Stevens Act and ATCA, incorporate them in the FMP and implementing regulations. It is anticipated that the regulatory framework mechanism in each FMP would provide the authority for most such periodic changes in management measures. The framework procedures would allow adjustments to the management measures within the scope and criteria established by the FMP and in a more expeditious manner than through the full FMP amendment process. Framework measures would be particularly useful where annual ICCAT recommendations for a fishery must be implemented within a short time period.

It is anticipated that an FMP with framework measures may initially take longer to prepare since it must: (1) Anticipate and describe situations expected to occur; (2) establish criteria, procedures, and limits for regulatory actions; (3) allow for public comment on the range of potential actions, if identifiable, and on the degree of regulatory discretion held by the Secretary; and (4) provide documentation to support the framework under other applicable law. It is noted that framework measures alone do not satisfy statutory requirements of the Magnuson-Stevens Act, other applicable law, and Executive Orders. These requirements include full analyses of expected environmental effects of regulatory actions under framework provisions, and the opportunity for public review and comment.

(b) *Emergency actions*. Pursuant to 16 U.S.C. 1855(c), the Secretary may promulgate emergency or interim regulations to address an emergency existing in any fishery without regard to whether an FMP exists for the fishery. The Secretary also may promulgate interim measures to reduce overfishing for any fishery. Emergency or interim regulations that change any existing FMP or amendment shall be treated as an amendment to such FMP or FMP amendment for the duration of the emergency period. The Secretary may implement emergency or interim regulations for HMS for up to 180 consecutive days from the date of publication of the emergency rule in the **Federal Register** and for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulations or interim measures. Prior to promulgating emergency or interim regulations for the HMS with which ICCAT is concerned, the Secretary would consult with the appropriate entities.

D. Regulations Implementing ICCAT Recommendations Without an FMP

The ATCA authorizes the Secretary to promulgate regulations as may be necessary and appropriate to carry out ICCAT recommendations under 16 U.S.C. 971d(c) upon favorable action by the Secretary of State under 16 U.S.C. 971c(a). Section 971d(c) requires the Secretary to: (1) Publish a general notice of proposed rulemaking in the **Federal Register**, and (2) afford interested persons an opportunity to participate in the rulemaking process through submission of written data, views, or arguments and through one or more public hearings.

In the event that the Secretary must implement ICCAT recommendations when no FMP has been prepared or would not be prepared in sufficient time NMFS would inform the Secretary of State regarding the actions considered appropriate for the United States with regard to ICCAT recommendations within 5 months of ICCAT's notifying the United States of its recommendations. NMFS would publish a proposed rule in the **Federal Register** to implement ICCAT recommendations and would provide a public review and comment period, including one or more public hearings. The proposed regulations would contain a statement of the considerations involved in issuing the regulations, a statement assessing the nature and effectiveness of the measures for implementing the recommendations of ICCAT that are being or will be carried out by other countries whose vessels fish for the subject species in the ATCA.

NMFS would consider the public comments before publishing final regulations in the **Federal Register** and would summarize and respond to these comments in the preamble of the final rule. The final regulations generally

would become effective 30 days after the date of filing for public inspection with the Office of the **Federal Register**, and will be applicable to all vessels and individuals subject to U.S. jurisdiction on the date prescribed by NMFS.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

Because this is a document concerning agency procedure or practice, under 5 U.S.C. 553(b)(B) prior notice and opportunity for public comment is not required to be given. Nevertheless, because NMFS wishes to establish revised procedures with the benefit of the public's comment, NMFS is voluntarily giving prior notice and an opportunity for public comment.

Because prior notice and opportunity for public comment is not required by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., are inapplicable.

These proposed guidelines contain no new collection of information requirements.

Dated: September 12, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–24809 Filed 9–15–97; 4:37 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082897D]

Endangered Species; Permits

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

ACTION: Issuance of permits 1038, 1040, 1046, 1047, 1049, and 1050 (P628, P631, P639, P640, P642, and P644).

SUMMARY: Notice is hereby given that NMFS has issued permits to Trihey and Associates in Concord, CA; the State of California, Jackson Demonstration State Forest in Fort Bragg, CA (JDSF); the U.S. National Park Service (Point Reyes National Seashore and Golden Gate National Recreation Area) in Fort Mason and San Francisco, CA (NPS); the Marin Municipal Water District in Corte Madera, CA (MMWD); the Bodega Marine Laboratory in Bodega Bay, CA (BML); and ENTRIX Incorporated in Walnut Creek, CA that authorize takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

SUPPLEMENTARY INFORMATION: The permits were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on March 25, 1997 (62 FR 14115) that an application had been filed by Trihey and Associates (P628) for a scientific research permit. Permit 1038 was issued to Trihey and Associates on July 29, 1997. Permit 1038 expires on June 30, 2002.

Notice was published on April 18, 1997 (62 FR 19104) that an application had been filed by JDSF (P631) for a scientific research permit. Permit 1040 was issued to JDSF on July 29, 1997. Permit 1040 expires on June 30, 2002.

Notice was published on April 8, 1997 (62 FR 16789) that an application had been filed by NPS (P639) for a scientific research permit. Permit 1046 was issued to NPS on August 1, 1997. Permit 1046 expires on June 30, 2002.

Notice was published on April 8, 1997 (62 FR 16789) that an application had been filed by MMWD (P640) for a scientific research permit. Permit 1047 was issued to MMWD on August 12, 1997. Permit 1047 expires on June 30, 2002.

Notice was published on March 26, 1997 (62 FR 14403) that an application had been filed by BML (P642) for a scientific research permit. Permit 1049 was issued to BML on August 18, 1997. Permit 1049 expires on June 30, 2002.

Notice was published on April 18, 1997 (62 FR 19104) that an application had been filed by ENTRIX Incorporated (P644) for a scientific research permit. Permit 1050 was issued to ENTRIX Incorporated on August 12, 1997. Permit 1050 expires on June 30, 2002.

Issuance of the permits, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: September 5, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24811 Filed 9–17–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090897D]

Endangered Species; Permits

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

ACTION: Receipt of two applications for scientific research permits (P629, 1066).

SUMMARY: Notice is hereby given that the Salmon Trollers Marketing Association in Fort Bragg, CA (STMA) and Donald W. Alley and Associates in Brookdale, CA (DWAA) have applied in due form for permits that would authorize takes of a threatened species for scientific research.

DATES: Written comments or requests for a public hearing on either of these applications must be received on or before October 20, 1997.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707 575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

SUPPLEMENTARY INFORMATION: STMA and DWAA request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

STMA (P629) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population studies

in drainages within Mendocino County. The studies consist of juvenile coho salmon distribution and abundance surveys, spawner surveys, and a fish relocation experiment. The purpose of the juvenile fish relocation experiment, to be undertaken in the Ten Mile River, is to accelerate the rehabilitation of currently unpopulated areas upstream in an effort to aid the ESA-listed species recovery. ESA-listed juvenile fish are proposed to be captured (by trap or electrofishing), anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. A portion of the ESA-listed fish to be handled are proposed to be relocated from Ten Mile River sites to upstream areas. ESA-listed adult fish carcasses are proposed to be collected, handled (measured and sampled for tissues and/or scales), and returned to the water at the collection site. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

DWAA (1066) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population studies in drainages within Santa Cruz County. The studies consist of four assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence, 2) population estimates, 3) spawner surveys, and 4) the acquisition of tissue/scale samples for genetic studies. ESA-listed juvenile fish are proposed to be observed or captured, anesthetized, handled (weighed, measured, and fin-clipped), allowed to recover from the anesthetic, and released. ESA-listed adult fish carcasses are proposed to be collected, handled (measured and sampled for tissues and/or scales), and returned to the water at the collection site. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

Those individuals requesting a hearing on either of these requests for a permit should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: September 10, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24817 Filed 9–17–97; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, September 25, 1997, 2:00 p.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

COMPLIANCE STATUS REPORT: The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: September 15, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–25014 Filed 9–16–97; 2:58 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235A]

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of Program: To provide financial assistance to projects for expanding or otherwise improving vocational rehabilitation and other rehabilitation services for individuals with disabilities, especially individuals with the most severe disabilities, and for applying new types or patterns of services or devices for individuals with disabilities (including programs for providing individuals with disabilities, or other individuals in programs servicing individuals with disabilities, with opportunities for new careers and career advancement).

Eligible Applicants: State agencies; other public agencies and organizations, including Indian tribes; and nonprofit, private agencies and organizations.

Deadline for Transmittal of Applications: December 18, 1997.

Deadline for Intergovernmental Review: February 18, 1998.

Applications Available: September 29, 1997.

Available Funds: $6,600,000.

Estimated Range of Awards: $220,000–$245,000.

Estimated Average Size of Awards: $230,000.

Estimated Number of Awards: 28–30.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $245,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85; and (b) The regulations for this program in 34 CFR part 369.

Priorities

Competitive Preference Priority

The competitive preference priority concerning Empowerment Zones and Enterprise Communities in the notice of final priorities for this program, published in the **Federal Register** on December 9, 1994 (59 FR 63860), applies to this competition.

Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications based on the extent to which they meet the following competitive priority. The Secretary awards 10 bonus points to an application depending on the extent to which the application meets this competitive priority. These bonus points are in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority—Providing Program Services in an Empowerment Zone or Enterprise Community

Under this program the Secretary gives competitive preference to applications that—

(1) Propose the provision of substantial services in Empowerment Zones or Enterprise Communities; and

(2) Propose projects that contribute to the strategic plan of the Empowerment Zone or Enterprise Community and that are made an integral component of the Empowerment Zone or Enterprise Community activities.

Under this program a project is considered to be providing substantial services if a minimum of 51 percent of the persons served by the project reside within the Empowerment Zone or Enterprise Community.

Invitational Priorities

Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Projects To Enhance Employment Outcomes for Individuals on Public Assistance

Projects that provide rehabilitation services to individuals with disabilities who are receiving public assistance to enhance employment outcomes that are consistent with the individual's unique strengths, capacities, abilities, interests, priorities, and resources.

Invitational Priority 2—Projects To Increase Client Choice

Projects that address and emphasize effective ways to increase client choice in the vocational rehabilitation process to enhance employment outcomes that are consistent with the individual's unique strengths, capacities, abilities, interests, priorities, and resources.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in § 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3317, Switzer Building, Washington, D.C. 20202–2550. Telephone: (202) 205–8351. 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. The preferred method for requesting applications is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Information Contact: Susan Oswald or Alfreda Reeves, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3314, Switzer Building, Washington, D.C. 20202–2650. Telephone: (202) 260–9870 or (202) 205–9361.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Note: The official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg/htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 777a(a)(1).
Dated: September 12, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–24777 Filed 9–17–97; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Removal Action at the St. Louis Airport Site (SLAPS), St. Louis, Missouri

AGENCY: Department of Energy (DOE), Oak Ridge Operations.

SUBJECT: Floodplain Statement of Findings.

SUMMARY: This is a Floodplain Statement of Findings prepared in accordance with 10 CFR part 1022. DOE proposes to remediate soil with elevated levels of uranium-238, radium-226, and thorium-230 from areas in/near the Coldwater Creek 100-year floodplain at SLAPS. DOE prepared a Floodplain and Wetlands Assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. The proposed action would not result in the destruction of any floodplain or wetland and would be consistent with Executive Orders 11988 and 11990, and the President's policy of ''no net loss'' of wetlands in the United States. There is no practicable alternative to the proposed action, which would conform to applicable state and local floodplain protection standards. DOE would endeavor to allow 15 days of public review after publication of the statement of findings before implementation of the proposed action.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION OR TO COMMENT ON THE ACTION, CONTACT: Mr. Steve McCracken, St. Louis Site Manager, U.S. Department of Energy, 9170 Latty Avenue, Berkeley, MO 63134, Phone: (314) 524–4083, FAX: (314) 524–6044.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN AND WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a Floodplain Statement of Findings prepared in accordance with 10 CFR part 1022. A Notice of Floodplain and Wetland Involvement was published in the **Federal Register** on August 27, 1997 (62 FR 45403), and a Floodplain and Wetlands Assessment was incorporated in the engineering evaluation and cost analysis (EE/CA) prepared for SLAPS. Removal actions may include: (1) No action, or (2) removal of radioactively contaminated soil at SLAPS between McDonnell Boulevard and Banshee Road, behind the gabion wall which extends along that portion of Coldwater Creek; the ditch along the south side of McDonnell Boulevard; and, the ditch on the north side of McDonnell Boulevard, or (3) removal of radioactively contaminated soil at SLAPS between McDonnell Boulevard and Banshee Road, behind the gabion wall which extends along that portion of Coldwater Creek and the ditch along the south side of McDonnell Boulevard. The contaminated soil contains elevated levels of uranium-238, radium-226, and

thorium-230. Based on stakeholder participation, Alternative 3 was identified as the preferred alternative. This excavation (Alternative 3) would extend approximately 70 feet to the east and approximately one foot below original grade (approximately 8–10 feet below the existing land surface). The excavated area would be backfilled with clean soil and a berm would be constructed on the eastern edge of the excavation to minimize runoff into the excavated area. Sediments in the ditch between the SLAPS fence and McDonnell Boulevard would be removed from the confluence with the creek to 70 feet east of the confluence in order to provide a clean buffer zone between SLAPS runoff and the creek. Drainage on the northern end of SLAPS (south of McDonnell Boulevard) would be rerouted through an engineered channel to prevent mobilizing sediment in the ditches during storm events prior to discharge into Coldwater Creek. DOE would temporarily store excavated material near the southeast corner of SLAPS prior to transport to an off-site, licensed waste disposal facility. There is no practicable alternative to the proposed action. The proposed action would conform to applicable state and local floodplain protection standards.

The following steps would be taken to minimize potential harm to or within the affected floodplain:

1. The design and performance of excavation activities would incorporate standard best management practices in accordance with U.S. Department of Agriculture Natural Resource Conservation Service (formerly the Soil Conservation Service) methods, or the equivalent, to control erosion and siltation from excavations.

2. Remediation operations would confine the areas of sediment and soil disturbance to the minimum necessary for successful completion of the project.

3. Care would be exercised to provide minimum practicable exposure of sediment and soil to erosion.

4. All erosion and sediment barriers would remain in place until the excavation is successfully stabilized by applicable measures.

5. Disturbed sediment and soil in or adjacent to the floodplain and waterways would be stabilized or otherwise protected to prevent off-site migration, as conditions warrant.

6. Remediation would not obstruct Coldwater Creek and the creek would retain its original capacity for storing floodwaters. The proposed action would not impede flow or increase flooding along Coldwater Creek.

7. Areas excavated in or adjacent to the floodplain not involved with drainage ditch modification would be restored to current grade and the proposed activities would not subject lives or property to any increased risk of flooding.

8. DOE would not use areas within the floodplain for temporary or permanent storage of excavated sediment or soil.

9. The proposed action would conform to applicable state and local floodplain and protection standards.

10. The proposed action would not result in the destruction of any floodplain or wetland and would be consistent with the President's policy of ''no net loss'' of wetlands in the United States and Executive Orders 11988 and 11990.

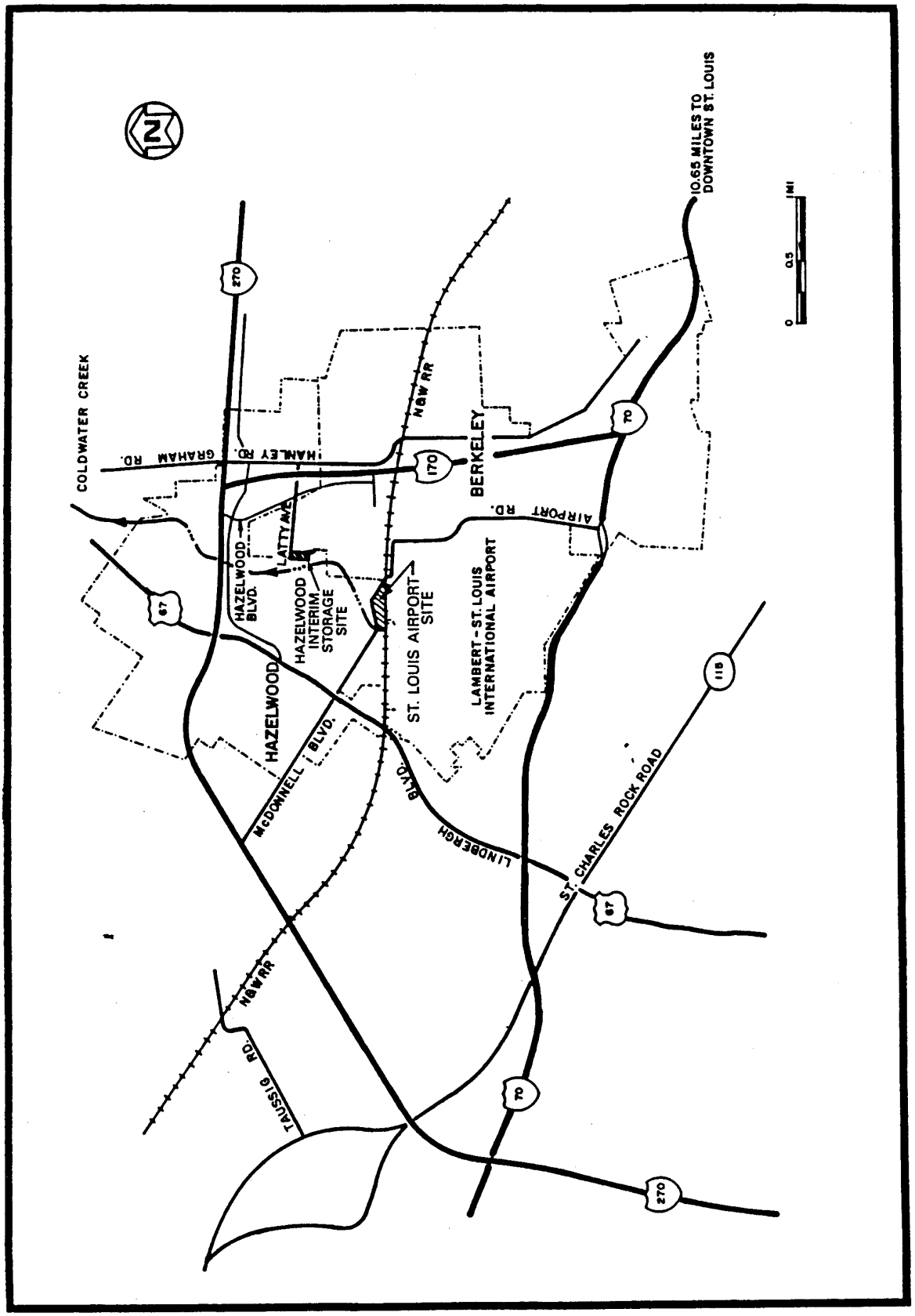
DOE will endeavor to allow 15 days of public review after publication of the statement of findings before implementation of the proposed action.

Issued in Oak Ridge, Tenn. on September 9, 1997.

James L. Elmore,

Alternate NEPA Compliance Officer.

BILLING CODE 6450–01–P



LOCATION OF THE SLAPS

[FR Doc. 97–24846 Filed 9–17–97; 8:45 am]

BILLING CODE 6450–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–88–001]

Black Marlin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 12, 1997.

Take notice that on September 9, 1997, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective October 1, 1997:

Substitute Eighth Revised Sheet No. 4

Black Marlin states that the above-referenced tariff sheet is being filed pursuant to Section 18 of the General Terms and Conditions of Black Marlin's tariff to reflect an increase of the ACA charge to 0.22¢ per MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1997. On August 22, 1997 Black Marlin filed a tariff sheet reflecting an ACA charge of 0.21¢ per MMBtu for Fiscal Year 1997. Subsequently, Black Marlin received notice that the FERC's original ACA billing was in error and that the correct ACA charge is 0.22¢ per MMBtu for Fiscal Year 1997. In the instant filing, Black Marlin is revising its ACA charge to 0.22¢ in compliance with the corrected annual charge.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. 97–24787 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–741–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

September 12, 1997.

Take notice that on September 9, 1997, East Tennessee Natural Gas Company filed in Docket No. CP97–741–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to abandon, by removal, a measurement facility serving the Aluminum Company of America (Alcoa) plant located in Bount County, Tennessee, under blanket certificate issued in Docket No. CP82–412–000,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Applicant requests authorization to abandon the Alcoa West/Meter Station No. 75–9137,[2] including appurtenant facilities and approximately 30 feet of 6-inch interconnecting pipe located at the end of the 6-inch pipe owned by Alcoa. The delivery meter is physically located in the middle of Alcoa's plant yard. The meter station provided gas used for certain processes in the production of aluminum; and, Alcoa has advised Applicant that it has shutdown the Alcoa West Plant permanently, and is in the process of removing the plant.

Applicant states that Alcoa was the only customer served by the facility and has consented to the abandonment.

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. 97–24783 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

[1] *See,* 20 FERC ¶ 62,413 (1982).

[2] Applicant states that it was authorized to construct and operate the meter station by order under Docket No. G–889 (1948). Applicant states that this meter station has been inactive since May 24, 1994.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–729–000]

Eastern Shore Natural Gas Company; Notice of Application

September 12, 1997.

Take notice that on September 8, 1997, pursuant to Section 7(c) and Section 7(b) of the Natural Gas Act (NGA), Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 1769, Dover, Delaware 19903–1769, filed an application for a certificate of public convenience and necessity authorizing: (1) the construction and operation of 2.3 miles of 10-inch pipeline, (2) the abandonment of 2.3 miles of existing 6-inch pipeline, (3) the construction and operation of .2 miles of 16-inch pipeline, and (4) the abandonment of .2 miles of existing 10-inch pipeline, all in connection with a highway realignment project required by the State of Delaware Department of Transportation (DelDot), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Eastern Shore states that the proposed pipeline segments, to be located in New Castle County, Delaware, would replace existing pipeline that must be relocated due to DelDOT highway construction. Eastern Shore notes that the construction of the proposed facilities is planned to be started between Winter 1997 and Spring 1998. Eastern Shore estimates that the incremental additional cost of upsizing the pipeline segment will be $177,668 and estimates the total project cost to be $903,851. Eastern Shore contends that it will finance this amount initially from internally generated funds and short-term notes and that permanent financing will be arranged after construction has been completed. Eastern Shore requests a preliminary determination that the total cost of these facilities be rolled in to its total system costs for rate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1997, file with the Federal Energy Regulatory Commission, 888 First St., N.E., 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 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Regulations, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Eastern Shore to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24782 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–34–001]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 12, 1997.

Take notice that on September 9, 1997, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective October 1, 1997:

Substitute Twenty-Second Revised Sheet No. 8A
Substitute Fourteenth Revised Sheet No. 8A.01
Substitute Fourteenth Revised Sheet No. 8A.02
Substitute Twentieth Revised Sheet No. 8B
Substitute Thirteenth Revised Sheet No. 8B.01

FGT states that the above referenced tariff sheets are being filed pursuant to Section 22 of the General Terms and Conditions (GTC) of FGT's Tariff to reflect an increase of the ACA charge to 0.22¢ per MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1997. On August 22, 1997 FGT filed tariff sheets to reflect an ACA charge of 0.21¢ per MMBtu for Fiscal Year 1997. Subsequently, FGT received notice that the FERC's original ACA billing was in error and that the correct ACA charge is 0.22¢ per MMBtu for fiscal year 1997. In the instant filing, FGT is revising its ACA charge to 0.22¢ in compliance with the corrected annual charge.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24786 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–34–001]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 12, 1997.

Take notice that on September 9, 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:

Substutute Twenty-Third Revised Sheet No. 8A
Substitute Fifteenth Revised Sheet No. 8A.01
Substitute Fifteenth Revised Sheet No. 8A.02
Substitute Twenty-First Revised Sheet No. 8B
Substitute Fourteenth Revised Sheet No. 8B.01

FGT states that on August 25, 1997, in Docket No. TM98–2–34–000 (August 25 Filing), FGT filed tariff sheets pursuant to Section 27 of the General Terms and Conditions of FGT's Tariff to establish a Fuel Reimbursement Charge Percentage of 3.05% and a Unit Fuel Surcharge of (0.19¢) per MMBtu. Prior to the August 25 Filing FGT had filed tariff sheets in Docket No. TM98–1–34–000 to adjust its ACA charge from 0.19¢ to 0.21¢ PER MMBtu for Fiscal Year 1997, and the 0.21¢ ACA charge was reflected in the August 25 Filing. Subsequently, the FERC notified pipelines, including FGT, that the correct ACA charge should be 0.22¢ per MMBtu. In the instant filing, FGT is reflecting the corrected ACA charge of 0.22¢ as shown in Docket No. TM98–2–34–001 being filed concurrently herewith. FGT states the instant filing is being made to reflect the corrected ACA charge.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 in accordance with Section 385.211 of the Commission's rules and regulations. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24788 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–520–000]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 12, 1997.

Take notice that on September 10, 1997, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 323, with an effective date of October 10, 1997.

Granite State states that its filing is in compliance with Order No. 636–C

issued February 27, 1997 in Docket No. RM91–11–006 which established a five (5) maximum contract term among the permissible criteria for evaluating bids for available transportation capacity on interstate pipelines.

Granite State further states that its filing has been served on its firm transportation customers and on the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Granite State's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24785 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP80–556–001]

Great River Gas Company; Notice of Application To Amend Service Area Determination

September 12, 1997.

Take notice that on September 4, 1997, Great River Gas Company (Great River) filed an application to amend the authorization it received in Docket No. CP80–556–000 when it was granted a service area determination. Great River wants to amend its Section 7(f) service area determination by substituting the name of Atmos Energy Corporation (Atmos), in place of Great River, as the holder of the determination.

Great River explains that its Section 7(f) service area determination covers its operations as a public utility engaged in the sale, storage, and distribution of natural gas to customers in two contiguous, but unconnected, service areas in Iowa and Missouri. The determination order authorized Great River to construct a two-mile, 6-inch pipeline interconnecting its separate facilities in Iowa and Missouri.

Great River states that on March 10, 1989, United Cities Gas Company (United Cities) acquired all the stock of Great River and assumed Great River's status in all FERC proceedings. Great River asserts that since 1989, its properties have been operated as part of a division of United Cities.

Great River relates that on July 31, 1997, United Cities and Atmos merged, and that the merged company bears the name Atmos Energy Corporation. Therefore, Great River would like its Section 7(f) service area determination amended to reflect the name of Atmos as the holder of the determination.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 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 and 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 in any proceeding herein must file a motion to intervene in accordance with the Commission's rules. 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. 97–24780 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–331–007]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 12, 1997.

Take notice that on September 9, 1997, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Original Sheet No. 12, to be effective November 1, 1997.

National Fuel states that the filing is made to implement a firm storage agreement between National Fuel and Engage Energy U.S., L.P. (Engage), that provides for negotiated rates pursuant to GT&C Section 17.2 of National Fuel's tariff and the Commission's policy regarding negotiated rates. National Fuel states that under its agreement with Engage, firm storage service would be provided under its FSS Rate Schedule at a formula rate based upon the difference between the price of gas at Niagara, as published by Gas Daily, applicable at the time of injection, and such price applicable at the time of withdrawal. The specific formula is set forth in the agreement, which accompanies National Fuel's tariff filing.

National states that it is serving copies of the filing with its firm customers and interested state commissions. Copies are also being served on all interruptible customers as of the date of the filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 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 this proceeding. 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. 97–24784 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR97–5–000]

Northern States Power Company (MN and Subs); Notice of Filing

September 12, 1997.

Take notice that on August 19, 1997, Northern States Power Company (Minnesota) and its subsidiaries tendered for filing the existing Exhibit IX specification of depreciation rates currently used as stated in Docket ER97–312–000 and its previous depreciation rates used as stated in Docket ER96–226–000.

NSP believes that previous revised exhibits submitted in Docket Nos. ER94–113–000, ER95–147–000, ER96–226–000, and ER97–312–000 satisfy the Commission's depreciation rate change filing requirements under Section 302 of

the Federal Power Act. Specifically, the revised exhibits relate to the Agreement to Coordinate Planning and Operation and Interchange Power and Energy between Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). Depreciation rate changes under Section 302 are for accounting purposes only.

Exhibit IX sets forth the specification of depreciation rates certified by the Wisconsin Public Service Commission (PSCW) and the Minnesota Public Utilities Commission (MPUC). The exhibit shows the annual impact of any depreciation rate changes in the form of an annual depreciation rate percentage for each utility function.

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.W., 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 385.214). All such motions or protests should be filed on or before October 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties in 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. 97–24779 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–728–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

September 12, 1997.

Take notice that on September 8, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP97–728–000 a request pursuant to §§ 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to upgrade an existing meter and regulator station in South Dakota, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000 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.

Williston Basin states that the existing Villa Ranchaero regulator system and meter, located in Pennington County, South Dakota, are currently old and unreliable and the relief valves do not have a bubble-tight shut-off mechanism. As a result, Williston Basin must replace the existing regulator system, meter and relief valves. The station capacity will increase slightly due to the regulator system replacement and Williston Basin is requesting to upgrade the facilities by abandoning certain existing facilities and constructing and operating upgraded facilities as a result of the necessary replacement of such existing facilities. The facility to be upgraded is located entirely on existing right-of-way. All work proposed herein will be done within an existing building at the site and there will be no dirt work associated with this project. The total upgrade cost is approximately $17,000.

Williston Basin states that it provides natural gas transportation deliveries through the Villa Ranchaero metering site to Montana-Dakota Utilities Co., a local distribution company, for ultimate use by the residents of the Villa Ranchaero subdivision in Pennington County, South Dakota.

Williston Basin states that this upgrade is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers. This upgrade will not have an effect on Williston Basin's peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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. 97–24781 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–83–000, et al.]

Corby Power Ltd., et al.; Electric Rate and Corporate Regulation Filings

September 11, 1997.

Take notice that the following filings have been made with the Commission:

1. Corby Power Ltd.

[Docket No. EG97–83–000]

On September 8, 1997, Corby Power Ltd. (Corby), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Corby owns and operates an generating facility with a net capacity of approximately 350 MW consisting of two 119 MW gas turbines, three generators, a 114 MW steam turbine and an air-cooled condenser. The facility is located in Corby, Northampshire, England.

Comment date: October 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania Power & Light Company

[Docket Nos. ER96–930–000, ER96–931–000, ER96–932–000, and ER96–933–000]

Take notice that on July 23, 1997, Pennsylvania Power & Light Company tendered for filing its compliance refund report in the above-referenced dockets.

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket No. ER96–3139–000]

Take notice that on August 19, 1997, New York State Electric & Gas Corporation tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER97–1827–001]

Take notice that on August 7, 1997, Illinois Power Company tendered for filing a compliance filing in the above-referenced docket.

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Power Division of Duke Energy Corp.

[Docket No. ER97–2398–000]

Take notice that on August 11, 1997, Duke Power Division of Duke Energy Corp., tendered for filing an amendment in the above-referenced docket.

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. DPL Energy, Inc.

[Docket No. ER97–3040–000]

Take notice that on September 3, 1997, DPL Energy, Inc., tendered for filing an amendment in the above-referenced docket.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Dayton Power and Light Company

[Docket No. ER97–3041–000]

Take notice that on September 3, 1997, Dayton Power and Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. R. Hadler and Company, Inc.

[Docket No. ER97–3056–000]

Take notice that on August 29, 1997, R. Hadler and Company tendered for filing an amendment in the above-referenced docket.

Comment date: Septemer 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Soyland Power Cooperative, Inc.

[Docket No. ER97–3090–001]

Take notice that on August 7, 1997, Soyland Power Cooperative, Inc. tendered for filing a compliance filing in the above-referenced docket.

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Public Service Company

[Docket No. ER97–3393–000]

Take notice that on September 5, 1997, Central Illinois Public Service Company (CIPS) filed an amendment to its June 20, 1997, filing in this proceeding.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Sierra Pacific Power Company

[Docket No. ER97–3593–000]

Take notice that on September 2, 1997, Sierra Pacific Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Electrical Association Power Marketing, Inc.

[Docket No. ER97–4173–000]

Take notice that on August 12, 1997, Electrical Association Power Marketing, Inc., tendered for filing a petition for acceptance of rate schedule and waivers of blanket authority.

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. El Paso Electric Company

[Docket No. ER97–4212–000]

Take notice that on August 15, 1997, El Paso Electric Company (El Paso) tendered for filing an Index of Non-Firm Point-to-Point Transmission Service Customers and an Index of Firm Point to Point Transmission Service Customers under its open access transmission service tariff. El Paso tendered for filing service agreements for non-firm point-to-point transmission service under its open access transmission tariff to the following customers:

Aquila Power Corporation
Arizona Public Service Company
Citizens Lehman Power Sales
Coral Power LLC
e prime, Inc.
El Paso Electric Company
Electric Clearinghouse, Inc.
Idaho Power Company
Minnesota Power & Light Company
PacifiCorp
PanEnergy Trading & Market Services LLC
Public Service Company of New Mexico
Salt River Project
Southern Energy Trading and Marketing, Inc.
Southwestern Public Service Company
Valero Power Services Company
Williams Energy Services Company

Comment date: September 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER97–4300–000]

Take notice that on August 22, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Citizens Power Sales, Enron Power Marketing, Inc., Entergy Operating Companies, Minnesota Power & Light Company, NorAm Energy Services, Inc., PECO Energy Company—Power Team and Wisconsin Electric Power Company. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Union Electric Company

[Docket No. ER97–4301–000]

Take notice that on August 22, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between NP Energy Inc. (NP) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to NP pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Consolidated Edison Company

[Docket No. ER97–4303–000]

Take notice that on August 22, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to ProMark Energy (ProMark).

Con Edison states that a copy of this filing has been served by mail upon ProMark.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Rochester Gas and Electric Corporation

[Docket No. ER97–4304–000]

Take notice that on August 22, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the Virginia Power (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of August 15, 1997 for the Virginia Power Service Agreement. RG&E has served

copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–4305–000]

Take notice that on August 22, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Constellation Power Source, Inc. (CPS).

Con Edison states that a copy of this filing has been served by mail upon CPS.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company

[Docket No. ER97–4306–000]

Take notice that on August 22, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-to-Point Transmission Service Agreement between LG&E and NESI Power Marketing, Inc. under LG&E's Open Access Transmission Tariff.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Hudson Gas and Electric Corporation

[Docket No. ER97–4307–000]

Take notice that on August 22, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Energy Transfer Group. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Portland General Electric Company

[Docket No. ER97–4308–000]

Take notice that on August 22, 1997, Portland General Electric Company (PGE), tendered for filing its Average System Cost (ASC) as calculated by PGE and determined by the Bonneville Power Administration under the revised ASC Methodology which became effective on October 1, 1984. This filing includes PGE's revised Appendix 1 of the Residential Purchase and Sale Agreement.

PGE states that the revised Appendix 1 shows the ASC to be 35.32 mills/kWh effective December 1, 1996. The Bonneville Power Administration determined the ASC rate for PGE to be 34.67 mills/kWh. However, there is no effect on the residential exchange payments because the amount for fiscal year 1997 was fixed by federal legislation.

Copies of the filing have been served on the persons named in the transmittal letter as included in the filing.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Maine Electric Power Company

[Docket No. ER97–4309–000]

Take notice that on August 22, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Firm Point-to-Point Transmission service entered into with Enron Power Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Aroostook Valley Electric Company

[Docket No. ER97–4310–000]

Take notice that on August 22, 1997, Aroostook Valley Electric Company (AVEC), submitted to the Federal Energy Regulatory Commission and other interested persons a Second Amendment to Power Purchase Agreement with Central Maine Power Company (CMP). Also submitted is the Certificate of Concurrence of CMP to such Second Amendment to Power Purchase Agreement.

The Second Amendment to Power Purchase Agreement extends the expiring term of the existing Power Purchase Agreement from October 1, 1997 through October 31, 1999.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Maine Public Service Company

[Docket No. ER97–4311–000]

Take notice that on August 22, 1997, Maine Public Service Company (Maine Public), filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with NP Energy Inc.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Maine Public Service Company

[Docket No. ER97–4312–000]

Take notice that on August 22, 1997, Maine Public Service Company (Maine Public) filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with Williams Energy Services Company.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Midwest Energy, Inc.

[Docket No. ER97–4313–000]

Take Notice that on August 22, 1997, Midwest Energy, Inc. (Midwest), tendered for filing with the Federal Energy Regulatory Commission the Service Agreement for Non-Firm Point-to-Point Transmission Service entered into between Midwest and Constellation Power Source, Inc.

Midwest states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Old Dominion Electric Cooperative

[Docket No. ER97–4314–000]

Take notice that on August 22, 1997, Old Dominion Electric Cooperative (Old Dominion), filed a Petition for blanket authority to sell power at market-based rates to non-affiliated entities and to its distribution cooperative members. Old Dominion's Petition is filed pursuant to 205 of the Federal Power Act and Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207. Old Dominion also seeks waiver of the cost-of-service filing requirements of 18 CFR 35.12 and 35.13, and the 60-day notice requirement of 18 CFR 35.3 in order to permit Old Dominion to commence sales of power at market-based rates as of the earlier of 60 days from the date of the filing of its Petition or the date of an order accepting its market-based rate schedule.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Maine Electric Power Company

[Docket No. ER97–4315–000]

Take notice that on August 22, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point transmission service entered into with Pro Mark Energy. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Maine Electric Power Company

[Docket No. ER97–4316–000]

Take notice that on August 22, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point transmission service entered into with Tractebel Energy Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Central Maine Power Company

[Docket No. ER97–4317–000]

Take notice that on August 22, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with NP Energy Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Maine Electric Power Company

[Docket No. ER97–4318–000]

Take notice that on August 22, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point transmission service entered into with PECO Energy Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Maine Electric Power Company

[Docket No. ER97–4319–000]

Take notice that on August 22, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point transmission service entered into with NP Energy Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. San Diego Gas & Electric Company

[Docket No. ER97–4320–000]

Take notice that on August 22, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing a Notice of Cancellation for the following:

1. Rate Schedule FERC No. 96—Coordination Agreement between San Diego Gas & Electric Company and Eclipse Energy, Inc., executed June 20, 1994, to be terminated October 31, 1997;

2. Rate Schedule FERC No. 115—Coordination Agreement between San Diego Gas & Electric Company and Utility-2000 Energy Corp. Executed May 5, 1995, to be terminated October 31, 1997; and

3. Service Agreement for Firm Point-to-Point Transmission Service between San Diego Gas & Electric Company and San Diego Gas & Electric Company—Energy Trading, dated June 30, 1997, to be terminated August 1, 1997.

Comment date: September 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Vastar Resources, Inc.; Vastar Gas Marketing, Inc.; Vastar Power Marketing, Inc.; Vastar Energy, Inc.; SEI Holdings, Inc.; Southern Energy North America, Inc.; Southern Energy Trading and Marketing, SC Ashwood Holdings, Inc.; SC Energy Ventures, Inc.; Southern Company Energy Marketing L.P.; Southern Company Energy Marketing G.P., L.L.C.

[Docket No. EC97–49–000]

Take notice that on September 9, 1997, the above-captioned parties (Applicants) filed an amendment to their application under Section 203 of the Federal Power Act.

Comment date: October 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24818 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–249–000 et al; CP97–238–000]

Portland Natural Gas Transmission System; Portland Natural Gas Transmission System and: Maritimes & Northeast Pipeline, L.L.C.: Notice of Availability of the Final Environmental Impact Statement for the Proposed PNGTS Project and PNGTS/Maritimes Phase II Joint Facilities Project

September 12, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Final Environmental Impact Statement (FEIS) on the natural gas pipeline facilities proposed by Portland Natural Gas Transmission System (PNGTS), and jointly by PNGTS and Maritimes & Northeast Pipeline, L.L.C. (Maritimes), in the above referenced dockets. The specific facilities addressed in this FEIS are referred to as the PNGTS Project and the PNGTS/Maritimes Phase II Joint Facilities Project (PNGTS and Phase II Joint Facilities).

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project would have limited adverse environmental impact if constructed as planned with the proposed and recommended mitigation.

The FEIS addresses the potential environmental effects of the construction and operation on the following facilities:

- The PNGTS Project, which includes:

—About 141.6 miles of 24-inch-diameter mainline between Pittsburg, New Hampshire and Westbrook, Maine;

—About 0.7 mile of 8-inch-diameter pipeline (Groveton Lateral);

—About 26.9 miles of 12-inch-diameter pipeline (Rumford Lateral);

—About 16.6 miles of 12-inch-diameter pipeline (Jay Lateral); and

—Three new meter stations and other associated aboveground facilities.

- The Phase II Joint Facilities, which include:

—About 35.2 miles of 30-inch-diameter mainline between Wells, Maine and Westbrook, Maine;

—About 3.8 miles of 12-inch-diameter pipeline (Westbrook Lateral); and

—Three new meter stations and other associated aboveground facilities.

The FEIS will be used in the regulatory decision-making process at the Commission. While the period for filing interventions in this case has expired, motions to intervene out-of-time can be filed with the FERC in accordance with the Commission's Rules of Practice and Procedure, 18 CFR 385.214(d). Furthermore, anyone desiring to file a protest with the FERC should do so in accordance with 18 CFR 385.211.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, Room 2A, 888 First Street, N.E., Washington, DC 20426, (202) 208–1371.

A limited number of copies are available at this location.

Copies of the FEIS have been mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24819 Filed 9–17–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5895–1]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the United States Environmental Protection Agency (EPA) is planning to request approval from the Office of Management and Budget (OMB) to conduct a screener survey of facilities potentially subject to Section 316(b) of the Clean Water Act, 33 U.S.C 1326(b). Before the Agency submits the proposed Information Collection Request (ICR) to OMB for review and approval, EPA is soliciting comments from the public on the proposed ''Industry Screener Questionnaire for Cooling Water Intake Structures.''

DATES: Comments and requests for information must be received by EPA no later than November 17, 1997.

ADDRESSES: Address comments on the draft screener questionnaire to Ms. Deborah G. Nagle, U.S. EPA, Engineering and Analysis Division, Mail Code (4303), Office of Science and Technology, 401 M Street S.W., Washington, DC 20460. EPA will also accept comments electronically. The E-mail address for comments is ''nagle.deborah@epamail.epa.gov.'' Electronic comments must include the sender's name, address, and telephone number. A copy of the proposed screener questionnaire can be obtained from the Internet at ''http://www.epa.gov/owm/wm030000.htm.'' You must use ADOBE ACROBAT READER to read the document; the document is a PDF file. If you do not have Internet access, you may obtain a copy of the screener questionnaire by faxing a request to Deborah Nagle at (202)260–7185. The draft screener that is being made available includes all pertinent instructions, information request questions, and definitions.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are those which are subject to section 316(b) of the Clean Water Act, which utilize a cooling water intake structure. These entities include, among others, facilities in the Non-utility Steam Electric Generation, Paper and Allied Products, Chemical and Allied Products, Petroleum and Coal Products, Primary Metal Industry sectors. EPA also plans to collect information related to the regulatory burden that would be created by implementation of a final Section 316(b) rule on state governmental authorities responsible for issuing National Pollutant Discharge Elimination systems permits. Impacts on these state government entities could include either increased costs as a result of additional efforts needed to implement a final section 316(b) rule or cost savings realized from using a final section 316(b) rule instead of facility-specific best professional judgment to establish permit requirements.

Title: Industry Screener Questionnaire: Cooling Water Intake Structures.

Abstract: The U.S. Environmental Protection Agency (EPA) is currently developing regulations under Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b). Section 316(b) provides that any standard established pursuant to Sections 301 or 306 of the Clean Water Act (CWA) and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures shall reflect the best technology available (BTA) for minimizing adverse environmental impact. Such impacts occur as a result of impingement (where fish and other aquatic life are trapped in cooling water intake screens) and entrainment (where aquatic organisms, eggs and larvae are sucked into the cooling system, through the heat exchanger, and then pumped back out). As the result of a lawsuit by a coalition of environmental groups headed by the Hudson Riverkeeper (*Cronin, et al.* v. *Reilly,* 93 Civ. 0314 (AGS)), the United States District Court, Southern District of New York entered a Consent Decree on October 10, 1995. The Consent Decree established a seven year schedule for EPA to take final action with respect to regulations addressing impacts from cooling water intake structures.

To ensure that the regulation is based upon accurate information, EPA is conducting a variety of data-gathering activities. The screener questionnaire represents one mechanism through which EPA is gathering background data on cooling water design and use. EPA is using a screener survey for two reasons. First, EPA will use data collected by the survey in determining the number and type of facilities that the Section 316(b) regulations will cover. Second, EPA will use the information collected to design a sampling plan for a detailed technical questionnaire that will be administered after the screener. EPA will send the

detailed questionnaire to a subset of the facilities that received the screener questionnaire. EPA has designed the screener questionnaire to collect information on such topics as cooling water use within industry groups, cooling water intake structure capacities, types of intake water sources, and intake structure design configurations and control technologies. In addition, EPA is requesting facility and firm level economic data. This economic data will enable EPA to consider cooling water use across a broad variety of facility and firm sizes. Ultimately, the screener questionnaire will help EPA reduce the administrative burden of the detailed technical questionnaire on industry.

The screener questionnaire will be administered under authority of Section 308 of the Clean Water Act, 33 U.S.C. 1318; therefore, all recipients of the screener questionnaire are required to complete and return the questionnaire to EPA. The survey instrument will be mailed after OMB approves the ICR. 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. The ICR that EPA intends to submit to OMB will include a discussion of the comments on the draft screener questionnaire that EPA has received to date and the comments received as the result of today's announcement. EPA solicits comment on all aspects of the screener questionnaire, and specifically solicits comment on the following issues:

(I) Whether the proposed screener is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) The accuracy of the Agency's estimate of the burden of the proposed screener, including the validity of the methodology and assumptions used;

(iii) The screener's quality, utility, and clarity; and

(iv) Minimization of the burden of the screener on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technology collection techniques or other forms of information technology collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement:

The total national burden estimate for all parts of this screener is 368,500 hours. The burden estimates are based on EPA administering 6,700 screener questionnaires. EPA estimates that each facility will require, on the average, fifty five hours to complete the screener questionnaire. 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.

In developing the screener questionnaire, EPA conducted a program of outreach to industry and other government entities with the objective of minimizing reporting burden. The outreach program included distribution of the draft screener questionnaire to industry associations and environmental groups plus a meeting to discuss comments. EPA also made presentations at many professional and industry association meetings. The following are the industry associations that participated in the EPA outreach program: Utility Water Act Group, American Forest and Paper Association, American Iron and Steel Institute, American Petroleum Institute, Chemical Manufacturers Association, and Edison Electric Institute. EPA also requested comments on the screener questionnaire from the Electric Power Research Institute. Based on comments received from these early outreach activities, EPA decided to first administer a screener questionnaire (except to electric utilities) followed by a detailed technical questionnaire. The screener is designed to assist EPA in selecting an appropriate sample of facilities that employ cooling water intake structures to receive the detailed technical questionnaire. Electric utilities will receive only the detailed technical questionnaire because for these facilities the Agency has the majority of the data that is being requested in the screener. Consistent with the Energy Information Administration's (EIA) definition of a electric utility, EPA for the purposes of this screener questionnaire has defined electric utility as ''a corporation, person, agency, authority, or other legal entity or instrumentality that owns and/or operates facilities within the United States, its territories, or Puerto Rico for the generation, transmission, distribution, or sale of electric energy primarily for use by the public and files forms listed in the Code of Federal Regulation, Title 18, Part 141.'' The Agency has coordinated extensively with EIA to determine what information is publicly available. EPA does not intend to include questions that seek publicly available information in the questionnaires.

EPA significantly lowered the burden to industry by systematically reducing the number of industrial facilities to receive the screener questionnaire from a possible 412,000 facilities to about 6,700 facilities. Based on water intake and cooling water use from the 1982 Census of Manufacturers, EPA identified six industrial sectors to receive the screener questionnaire or the detailed technical questionnaire or both. These six industrial sectors are: Utility Steam Electric, Nonutility Steam Electric, Chemicals & Allied Products, Primary Metals Industry, Petroleum & Coal Products, and Paper & Allied Products. Together, EPA estimates that these six sectors account for over 99 percent of all cooling water withdrawals and total 50,000 facilities. EPA also eliminated industrial subcategories which documented zero or minimal cooling water use, thereby further reducing the number to be surveyed to about 7,514 facilities. Of these 7,514 facilities, there are 874 operating utility steam electric facilities that will not receive the screener questionnaire, bringing the number of facilities to receive the screener questionnaire down to about 6,700. This number may be reduced even more as EPA continues to refine the ''sample frames'' for the categories of facilities that will receive the screener questionnaire. (A ''sample frame'' identifies all the individual facilities within a category across the United States.) However, limiting the survey sample frame as described above is not intended to limit the scope or applicability of the 316(b) regulation.

Since the nonutilities are scattered throughout many industrial categories, the nonutility sample frame will include facilities from multiple industries. Consistent with EIA's definition of a nonutility, EPA for the purposes of this screener questionnaire has defined a nonutility as ''a corporation, person, agency, authority, or other legal entity or instrumentality that owns electric generating capacity and is not an electric utility. Nonutility power producers include Federal Energy Regulatory commission (FERC) Qualifying Cogenerators, FERC Qualifying Small Power Producers, and

Other Nonutility Generators (including Independent Power Producers) without a designated franchised service area, and which do not file forms listed in the Code of Federal Regulations, Title 18, Part 141.'' For the purposes of this screener questionnaire EPA has defined other nonutility generators to include independent power producers (IPP) which are wholesale electricity producers other than qualifying facilities under Public Utility Regulatory Policy Act (PURPA), that are unaffiliated with franchised utilities in the area in which the IPP's are selling power and that lack significant marketing power. IPPs do not possess transmission facilities and do not sell power in any retail service territory where they have a franchise.

Finally, EPA will maintain a temporary, no-charge telephone number that survey recipients may call to obtain assistance in completing the data collection surveys. EPA believes that the no-charge telephone number will greatly reduce burden by helping recipients to answer specific questions within the context of their individual operations.

Dated: September 3, 1997.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 97–24835 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5894–1]

Open Meeting of the Industrial Non-Hazardous Waste Stakeholders Focus Group

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of open meeting of the Industrial Non-Hazardous Waste Stakeholders Focus Group.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the fifth meeting of the Industrial Non-Hazardous Waste Policy Dialogue Committee, also known as the Industrial Non-Hazardous Waste Stakeholders Focus Group. The purpose of this committee is to advise EPA and ASTSWMO (the Association of State and Territorial Solid Waste Management Officials) in developing voluntary guidance for the management of industrial non-hazardous waste in landfills, waste piles, surface impoundments, and land application units. The Focus Group will facilitate the exchange of information and ideas among the interested parties relating to the development of such guidance. The purpose of the fifth meeting will be to continue discussion of issues related to the development of such guidance. Issues to be discussed include land application, corrective action, potential air emission risk tools/controls, and additional ground-water modeling/risk results (i.e., leachate concentration threshold values for the Tier I national approach and the user interface screens associated with the Tier II location adjustment approach). In addition, time will be set aside on the agenda to receive Focus Group comments on additional chapters that have been previously discussed within the Focus Group. There will also be a short presentation of the CD–ROM being developed as part of this project. The CD–ROM will be the electronic version of the voluntary guidance being developed. There will be an opportunity for limited public comment at the end of each day of the meeting.

DATES: The committee will meet on October 8 and 9, 1997, from 9:00 a.m. to 5:00 p.m. on October 8, and from 8:30 a.m. to 3:00 p.m. on October 9.

ADDRESSES: The location of the meeting is the Hotel Washington, 515 15th Street, NW, Washington, D.C. 20004. The phone number is 202–638–5900. The seating capacity of the room is approximately 60 people, and seating will be on a first-come basis. Supporting materials are available for viewing at Docket #F–96–INHA–FFFFF in RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 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. The material to be discussed at the October Focus Group meeting will be available for viewing in the above docket on and after September 24, 1997. 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 to TDD 703–412–3323.

FOR FURTHER INFORMATION CONTACT:

Persons needing further information on the committee should contact Paul Cassidy, Municipal and Industrial Solid Waste Division, Office of Solid Waste, at (703) 308–7281.

SUPPLEMENTARY INFORMATION:

Background

EPA and ASTSWMO have formed a State/EPA Steering Committee to jointly develop voluntary facility guidance for the management of industrial nonhazardous waste in land-based disposal units. The purpose of the guidance document is to provide a guide to facility managers so that they can provide safe industrial waste management. The guidance document will address such topics as appropriate controls for ground-water protection, liner designs, air emissions, run-on/run-off, public participation, daily operating practices, monitoring and corrective action, and closure and post-closure considerations.

The State/EPA Steering Committee has convened this Stakeholders Focus Group to obtain recommendations from individuals who are member of a broad spectrum of public interest groups and affected industries. All recommendations from Focus Group participants will be forwarded to the State/EPA Steering Committee for considerations, as the Stakeholders' Focus Group will not strive for consensus. The State/EPA Steering Committee will also provide an opportunity for public comment on the draft guidance document.

Copies of the minutes of all Stakeholders Focus Group meetings will be made available through the docket at the RCRA Information Center, including minutes of the previous four Focus Group meetings, which were held on April 11–12, 1996, September 11–12, 1996, February 19–20, 1997, and May 20–21, 1997.

Dated: September __, 1997.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 97–24842 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5893–9]

Proposed Administrative Order on Consent; Denver Radium—Operable Unit VIII Site, Denver County, CO

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Proposed section 122 (g)(4) and (h)(1) settlement.

SUMMARY: In accordance with the requirements of section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability

Act, as amended (CERCLA), notice is hereby given of a proposed settlement agreement under section 122(g)(4) and (h)(1) concerning the Denver Radium/Operable Unit VIII Site in Denver County, Colorado (the Site). The proposed Administrative Order on Consent (AOC) requires a potentially responsible party (PRP), Burlington Northern and Santa Fe Railway Company, to pay a total of $75,000 to resolve its liability to the U.S. EPA related to response actions taken or to be taken at the Site.

DATES: Comments must be submitted on or before October 20, 1997.

ADDRESSES: Comments should be addressed to Wendy Silver, (8ENF–L), Legal Enforcement Program Attorney, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, and should refer to: In the Matter of: Denver Radium/Operable Unit VIII Site Administrative Settlement Agreement No. CERCLA VIII–97–70.

FOR FURTHER INFORMATION CONTACT: Rebecca Thomas (8EPR–SR), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466, (303) 312–6552.

SUPPLEMENTARY INFORMATION: Notice of section 122(g)(4) and (h)(1) Administrative Order on Consent Settlement: in accordance with section 122(g)(4) and (h)(1) of CERCLA, notice is hereby given that the terms of an Administrative Order on Consent (AOC) for a Settlement Agreement have been agreed to by the settling parties.

By the terms of the proposed AOC, the settling party will pay $75,000 to the EPA Hazardous Substance Superfund. In exchange for payment, U.S. EPA will provide the settling party a covenant not to sue for liability under sections 106 and 107(a) of CERCLA.

The Burlington Northern and Santa Fe Railway Company is the owner of the railroad right-of-way. The Respondent represents, and for the purposes of the settlement agreement, EPA accepts, that the Respondent's involvement with the Site is limited to ownership of the approximately 4.3 acre railroad right-of-way from 1887 until the present. The respondent did not conduct or permit the generation, storage, treatment, or disposal of any hazardous substance at Operable Unit VIII, and did not contribute to the release or threat of release of a hazardous substance at Operable Unit VIII through any act or omission. The amount that the settling party will pay was determined by allocating a percentage of response costs for the Denver Radium/Operable Unit VIII Site. All clean-up work on the Burlington Northern and Santa Fe Railway Company property was completed by August 1993. Approximately, 5% of the volume of Operable Unit VIII contamination and .8% of sitewide contamination was found on the property owned by the Burlington Northern and Santa Fe Railway Company (formerly Atchison, Topeka, and Santa Fe Railroad Company). The Denver Radium Operable Unit VIII costs were calculated based on cost documentation and cost allocation performed by Region VIII's Cost Recovery staff.

U.S. EPA will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed administrative settlement agreement.

A copy of the proposed AOC may be obtained in person or by mail from Sharon Abendschan, Enforcement Specialist (ENF–T), Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466, (303) 312–6957. Additional background information relating to the administrative settlement agreement is available for review at the Superfund Records Center at the above address.

Dated: September 9, 1997.

Martin Hestmark,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice.

[FR Doc. 97–24838 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5893–7]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Wallace W. Stone, Lake of the Ozarks, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Wallace W. Stone, Lake of the Ozarks, Missouri.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public notice.

On August 11, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following Complaint:

In the Matter of Wallace W. Stone, CWA Docket No. VII–97–W–0024.

The Complaint proposes a penalty of Forty Thousand Five Hundred Eighteen ($40,518) Dollars for discharging pollutants into waters of the United States without a permit as required by Section 404 of the Clean Water Act.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by Wallace W. Stone is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: September 4, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–24837 Filed 9–17–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 11, 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, Pub. L. 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: Written comments should be submitted on or before October 20, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

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 collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

OMB Approval Number: 3060–0624.

Title: Section 24.103(f), Amendment of the Commission's Rules to Establish New Personal Communications Services.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 1,384.

Estimated Time Per Response: 15.1 hours.

Cost to Respondents: N/A.

Total Annual Burden: 26,843 hours.

Needs and Uses: This information collection requires all narrowband PCS licensees, except for paging response channel licensees, to file materials that show their compliance with the construction requirements of this service. These requirements were adopted to ensure that licensees quickly construct their systems and that the systems serve significant areas. The information is used by licensing personnel in the Wireless Telecommunications Bureau to ensure that the spectrum is being utilized effectively.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–24822 Filed 9–17–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applications

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

First USA Real Estate Inc. d/b/a USA Trade, 2172 Dupont Drive, Suite 3, Irvine, CA 92612, Officer: Nicholas F. Aboufadel

S&S Enterprises, 5955 Davidson Court, Valley Springs, CA 95252, Debbie D. Sukhai-Sheffield, President, Sole Proprietor

Dated: September 15, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–24816 Filed 9–17–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; New System of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice of new system of collection records.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is proposing a new system of records, FRTIB–12, Collection Records, consisting of records on individuals who are indebted to the Board, a Federal agency, or a Government corporation. These records will be used in collection actions against the debtors.

DATES: Comments must be received no later than October 20, 1997. The proposed notice will be effective November 3, 1997, unless the Board receives comments which would result in a different determination.

ADDRESS: Comments may be sent to Thomas L. Gray, Assistant General Counsel for Administration, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, Assistant General Counsel for Administration, (202) 942–1662. FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: The Board initially published notice of its systems of records in the **Federal Register** on April 14, 1987 (52 FR 12065). This notice was finalized in the **Federal Register** on May 7, 1990 (55 FR 18949).

The information collected under the proposed new system of records, FRTIB–12, may be used to collect delinquent debts owed to the Board, a Federal agency, or a Government corporation in accordance with the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321, the Federal Claims Collection Act of 1966, Pub. L. 89–508, 80 Stat. 308, the Debt Collection Act of 1982, Pub. L. 97–365, 96 Stat. 1749, and 31 U.S.C. 3720A. Under these laws, debts to the Board may be offset against a Federal employee's salary, or against other funds owed the debtor by the Board, a Federal agency, a Government corporation, or against a Federal income tax refund. In addition, the Board may collect debts owed to the Board by entering into a cross-servicing debt-collection agreement with the Department of the Treasury, by contracting with a private collection agency, and by notifying credit

reporting agencies of the delinquent debt. The information collected under the proposed new system of records will not be used to offset debts from net assets available for Thrift Savings Plan (TSP) benefits; TSP accounts are held in trust by the Board for participants and beneficiaries and are subject to a strict antialienation and antiassignment provision. This system of records is in support of the Board's claims collection program set out in part 1639 of title 5, Code of Federal Regulations.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

FRTIB–12

SYSTEM NAME:

Collection Records.

SYSTEM LOCATION:

Federal Retirement Thrift Investment Board, 1250 H Street NW, Washington, DC 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals and entities that are financially indebted to the Board, a Federal agency, or a Government corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information varies depending on the individual debtor, the type of indebtedness, and the agency or program to which monies are owed. The system of records contains information pertaining to: (1) Individuals and commercial organizations, such as name, Taxpayer Identification Number (*i.e.*, Social Security Number or Employer Identification Number), work and home addresses, and work and home telephone numbers; (2) the indebtedness, such as the original amount of the debt, the date the debt originated, the amount of the delinquency/default, the date of delinquency/default, basis of the debt, amounts accrued for interest, penalties, and administrative costs, and payments on the account; (3) actions taken to recover the debt, such as copies of demand letters/invoices, and documents required for the referral of accounts to collection agencies, or for litigation; and (4) debtor and creditor agencies, such as name, telephone number, and address of the agency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE:

The purpose of this system is to maintain a record of individuals and entities that are indebted to the Board, a Federal agency, or a Government corporation. The records ensure that: Appropriate collection action on debtors' accounts is taken and properly tracked, monies collected are credited, and funds are returned to the Board or appropriate agency at the time the account is collected or closed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to disclose information to:

1. Appropriate Federal, state, and local agencies responsible for investigating or implementing a statute, rule, regulation, order, or license;

2. The Financial Management Service (FMS) of the Department of the Treasury to allow that agency to act for the Board to enforce collection of delinquent debts owed to the Board or the Thrift Savings Fund.

3. A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court-ordered subpoena or in connection with criminal or civil proceedings;

4. A congressional office in order to respond to communications from that office;

5. The Internal Revenue Service for the purposes of: Effecting an administrative offset against the debtor's tax refund to recover a delinquent debt owed the Board or the Thrift Savings Fund; or obtaining the mailing address of a taxpayer/debtor in order to locate the taxpayer/debtor to collect or compromise a Federal claim against the taxpayer/debtor;

6. The Department of Justice for the purpose of litigating to enforce collection of a delinquent debt or to obtain the Department of Justice's concurrence in a decision to compromise, suspend, or terminate collection action on a debt with a principal amount in excess of $100,000 or such higher amount as the Attorney General may, from time to time, prescribe in accordance with 31 U.S.C. 3711(a).

7. The Department of the Treasury, Department of Defense, United States Postal Service, another Federal agency, or a Government corporation for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, so as to identify and locate individuals receiving Federal payments (including, but not limited to, salaries, wages, and benefits) for the purpose of requesting voluntary repayment or implementing Federal employee salary offset or administrative offset procedures;

8. The Department of the Treasury, Department of Defense, United States Postal Service, another Federal agency, a Government corporation, or any disbursing official of the United States for the purpose of effecting an administrative offset against Federal payments certified to be paid to the debtor to recover a delinquent debt owed to the Board, the Thrift Savings Fund, or another Federal agency or department by the debtor; and

9. Any creditor Federal agency or Government corporation seeking assistance for the purpose of obtaining voluntary repayment of a debt or implementing Federal employee salary offset or administrative offset in the collection of an unpaid financial obligation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Debt information concerning claims of the Board and the Thrift Savings Fund is also furnished in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, as amended (Pub. L. 97–365), to consumer reporting agencies, as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders in office file cabinets.

RETRIEVABILITY:

These records are indexed by the names, Social Security numbers, or contract numbers of participants, employees, contractors, or other persons who may receive monies paid to them by the Board.

SAFEGUARDS:

Access to and use of these records is restricted to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Hard-copy records are returned to the Board which has an agreement for servicing and collection of the debt with Financial Management Services. Files are destroyed when 6 years and 3 months old, unless they are subject to litigation in which case they are destroyed when a court order requiring that the file be retained allows the file

to be destroyed or litigation involving the file is concluded.

SYSTEM MANAGER(S) AND ADDRESS:

Associate General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 should be addressed to the Privacy Act Officer, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The System Manager will advise as to whether the Board or FMS will process the record request.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Privacy Act Officer. All individuals are urged to examine the regulations at 5 CFR part 1630 concerning Board requirements with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual or entity, the Board, creditor agencies, Federal employing agencies, Government corporations, collection agencies, credit bureaus, and Federal, state, and local agencies furnishing identifying information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–24761 Filed 9–17–97; 8:45 am]
BILLING CODE 6760–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; System of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice of new system of fraud and forgery records.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is establishing a new system of records, FRTIB–13, Fraud and Forgery Records, consisting of records on Thrift Savings Plan participants who are alleged to have committed a fraud or forgery with respect to their accounts.

DATES: Comments must be received no later than October 20, 1997. The proposed notice will be effective October 20, 1997, unless the Board receives comments which would result in a different determination. If comments received result in a different determination, the document will be republished with the change.

ADDRESS: Comments may be sent to Thomas L. Gray, Assistant General Counsel for Administration, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, Assistant General Counsel for Administration, (202) 942–1662. FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: The Board was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479 (1994), as an independent agency in the Executive Branch to administer the Thrift Savings Plan (TSP). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code.

There are over two million TSP participants. To preserve the integrity of the Plan and protect the TSP accounts, the TSP will take action to prosecute any participant who attempts or commits a fraud or forgery with respect to their account. The information in this record system will be used for that purpose. These records consists of transactions in a participant's account and investigatory material related to a fraud or forgery allegation. When, for example, an allegation is made that a signature on a TSP document has been forged or that false information has been provided to the Board or to the TSP Service Office, the Board investigates the allegation and creates a file. When the Board's investigation produces support for the allegation that a fraud or forgery has been committed, the Board refers the matter to the United States Department of Justice and, if the participant is currently employed in the Federal service, to the participant's employing agency for further investigation and administrative action or civil or criminal prosecution.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

FRTIB–13

SYSTEM NAME:

Fraud and Forgery Records.

SYSTEM LOCATION:

These records are located at the Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005 and at the Thrift Savings Plan (TSP) Service Office at the National Finance Center, Department of Agriculture, P.O. Box 61500, New Orleans, LA 70161–1500.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These records contain information on Thrift Savings Plan participants who are alleged to have committed a fraud or forgery relating to their accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain the following kinds of information: Thrift Savings Plan account records relevant to the fraud or forgery allegation; documentation of complaints and allegations of fraud and forgery; exhibits, statements, affidavits, or records obtained during the investigation; court and administrative orders, transcripts, and documents; internal staff memoranda; staff working papers; other documents and records related to the inquiry, investigation, and disposition of the allegations; and all reports on the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE:

These records are used to inquire into and investigate allegations that a Thrift Savings Plan participant has committed a fraud or forgery relating to their account.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to disclose information to:

1. The appropriate Federal, foreign, state, local, or tribal agency or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutorial

responsibility of the receiving entity and indicates a violation or potential violation of law;

2. A court, magistrate, grand jury, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court-ordered subpoena or in connection with criminal, civil, or regulatory proceedings;

3. A Member of Congress or a congressional office in order for that Member or office to respond to communications from the participant who is the subject of the record;

4. The Department of Justice for the purpose of further investigation and prosecution;

5. The current or former employing agency of the participant for the purpose of further investigation and administrative action;

6. Informants, complainants, or victims to the extent necessary to provide those persons with information and explanations concerning the progress or results of the investigation; and

7. A Federal, foreign, state, or local agency or a person or entity if necessary to obtain information relevant to the investigation of the allegations or prosecution of the case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders in office file cabinets and on electronic media or computer in the system location.

RETRIEVABILITY:

These records are indexed by the names and Social Security numbers of Thrift Savings Plan participants.

SAFEGUARDS:

Access to and use of these records is restricted to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records in this system are destroyed seven years after the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Benefits and Program Analysis, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 should be addressed to the Privacy Act Officer, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Privacy Act Officer. All individuals are urged to examine the regulations at 5 CFR part 1630 concerning Board requirements with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from the following: Persons to whom the information relates when practicable, including Thrift Savings Plan participants, complainants, informants, witnesses, investigators, and persons reviewing the allegations; Federal, state and local agencies; and investigative reports and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act and the Board's regulation at 5 CFR 1630.10, certain portions of records under this system may be exempted from the provisions of the Privacy Act when: (1) Such portions represent investigatory materials compiled for law enforcement purposes or (2) such portions would reveal the identity of a source who furnished information to the Government under a promise of confidentiality which information resulted in the denial of a right, privilege, or benefit to a participant.

[FR Doc. 97–24762 Filed 9–17–97; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Population-Specific Issues.

Times and Dates: 10:00 a.m.–5:00 p.m., September 29, 1997; 9:00 a.m.–3:00 p.m., September 30, 1997.

Place: Room 303–339A, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington D.C. 20201.

Status: Open.

Purpose: The Subcommittee plans to continue its exploration of data issues associated with Medicaid managed care. On September 29, presentations are scheduled from selected governmental agencies and private researchers on Medicaid managed care. On September 30, the Subcommittee will refine its work plan, identify tasks and resources, and establish time frames to complete its work.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050. Additional information about the full Committee and the tentative agenda for the Subcommittee meeting is available on the NCVHS website: http://aspe.os.dhhs.gov/ncvhs

Dated: September 12, 1997.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 97–24763 Filed 9–17–97; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Christopher Leonhard, Dartmouth College: Based upon an investigation conducted by Dartmouth College, information obtained by the Office of Research Integrity (ORI) during its oversight review, and Mr. Leonhard's own admission, ORI found that Mr. Leonhard, a former graduate student in the Department of Psychology, Dartmouth College, engaged in scientific misconduct arising out of certain biomedical research supported by two grants from the National Institute of Mental Health (NIMH), National Institutes of Health (NIH).

Specifically, Mr. Leonhard (1) fabricated experimental records and falsely represented them to his supervisor as being results obtained from multiple electrophysiological screening sessions conducted on eight animals; and (2) fabricated two surgical records as evidence of experimental preparations (implantation of indwelling electrodes) on two animals, which in fact had not been done. The experimental records did not appear in any publications.

Mr. Leonhard has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning September 8, 1997:

(1) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Mr. Leonhard's participation is proposed or which uses him in any capacity on PHS supported research or that submits a report of PHS-funded research in which he is involved must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Mr. Leonhard's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

No scientific publications were required to be corrected as part of this Agreement.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 97–24808 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Biological Response Modifiers Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on October 17, 1997, 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Gail M. Dapolito or Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12388. Please call the Information Line for up-to-date information on this meeting.

Agenda: During the morning session, the committee will discuss Zenapax®, (daclixiamab, a humanized monoclonal antibody directed against the human interleukin 2 receptor), Hoffmann-La Roche. An indication is sought for the prophylaxis of acute organ rejection as part of an immunosuppressive regimen for patients receiving cadaveric kidney transplants. During the afternoon session, the committee will discuss Intron-A®, (recombinant human interferon, interferon alfa–2b), Schering-Plough Corp. An indication is sought for the treatment of patients with high-tumor burden, follicular non-Hodgkin's lymphoma, in conjunction with combination chemotherapy.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 10, 1997. Oral presentations from the public will be scheduled between approximately 8 a.m. to 8:30 a.m., and 1 p.m. to 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 10, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app. 2).

Dated: September 9, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–24849 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on October 23, 1997, 8:30 a.m. to 5:30 p.m., and October 24, 1997, 9 a.m. to 4 p.m.

Location: National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

Parking in the Clinical Center visitor area is reserved for Clinical Center patients and their visitors. If you must drive, please use an outlying lot such as Lot 41B. Free shuttle bus service is provided from Lot 41B to the Clinical Center every 8 minutes during rush hour and every 15 minutes at other times.

Contact Person: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), 419–259–6211, or Danyiel D'Antonio (HFD–21), 301–443–5455, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On October 23, 1997, the committee will discuss basic statistical considerations for the evaluation of active control clinical trials, and new drug application (NDA) 20–845, inhaled nitric oxide (Ohmeda Pharmaceutical Products Division, Inc.), for treatment of primary pulmonary hypertension of the newborn. On October 24, 1997, the committee will discuss NDA 20–839, Plavix™ (clopidogrel bisulfate, Sanofi

Pharmaceuticals, Inc.), for prevention of vascular ischemic events in patients with a history of symptomatic atherosclerotic disease.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 9, 1997. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9:30 a.m. on October 23, 1997. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 9, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 10, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–24848 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 97D–0383]

Draft Guidance for Industry on Population Pharmacokinetics; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Population Pharmacokinetics.'' This draft guidance is intended to provide recommendations regarding the use of population pharmacokinetics in the drug development process. It summarizes scientific and regulatory issues that should be addressed during the conduct of population pharmacokinetic studies/analyses.

DATES: Written comments may be submitted on the draft guidance document by November 17, 1997. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance for industry entitled ''Population Pharmacokinetics'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Request and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Shiew-Mei Huang, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5671, FAX 301–594–2503.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Population Pharmacokinetics.'' Population pharmacokinetics is the study of the sources and correlates of variability in plasma drug concentrations between individuals, representative of those in whom the drug will be used clinically when clinically relevant dosage regimens are administered. Certain pathophysiological features of patients can regularly alter dose-concentration relationships. For example, renal failure usually causes steady state drug concentrations to be greater than those of patients with normal renal function receiving the same dosage of a drug eliminated mostly by the kidney. Population pharmacokinetics seeks to discover which measurable pathophysiologic factors cause changes in the dose-concentration relationship and to what degree so that appropriate dosage can be recommended.

This draft guidance presents a comprehensive overview of population methods, including when to perform a population study/analysis; how to design and execute population pharmacokinetic studies; how to handle and analyze population pharmacokinetic data; how to perform internal and external validation of population pharmacokinetic models; and how to provide the appropriate documentation for population pharmacokinetic reports intended for submission to the FDA.

This draft guidance represents the agency's current thinking on population pharmacokinetics. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

An electronic version of this draft guidance is available on the Internet at http://www.fda.gov/cder/guidance/index.htm.

Dated: September 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–24733 Filed 9–12–97; 4:34 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–201]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently

approved collection; *Title of Information Collection:* Managed Care Organization, Incentive Arrangement Disclosure Form and Supporting Regulations 42 CFR 417.479, 417.500, 434.44, 434.67, 434.70, 1003.100, 1003.101, 1003.103, 1003.106; *Form No.:* HCFA–R–201 (OMB # 0938–0700) ; *Use:* These forms were created in an extensive cooperative effort with the American Association of Health Plans, State Medicaid Agency representatives, and the Medicaid Managed Care Technical Advisory group to monitor compliance with federal statute and supporting regulations, governing physician incentives under Medicare and Medicaid managed care organizations. The currently approved forms and the revised forms being submitted to OMB for approval are available for inspection on the HCFA web site, on the Internet, at http://www.hcfa.gov; *Frequency:* Annually; *Affected Public:* Business or other for profit, not for profit institutions, state, local or tribal government, and federal government; *Number of Respondents:* 450; *Total Annual Responses:* 450; *Total Annual Hours:* 45,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 10, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–24726 Filed 9–17–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–685, and HCFA–684 A–J]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Network Semi-Annual Cost Report Forms and Supporting Regulations 42 CFR 405.2110 and 405.2112; *Form No.:* HCFA–685 OMB # 0938–0657; *Use:* The Semi-annual cost report enables HCFA to review specific Network costs, compare costs between Networks, and project future Network costs. The reports are also used as an early warning system to determine if a Network is in danger of exceeding the total cost of its contract. *Frequency:* Semi-annually; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 18; *Total Annual Responses:* 36; *Total Annual Hours:* 108.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease Network (ESRD) Business Proposal Forms and Supporting Regulations 42 CFR 405.2110 and 405.2112; *Form No.:* HCFA–684 through 684 A-J OMB # 0938–0658; *Use:* Current End Stage Renal Disease (ESRD) Networks and other bidders are required to submit contract proposals to participate as a HCFA sanctioned ESRD Network. The business proposal forms are used to satisfy HCFA's need for consistent, meaningful, and verifiable data to evaluate contract proposals. *Frequency:* Every three years; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 18; *Total Annual Responses:* 36; *Total Annual Hours:* 1,080.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 10, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–24764 Filed 9–17–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Grantee Reporting Requirements for the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Title III HIV Early Intervention Services Program (OMB No. 0915–0158)—Revision and Extension

Section 2651 of the Public Health Service (PHS) Act (commonly known as Title III of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990), provides categorical funding to increase the capacity and capability of organizations that provide primary health care to provide HIV-related early intervention services to medically underserved persons who have, or are at high risk for HIV infection. These services are provided as part of a continuum of HIV prevention and health care services.

This clearance request is for extension of OMB approval of the Title III Program Data Report form, which is submitted annually by Title III grant recipients. The bulk of the information being collected describes the epidemiologic and demographic characteristics of the populations receiving early intervention services from grant recipients, and provides the basis for the annual report to the Secretary, which is legislatively mandated. It is also used to monitor the delivery of services, guide federal policy, and assist in program development and evaluation. Only minor revisions to the form are proposed, including deletion of some sections found to lack utility, revision of some data elements and instructions for clarity, and addition of data elements to improve the usefulness of the data.

The estimate of burden for the form is as follows:

Form name	Number of respondents	Respondents per respondent	Hours per response	Total burden hours
Program Data Report Form	166	1	84	13,944

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 11, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–24728 Filed 9–17–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Health Education Assistance Loan (HEAL) Program Regulations—42 CFR Part 60—OMB No. 915–0108—Extension and Revision

This clearance request is for extension of approval for the notification, reporting and recordkeeping requirements in the HEAL program to insure that the lenders, holders and schools participating in the HEAL program follow sound management procedures in the administration of federally-insured student loans. While the regulatory requirements are approved under this OMB number, much of the burden associated with the regulations is cleared under the OMB numbers for the HEAL forms used to report required information (listed below). The table listed at the end of this notice contains the estimate of burden for the remaining regulations.

Annual Response Burden for the following regulations is cleared by OMB when the reporting forms are cleared:

OMB Approval No. 0915–0034, Lender's Application, Borrower Status, Manifest, Loan Transfer, Contract for Loan Insurance

Reporting

42 CFR 60.7(c)(3), Employer certification of nonstudent status

42 CFR 60.31(a), Lender annual application

42 CFR 60.38(a), Loan reassignment

Notification

42 CFR 60.12(c)(1), Borrower deferment

OMB Approval No. 0915–0036, Lender's Application for Insurance Claim

Reporting

42 CFR 60.35(a)(2), Lender skip-tracing activities

42 CFR 60.40(a), Lender documentation to litigate a default

42 CFR 60.40(c)(1)(i),(ii),and (iii), Lender default claim

42 CFR 60.40(c)(2), Lender death claim

42 CFR 60.40(c)(3), Lender disability claim

42 CFR 60.40(c)(4), Lender report of student bankruptcy

OMB Approval No.0915–0038, Student Application

Reporting

42 CFR 60.7(a)(1)(ii), Student application

42 CFR 60.7(a)(3), School section of the application

42 CFR 60.51(a), School section of the application

Notification

42 CFR 60.7(a)(2), Federal debt collection policies-student

42 CFR 60.33(c), Creditworthiness of applicant

OMB Approval No.0915–0043, Promissory Note, Repayment Schedule, Call Report

Notification

42 CFR 60.7(c)(2) Federal debt collection policies—nonstudent

42 CFR 60.11(e), Establishment of repayment terms—borrower

42 CFR 60.11(f)(5), Borrower notice of supplemental repayment agreement

42 CFR 60.33(e), Executed note to borrower

42 CFR 60.34(b)(1), Establishment of repayment terms—lender

OMB Approval No. 0915–0204, Physician's Certification of Permanent and Total Disability

Reporting

42 CFR 60.39(b)(2), Holder request to Secretary to determine borrower disability

The estimate of burden for the regulatory requirements of this clearance are as follows:

TABLE OF REGULATORY SECTIONS AND RESPONDENT BURDEN

Type of burden	Transactions per year	Estimated time per transaction	Annual response burden (hrs.)
REPORTING			
Subpart D: Lender—32 Participating Lenders			
60.32(b) Application for Loan	[1] 0	0.00	0
60.40(c)(1)(iv) Bankruptcy Report to the Secretary	140	12 min	28
60.42(d) Audit	32	240 min. (4 hrs.)	128
60.42(e) Evidence of Fraud	3	120 min. (2 hrs.)	6
60.43(b) Evidence of Cause for Administrative Hearing	2	180 min. (3 hrs.)	6
Subtotal	177		168
Subpart E: School—190 Participating Schools			
60.56(c) Biennial Audit	190	240 min. (4 hrs.)	760
60.60(b) Evidence of Cause for Administrative Hearing	3	180 min. (3 hrs.)	9
60.61(b) Evidence of Fraud	0.00	0.00	0.00
60.61(d) Bankruptcy Documentation	140	10 min	23
Subtotal	333		792
Total Reporting: 960 hrs.			
NOTIFICATION			
Subpart B: Borrower—20,640 Borrowers			
60.0(a)(5) Sale or Transfer of Loan		Burden included in 60.38a	
60.8(b)(3) Status change	20,500	10 min	3,417
60.61(d) [2] Bankruptcy	140	10 min	23
Subtotal	20,640		3,440
Subpart C: Loan/Lender—32 Participating Lenders			
60.18 Loan Consolidation	5,000	40 min	3,333
60.21(b)(2) Refund Check Transfer	1,000	30 min	500
60.21(b)(2) Refund Check Notification	1,000	15 min	250
Subpart D: Lender—32 Participating Lenders			
60.33(g) Denial of Loan	133	14 min	31
60.33(h) Borrower Indebtedness	15,227	1 min	254
60.34(c) Biannual Debt Status	250,000	10 min	41,667
60.35(a)(1) Delinquent Payment Notice to Borrower	9,500	30 min	4,750
60.35(c)(2) Delinquent Notice to Credit Reporting Agency	1,300	15 min	325
60.35(e) Demand Letter	1,300	10 min	217
60.37(a) Right to Forbearance	2,400	5 min	200
60.37(c)(3) Reminder of obligation to pay	1,200	10 min	200
60.38(a) Notification to Borrower of Loan Reassignment	7,500	5 min	625
60.40(c)(1)(iv) and (c)(4) Default Notification to Courts	140	25 min	58
Subtotal	295,700		52,410
Subpart E: School—190 Participating Schools			
60.53 Change in Student Status		Burden included with 60.61(a)(7)	
60.54 Notice of Refund Payment	190	25 min	79
60.57 Borrower Identifying Information	1,240	8 min	165
60.61(a)(1) Entrance Interview	6,818	35 min	3,977
60.61(a)(2) Exit Interview	6,818	50 min	5,682
60.61(a)(2) Student Departure Notification to Lender	190	35 min	111
60.61(a)(3) Unresolved Discrepancies to Lender	204	12 min	41
60.61(a)(7) Change in Student Address to Lender	10,227	10 min	1,136

TABLE OF REGULATORY SECTIONS AND RESPONDENT BURDEN—Continued

Type of burden	Transactions per year	Estimated time per transaction	Annual response burden (hrs.)
Subtotal	25,687		11,191
Total Notification: 67,041 hrs.			
RECORDKEEPING			
Subpart B: Borrower			
60.7(a)(2) Student Signed Stmt.-Gov. Debt Collection Procedures	Burden included in 60.34(b)(2) and 60.61(a)(1)&(2)		
60.7(c)(2) Non-Student signed Stmt.-Gov. Debt Collection	0.00		0.00
Subpart D: Lender 32 Participating Lenders			
60.31(c)Procedures for Servicing & Collecting Loans	32	240 min. (4 hrs.)	128
60.33(e)Promissory Note	Burden included in 60.42(a)(2)		
60.34(b)(2) Terms of Repayment Schedules	15,227	5 min	1,269
60.35(a)(1) Attempts to Collect Delinquent Payment	10,000	5 min	833
60.35(a)(2) Documentation of Skip-tracing	2,500	10 min	417
60.37(a)(1) Documentation of Borrower's Inability to Pay	2,500	15 min	625
60.37(c) Renewals of Forbearance	1,200	10 min	200
60.37(c)(1) Basis for Belief of Borrower Itent to Default	300	10 min	50
60.40(a) Documentation of Insurance Claims	978	70 min	1,141
60.42(a)(1) Loan Records	Burden included in 60.42(a)(2)		
60.42(a)(2) Borrower's Payment History	125,000	15 min	31,250
Subtotal	157,737		35,913
Subpart E: School—190 Participating Schools			
60.51(f)(1) Documentation of Needs Analysis Adjustment	Burden included in 60.61(a)(5)		
60.51(f)(2) Documentation of Standard Student Budget Adjustments	Burden included in 60.61(a)(5)		
60.56(a) Required Retention of HEAL Borrower Records	Burden included in 60.61(a)(5)		
60.56(b) Five year Retention of Student Records	Burden included in 60.61(a)(5)		
60.57 Retention of Reports to the Secretary	190	45 min	143
60.61(a)(1) Entrance Interview	6,818	5 min	568
60.61(a)(2) Exit Interview	6,818	5 min	568
60.61(a)(4) HEAL Check Receipt	190	300 min. (5 hrs.)	950
60.61(a)(5) Complete Records of HEAL Borrowers	125,000	15 min	31,250
60.61(a)(6) Criteria for Student Budgets	10,227	2 min	227
Subtotal	145,834		33,706
Total Recordkeeping: 69,619 Hrs.			
Total Annual Burden: 137,620 Hrs.			

[1] No new HEAL loans.
[2] Burden is from Subpart E—School.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 11, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–24729 Filed 9–17–97; 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):

Name of SEP: The Agricultural Health Study—Phase III.

Date: October 14, 1997.

Time: 1:00 p.m. to Adjournment.

Place: Teleconference, Executive Plaza North, Conference Room F, 6130 Executive Boulevard, Bethesda, MD 20892.

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 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7421.

Purpose/Agenda: To evaluate and review responses to Request for Proposal.

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. 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: September 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24752 Filed 9–17–97; 8:45 am]

BILLING CODE 4140–01–M

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 National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Molecular Epidemiology of Hepatocellular Carcinoma.

Date: October 22–24, 1997.

Time: October 22—8:00 p.m. to 11:00 p.m., October 23—8:00 a.m. to 8:00 p.m., October 24—7:30 a.m. to 11:30 a.m.

Place: Radisson Hotel—Philadelphia—Northeast, 2400 Old Lincoln Highway, Philadelphia, PA 19107.

Contact Person: David Irwin, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 635E, 6130 Executive Boulevard, MSC 7408, Bethesda, MD 20892–7408, Telephone: 301/402–0371.

Purpose/Agenda: To evaluate and review grant applications.

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 the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, 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: September 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24756 Filed 9–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 Institute on Alcohol Abuse and Alcoholism Initial Review Group:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Clinical and Treatment Subcommittee.

Dates of Meeting: October 30–31, 1997.

Time: October 30, 8:30 a.m. to recess. October 31, 8:30 a.m. to adjournment.

Place of Meeting: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

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.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: September 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24753 Filed 9–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code, Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Communication Disorders Review Committee.

Date: October 22–24, 1997.

Time: October 22 and 23—8 am–5 pm, October 24—8 am to adjournment.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact person: Melissa Stick, Ph.D., M.P.H., Scientific Review Administrator, NIDCD/DEA/SRB, EPS 400C, 6120 Executive Boulevard, MSC 7180, Bethesda MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion 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.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24754 Filed 9–17–97; 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 Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council for Nursing Research and its Subcommittee, National Institute of Nursing Research, September 22–23, 1997, which was published in the **Federal Register** on August 21, 1997 (62 FR 44480).

The meeting place for the National Advisory Council for Nursing Research has changed to Building 31, Conference Room 6, 9000 Rockville Pike, Rockville, Maryland, on September 23 at 8:30 a.m.

Dated: September 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24756 Filed 9–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–24]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: November 17, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Karna Wong, Social Science Analyst, Office of Policy Development and Reserch—telephone (202) 708–0574 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: The Survey of Community Development Work Study Program participants.

Description of the need for the information and proposed use: The information is being collected to evaluate the Office of University Partnership's Community Development Work Study Program (CDWSP). The objective of this research is to examine the CDWSP's relative attainment of its goals to expand educational and employment opportunities for the economically disadvantaged and minority students. Students who have participated in the CDWSP from 1987–1995 will be surveyed to obtain information on their educational access, skills-building, job experience, and career attainment. This information will assist the Department in evaluating and administrating the CDWSP.

Members of affected public: A sample of 750 students who have participated in the CDWSP from 1987–1995 will be surveyed.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information will be collected by a one-time mail questionnaire with 750 CDWSP participants. These mail questionnaires will take an average of twenty-five minutes to complete. This means a total of approximately 313 hours of response for the information collection. If necessary, one-time telephone interviews may be conducted utilizing the mail questionnaire instrument to achieve an adequate response rate.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 10, 1997.

Paul A. Leonard,

Deputy Assistant Secretary for the Office of Policy Development.

[FR Doc. 97–24773 Filed 9–17–97; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–090–07–6350–00: GP7–0283]

Notice of Intent; Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend Resource Management Plan, Oregon.

SUMMARY: In accordance with 43 CFR 1610.2 and 1610.3, notice is given that the Bureau of Land Management (BLM) in the State of Oregon, Eugene District, intends to analyze an amendment to the Eugene Resource Management Plan (RMP). The purpose of the plan amendment is to: (1) make available for exchange one 113.70 acre parcel of land in Douglas County, Oregon; (2) make available for disposal three parcels of land containing approximately 10 acres in Lane County, Oregon; and (3) add a provision to allow the disposal of lands without a plan amendment where survey hiatuses and unintentional encroachments on public land are discovered in the future which meet legal disposal criteria. The RMP amendment would facilitate the completion of one land exchange with John Hancock Mutual Life Insurance Company (Hancock), the resolution of two longstanding unauthorized use situations, and the transfer of a parcel to Lane County that has been used by the County as a landfill and solid waste transfer site.

DATES: The BLM is inviting comments to be considered in the preparation of the plan amendment and environmental assessment. Comments may be addressed to the District Manager, Bureau of Land Management, at the address shown below and should be postmarked by October 20, 1997.

ADDRESSES: Detailed information concerning the plan amendment and the proposed land exchange and land disposals it would facilitate is available at the Eugene District Office, P.O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Steve Madsen, Realty Specialist, Eugene District Office, at (541) 683–6948.

SUPPLEMENTARY INFORMATION: The Eugene Resource Management Plan (1995) assigns all lands administered by the Eugene District to one of three Land Tenure Zones. Those lands in Zone 1 are identified for retention and may not be transferred out of Federal ownership by exchange or sale, while those in Zone 2 may be considered for exchange and those in Zone 3 may be considered for sale or exchange. The regulations at 43 CFR 2711.1–1(a) require that no parcel of public land may be offered for sale until it has been specifically identified in an approved land use plan (i.e. assigned to Land Tenure Zone 3).

The parcel of land proposed for exchange to Hancock (as part of a larger transaction) is currently assigned to Land Tenure Zone 1. The plan amendment would assign it to Zone 2. The parcel is described as Lots 1, 2 and 3 of Section 7, Township 19 South, Range 8 West, Willamette Meridian. At

completion of the exchange, approximately 285 acres acquired from Hancock would be added to Land Tenure Zone 1.

The two parcels proposed for sale to resolve longstanding unauthorized use situations would be assigned to Land Tenure Zone 3 and are located within Section 11, Township 16 South, Range 7 West and Section 2, Township 21 South, Range 3 West, Willamette Meridian.

The parcel proposed for transfer to Lane County would be assigned to Land Tenure Zone 3 and is located within Section 7, Township 16 South, Range 6 West, Willamette Meridian.

The proposed RMP provision to allow the disposal of lands without a plan amendment where survey hiatuses and unintentional encroachments on public land are discovered in the future would provide for such lands to be automatically assigned to Land Tenure Zone 3 where legal disposal criteria are met. This provision would potentially affect lands located in portions of Benton, Douglas, Lane and Linn Counties, Oregon.

The plan amendment and proposed Hancock exchange will be analyzed in an environmental assessment. No individual disposal actions to accomplish the other actions described above would be completed until the appropriate environmental analyses and public and interagency reviews were completed in the future and the action found to be in conformance with other provisions of the RMP.

Major issues involved in the plan amendment include: (1) Impacts to management of public forest lands, including scarce mature forest habitats and (2) impacts to local government revenues and the local economy. Disciplines to be represented on the interdisciplinary team preparing the plan amendment and environmental assessment include, but are not limited to: archeology, anthropology, lands and minerals, recreation, forestry, fisheries, hydrology, botany, soils, wildlife, geology and hazardous materials.

The need for a public meeting will be evaluated based on the level of public input as a result of public notification procedures. Any public meeting will be announced at least 15 days in advance.

Detailed information concerning the proposed exchange and plan amendment, including the environmental assessment, will be available at a later date at the BLM office in Eugene, Oregon. When the draft plan amendment and the environmental assessment are completed in the fall of 1997, another comment period will be provided to allow for additional public input to the exchange and plan amendment. This comment period will be announced in a **Federal Register** notice and local media. Any final decision will also be published to these same standards and applicable appeal or protest period(s) will be provided.

Dated: September 2, 1997.

Denis Williamson,

Acting District Manager.

[FR Doc. 97–24832 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–1320–00]

Notice of Intent To Plan and Notice of Exchange Proposal

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Powder River Resource Area, Interior.

ACTION: Notice of intent to plan and notice of proposed exchange of alluvial valley floor fee coal in Rosebud, County, for federal coal in Rosebud and Powder River Counties, Montana.

SUMMARY: An Environmental Impact Statement will be prepared to consider an exchange proposal of fee coal in the alluvial valley floor of the Tongue River within the Powder River Resource Area, Miles City District. This action will be in conformance with the Powder River Resource Management Plan (1984). It will be based on existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976 and the Surface Mining Control and Reclamation Act (SMCRA) of 1977. The Draft EIS is scheduled for completion by fall, 1998.

DATES: Any issues, concerns or alternatives should be submitted to BLM on or before November 14, 1997.

A series of public meetings have been planned to facilitate public participation in the proposal. The schedule is as follows:

1. October 20, 7:00 p.m., Broadus, MT
2. October 21, 7:00 p.m., Forsyth, MT
3. October 22, noon, Lame Deer, MT
4. October 23, 7:00 p.m., Miles City, MT
5. October 27, 10:00 a.m., Crow Agency, MT
6. October 28, 6:00 p.m., Ashland, MT
7. October 29, 7:00 p.m., Billings, MT

ADDRESSES: All submissions should be sent to the following address: Bureau of Land Management, Powder River Resource Area Manager, 111 Garryowen Road, Miles City, Montana 59301.

The public meetings will be held at the following locations:

1. Broadus, Community Center
2. Forsyth, City Hall, 247 North 9th
3. Lame Deer, Chamber of Commerce Meeting Room
4. Miles City, Miles Community College, Room 106
5. Crow Agency, location to be announced
6. Ashland, St. Labre School Auditorium
7. Billings, Montana Department of Fish, Wildlife and Parks Conference Room, 2300 Lake Elmo Drive

FOR FURTHER INFORMATION CONTACT: Dan Benoit, Team Leader, (406) 233–2841.

SUPPLEMENTARY INFORMATION: The BLM is considering a proposal to exchange fee coal pursuant to Section 206 of FLPMA, (43 U.S.C. 1716) as amended, and Section 510(b)(5) of SMCRA (30 U.S.C. 1260(b)(5)). The exchange has been proposed by the Nance Cattle Company, Brown Cattle Company, et al., through Montco acting as their agent. Section 510(b)(5) of SMCRA provides that owners of coal determined to be unminable due to prohibitions against mining coal within an alluvial valley floor, west of the 100th Meridian, west longitude, are entitled to an exchange of coal with the Federal Government.

The Nance Cattle Company, Brown Cattle Company, et al. have proposed to exchange to the United States the following described nonfederal Alluvial Valley Floor coal in Rosebud County, Montana:

Principal Meridian Montana

T. 4 S., R. 43 E.,
Sec. 23, Lot 2, SE¼SE¼;
Sec. 24, Lots 2 to 4 inclusive, S½SW¼, NE¼SE¼, SW¼SE¼;
Sec. 25, W½NW¼;
Sec. 26, NE¼, E½W½, SW¼NW¼, N½SE¼, SW¼SE¼;
Sec. 27, Lot 1;
Sec. 33, Lot 1;
Sec. 34, S½NE¼, SW¼, W½SE¼;
Sec. 35, W½NW¼;
T. 5 S., R. 42 E.,
Sec. 22, SE¼SE¼;
Sec. 25, Lot 5, E½E½;
Sec. 27, Lot 1, SE¼NE¼;
Sec. 35, E½, E½SW¼;
T. 5 S., R.43 E.,
Sec. 3, Lots 3 and 4;
Sec. 9, W½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 17, N½NE¼, SW¼NE¼, NE¼NW¼;
T. 6 S., R. 42 E.,
Sec. 1, SE¼NE¼, E ½SE¼, SW¼SE¼;
Sec. 12, E½E½, SW¼NE¼, SE¼SW¼, W½SE¼;
Sec. 13, NE¼NE¼;
T. 6 S., R. 43 E.,
Sec. 6, Lots 2 to 7 inclusive, SE¼NW¼, E½SW¼;
Sec. 7, Lots 1 to 4 inclusive, E½W½;
Sec. 18, Lots 1 and 2, NW¼NE¼, NE¼NW¼.

Approximately 3,737.99 acres.

In exchange, the United States would transfer title to federal coal of equal value, as determined by appraisal and in accordance with the procedures found in 43 CFR 2201.6, from the following described pool of federal coal:

Principal Meridian Montana, (Rosebud County, Montana)

T. 4 S., R. 44 E.,
Sec. 7, Lots 6 and 7, SE¼SE¼;
Sec. 8, Lots 2 to 4 inclusive, Lots 6 to 13 inclusive, S½SW¼;
Sec. 16, SE¼;
Sec. 18, NE¼NE¼;
Sec. 20, all;
Sec. 30, Lots 1 to 4 inclusive, E½, E½W½;
Sec. 31, Lot 1, NW¼NW¼SW¼NE¼, S½N½S½NE¼, S½S½NE¼, W½NE¼NW¼, N½SE¼NW¼, N½SE¼SE¼NW¼, SE¼SE¼SE¼NW¼, N½N½NE¼SE¼;
Sec. 32, Lots 1 to 4 inclusive, N½, N½S½;
T. 5 S., R. 43 E.,
Sec. 2, Lots 1 to 10 inclusive, SW¼NE¼, S½NW¼, N½SW¼, NW¼SE¼;
Sec. 10, Lots 1 to 11 inclusive, NW¼, NW¼SE¼.

Approximately 4,147.78 acres.

Principal Meridian Montana, (Powder River County, Montana)

T. 2 S., R. 45 E.,
Sec. 29, S½;
Sec. 30, Lots 1 to 4 inclusive, E½, E½W½;
Sec. 32, Lots 1 to 4 inclusive, N½, N½S½;
T. 3 S., R. 45 E.,
Sec. 4, Lots 3 and 4, S½NW¼, SW¼;
Sec. 6, Lots 1, 2, 6 and 7, S½NE¼, E½SW¼, SE¼;
Sec. 8, all.

Approximately 3,048.60 acres.

Principal Meridian Montana, (Rosebud County, Montana)

T. 3 S., R. 44 E.,
Sec. 34, all;
T. 4 S., R. 44 E.,
Sec. 2, Lots 1 to 4 inclusive, S½N½, S½;
Sec. 4, Lots 1 to 10 inclusive, S½NW¼, SW¼.

Approximately 1,883.17 acres.

Subject to valid existing rights, the federal land identified above has been segregated from appropriation under the public land laws and minerals laws, except from a coal exchange for a period of three years beginning August 6, 1997.

Dated: September 12, 1997.

Darrel Pistorius,

Acting District Manager.

[FR Doc. 97–24791 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–97–1990–00]

Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte District Office, Bureau of Land Management, DOI.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 9:30 a.m., Wednesday, October 15, 1997. Issues that will be discussed include travel management plan, ORV use, and the RAC's involvement in implementing the Standards and Guidelines.

The meeting will be held at the Butte District Office, 106 N. Parkmont, Butte, Montana.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 a.m. The time allotted for oral comments may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (P.O. Box 3388), Butte, Montana 59702–3388; telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Jim Owings at the above address or telephone number.

Dated: September 9, 1997.

James R. Owings,

District Manager.

[FR Doc. 97–24765 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–DN–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC 1269]

Public Land Order No. 7283; Partial Revocation of Executive Order No. 5327 and Public Land Order No. 4522; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order and a public land order insofar as they affect 164.86 acres of public land withdrawn for protection of oil shale resources. The withdrawals are no longer needed for this purpose and revocations are needed to permit disposal of the land through sale under the Recreation and Public Purposes Act, as amended. The land is temporarily closed to surface entry and mining due to a pending sale application. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield, Lakewood, Colorado 80215–7076, (303) 239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Executive Order No. 5327 and Public Land Order No. 4522, which withdrew public land for the protection of oil shale and associated values, are hereby revoked insofar as they affect the following described land:

Sixth Principal Meridian

T. 6 S., R. 94 E.,
Sec. 17, lots 18, 20, 22, and 24;
Sec. 20, lots 1, 5, 8, and 11.

The area described contains 164.86 acres in Garfield County.

2. At 9 a.m. on October 20, 1997, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. October 20, 1997, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: September 4, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–24834 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–97–1430–01; AZA 25991]

Arizona: Notice of Realty Action; Bureau Motion Recreation and Public Purposes Classification; La Paz County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public land in the Town of Quartzsite, Arizona, has been examined and found suitable for

classification for lease or conveyance under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.):

Gila and Salt River Meridian, Arizona

T. 4 N., R. 19 W.,
Sec. 15, E½, N½NW¼, N½S½NW¼, N½SW¼SW¼NW¼, SE¼SE¼NW¼, NE¼NE¼SW¼, S½N½SW¼, N½SW¼SW¼, SE¼SW¼;
Sec. 17, all;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼, S½SE¼SE¼SE¼;
Sec. 21, W½NE¼, N½NW¼, N½SW¼NW¼, NE¼SE¼NW¼, S½S½NW¼ excluding 23.969 acres under Recreation and Public Purposes classification and lease AZA 22501;
Sec. 22, lot 1, NE¼, SE¼SE¼;
Sec. 23, N½, SE¼SW¼SW¼, N½SE¼, N½S½SE¼, N½SW¼SW¼SE¼, SE¼SW¼SW¼SE¼ SE¼SE¼SW¼SE¼, E½SW¼SE¼SE¼, W½SE¼SE¼SE¼;
Sec. 26, S½NE¼NE¼NE¼NE¼, W½NE¼NE¼NE¼, SE¼NE¼NE¼NE¼, E½NW¼NE¼NE¼, S½NW¼NW¼NE¼NE¼, SW¼NW¼NE¼NE¼, NE¼NE¼NW¼NE¼, S½NE¼NW¼NE¼, NE¼NW¼NW¼NE¼, S½NW¼NW¼NE¼, S½N½NE¼, S½NE¼, S½NE¼NE¼NW¼, W½NE¼NW¼, SE¼NE¼NW¼, SE¼NW¼;
Sec. 28, E½NW¼SE¼, S½NW¼NW¼SE¼, SW¼NW¼SE¼;
Sec. 29, W½SW¼NE¼NE¼.

The areas described aggregate 3,023.05 acres, more or less.

SUPPLEMENTARY INFORMATION: This action is a motion by the Bureau of Land Management to make available land to support community expansion. This land is identified in the Yuma District Resource Management Plan, as amended, as having potential for disposal. Lease or conveyance of the land for recreational or public purposes would be in the public interest.

Lease or conveyance of the land will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. Rights-of-way for ditches and canals constructed by the authority of the United States.

3. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

4. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

5. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register,** the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: Comments should be received on or before November 3, 1997. Interested persons may submit comments regarding the proposed classification of the land to the Field Manager, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365, (520) 317–3200. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Upon the effective date of classification, the land will be open to the filing of an application under the Recreation and Public Purposes Act by any interested, qualified applicant. If, after 18 months following the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Debbie DeBock, Realty Specialist, Bureau of Land Management, address above, telephone (520) 317–3208.

Dated: September 4, 1997.

Gail Acheson,

Field Manager.

[FR Doc. 97–24794 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Pima, Santa Cruz, and Cochise Counties, AZ in the Control of the Coronado National Forest, United States Forest Service, Tucson, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Pima, Santa Cruz, and Cochise Counties, AZ in the control of the Coronado National Forest, United States Forest Service, Tucson, AZ.

A detailed assessment of the human remains was made by U.S. Forest Service, Amerind Foundation, and Arizona State Museum professional staff in consultation with representatives of the Ak-Chin Indian Community, the Fort Sill Apache Tribe of Oklahoma, the Gila River Indian Community, the Mescalero Apache Tribe, the Salt River Pima-Maricopa Indian Community, the San Carlos Apache Tribe, the Tohono O'odham Nation, and the White Mountain Apache Tribe.

During the early 1950s, human remains representing one individual were recovered from Ramanote Cave, Santa Cruz County during legally authorized excavations by Dr. Charles C. DiPeso, Amerind Foundation. No known individual was identified. The one associated funerary object, a woven fiber mat, can not be located at present.

The Ramanote Cave site was utilized during the protohistoric period 1450–1700 A.D. based on ceramic seriation. Continuities of ethnographic materials indicate affiliation between this protohistoric site and historic and present day Piman and O'odham cultures. Oral traditions of the Tohono O'odham Nation, Gila River Indian Community, Ak-Chin Indian Community, and the Salt River Pima-Maricopa Indian Community support the cultural affiliation of these four Indian tribes with Hohokam sites in this area of southeastern Arizona.

In 1976, human remains representing two individuals were recovered from the Patagonia School site, Santa Cruz County during legally authorized excavations conducted by Donald G. Wood. No known individuals were identified. No associated funerary objects are present.

The Patagonia School site has been identified as a small Hohokam habitation occupied between 850–1300 A.D. based on architecture and material culture. Continuities of ethnographic materials, technology, and architecture indicate the affiliation of Hohokam sites in the area with historic and present day Piman and O'odham cultures. Oral traditions of the Tohono O'odham Nation, Gila River Indian Community, Ak-Chin Indian Community, and the Salt River Pima-Maricopa Indian Community support the cultural affiliation of these four Indian tribes with Hohokam sites in this area of southeastern Arizona.

Between 1979–1980, human remains representing 75 individuals were recovered from ten precontact sites within the Anamax-Rosemont Project in the Santa Rita Mountains, Coronado National Forest during legally authorized excavations by Dr. Alan Ferg, University of Arizona. No known individuals were identified. The 105 associated funerary objects include ceramic bowls, jars, and sherds, shell, bone and turquoise ornaments, bone and stone tools, metates, and a projectile point.

These sites within the Anamax-Rosemont Project have been identified as Hohokam village occupations dating between 500–1300 A.D. based on architecture and material culture. Continuities of ethnographic materials, technology, and architecture indicate the affiliation of Hohokam sites in the area with historic and present day Piman and O'odham cultures. Oral traditions of the Tohono O'odham Nation, Gila River Indian Community, Ak-Chin Indian Community, and the Salt River Pima-Maricopa Indian Community support the cultural affiliation of these four Indian tribes with Hohokam sites in this area of southeastern Arizona.

Based on the above mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 81 individuals of Native American ancestry. Officials of the U.S. Forest Service have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 105 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Forest Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Ak-Chin Indian Community, the Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, and the Tohono O'odham Nation.

In 1976, human remains representing one individual were recovered from the Pothole Canyon site, Cochise County during legally authorized excavations by Dr. Alan Ferg, University of Arizona. No known individual was identified. The 27 associated funerary objects include a gourd jar, iron knife, textile fragment, and cord.

The Pothole Canyon site has been identified as a 19th century Chiricahua Apache encampment based on historical and ethnographical information. Historical documents, ethnographic evidence, and oral traditions indicate this site is affiliated with the Chiricahua Apache, represented by the present day tribes of the Fort Sill Apache Tribe and Mescalero Apache Tribe.

Based on the above mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the U.S. Forest Service have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 27 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Forest Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Fort Sill Apache Tribe and the Mescalero Apache Tribe.

This notice has been sent to officials of the Ak-Chin Indian Community, the Fort Sill Apache Tribe of Oklahoma, the Gila River Indian Community, the Mescalero Apache Tribe, the Salt River Pima-Maricopa Indian Community, the San Carlos Apache Tribe, the Tohono O'odham Nation, and the White Mountain Apache Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 517 Gold Ave. SW, Albuquerque, NM 87102; telephone: (505) 842–3238, fax: (505) 842–3800, before October 20, 1997. 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: September 12, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–24823 Filed 9–17–97 ; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Nebraska in the Possession of the Nebraska State Historical Society, Lincoln, NE

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Nebraska in the possession of the Nebraska State Historical Society, Lincoln, NE.

A detailed assessment of the human remains was made by Nebraska State Historical Society professional staff in consultation with representatives of the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Kaw Nation of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma.

In 1936 and 1937, human remains representing a minimum of ten individuals were recovered from site 25CC1, also known as the Ashland site, during archeological investigations by Nebraska State Historical Society archeologists. No known individuals were identified. The 41 associated funerary objects include ceramic sherds, a gun spring, glass beads, stone fragments, animal bones, mussel shell, and a flint fragment.

The Ashland site has been identified as a historical Otoe village based on descriptions in documents recorded by visiting French explorers in the early 18th century, and the presence and types of trade goods present in the burials. Although this site is complex and has at least four different occupations represented, these individuals are connected with the most recent occupation dating from approximately 1700–1750 A.D.

In 1936 and 1965, human remains representing a minimum of 30 individuals were recovered from site 25RH1, also known as the Leary site, during archeological excavations by the Nebraska State Historical Society archeologists. No known individuals were identified. The 301 associated funerary objects include ceramic sherds, animal bones, projectile points, stone tools, unworked stones, flint flakes, worked flakes, an abrader, daub, scrapers, unmodified rock, fire-cracked rock, ochre, burned earth, ''turquoise''

pendant; bone beads and fragments, shell beads, copper tube with wood insets, and shell hairpipes.

The Leary site has been identified as having multiple occupations through the early historic period. The individuals recovered during the 1936 and 1965 excavations have been identified with the Oneota component of this site based on location, manner of internment, and associated funerary objects. Based on continuities of technology and material culture, the Oneota culture has been identified as ancestral to the present-day Otoe-Missouria, Ioway, and Kaw (Kansa) tribes.

Based on the above mentioned information, officials of the Nebraska State Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 40 individuals of Native American ancestry. Officials of the Nebraska State Historical Society have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 342 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Nebraska State Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Kaw Nation of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma.

This notice has been sent to officials of the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Kaw Nation of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Rob Bozell, Associate Director, Nebraska State Historical Society, 1500 R Street, P.O. Box 82554, Lincoln, NE 68501–2554; telephone: (402) 471–4789, before October 20, 1997. 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: September 10, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–24824 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Contra Costa Water District Multi-Purpose Pipeline Project, Contra Costa County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare a draft environmental impact statement and notice of scoping meeting; correction.

SUMMARY: The Department of the Interior published a document in the **Federal Register**, on September 2, 1997, concerning intent to prepare a draft environmental impact statement and notice of scoping meeting. The document contained an incorrect day.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Edmondson, telephone (209) 487–5049 or Ms. Christina Ko Hartinger, telephone (510) 688–8335.

Correction

In the **Federal Register** issue of September 2, 1997, in FR Doc 97–23132, on page 46372, Volume 62, Number 169; in the first column, correct the **DATES** heading to read:

DATES: A scoping meeting is scheduled for the project on Thursday, September 18, 1997, at 7:00 p.m, at the Bay Point Ambrose Community Center, 3105 Willow Pass Road, Bay Point, California.

Dated: September 10, 1997.

Susan Kelly,

Acting Area Manager, for South-Central California Area Office.

[FR Doc. 97–24833 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Prineville Reservoir Reallocation, Crooked River Project; Oregon

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to conduct a study to identify alternatives to the current allocation of space in Prineville Reservoir and to evaluate the alternatives, including no action, in an environmental impact statement (EIS).

ADDRESSES: Bureau of Reclamation, Pacific Northwest Regional Office, 1150 N Curtis Road, Boise, ID 83706–1234.

FOR FURTHER INFORMATION CONTACT: For information on the study contact David Bradley, Activity Manager, telephone (208) 378–5084. For information regarding the NEPA process contact Lola Sept, Environmental Specialist, telephone (208) 378–5032.

SUPPLEMENTARY INFORMATION: Prineville Reservoir, a feature of Reclamation's Crooked River Project, is located on the Crooked River, a tributary of the Deschutes and Columbia Rivers in Oregon. The reservoir was created by the construction of Arthur R. Bowman Dam (Bowman Dam) which was completed in 1961. It is located about 20 miles southeast of the city of Prineville, near the geographic center of the State of Oregon.

As the project is now authorized, all of the active capacity can be placed under contract for irrigation use. Although no reservoir space is specifically allocated for recreation or fish and wildlife uses, these purposes are included as part of the Crooked River project and are considered during annual evaluation of reservoir operations. Reclamation presently manages the noncontracted space for in-reservoir use, instream flow, and dry-year supplemental irrigation uses.

During recent years, the high water levels in Prineville Reservoir, together with a scenic location, pleasant summer weather, good fishing, and the development of a State park and small resort, have led to the popularity of the reservoir area for recreation. The State park ranks in Oregon's top five for occupancy, and the resort is popular during the summer when reservoir water levels are conducive to water-based recreation. Recreation use is the second highest of any Reclamation reservoir in Oregon.

Currently, the authorized minimum flow in the Crooked River below Bowman Dam is 10 cubic feet per second (cfs). In order to benefit the downstream fishery and Wild and Scenic River values, Reclamation made an administrative decision to release up to 75 cfs minimum flows below Bowman Dam from uncontracted

storage whenever contractual obligations can also be met.

Reclamation has received requests for sale of about 26,000 acre-feet of the noncontracted storage for irrigation and requests have been made that all noncontracted storage be reserved for agricultural use.

Clearly, there is controversy concerning the ''best'' use for the noncontracted storage in Prineville Reservoir. Any changes in storage allocation for uses other than irrigated agriculture would require the Congress to amend the authorization. This study is designed to explore alternatives, including no action, to water allocations in Prineville Reservoir.

PUBLIC INVOLVEMENT: Reclamation plans to conduct public scoping meetings to identify issues and concerns which will be used in the development of alternatives. These meetings will be held in the late fall of this year. The dates, times, and locations of public scoping meetings will be noted in newspapers of general circulation in Prineville and surrounding communities.

Dated: September 2, 1997.

John W. Keys, III,

Regional Director, Pacific Northwest Region.

[FR Doc. 97–24831 Filed 9–17–97; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development

Proposed Collection; Comment Request

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on or before September 30, 1997.

ADDRESS INFORMATION TO: Mary Ann Ball, Bureau of Management, Office of Administration Services, Information and Records Division, U.S. Agency for International Development, Washington, D.C. (202) 712–1765 or via e-mail MBall@USAID.Gov.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0551.

Form Number: N/A.

Title: U.S. Agency for International Development Acquisition Regulations (AIDAR) Clause 752.70.26 Reports.

Type of Submission: Revision of a currently approved collection.

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes USAID to contract with any corporation, international organization, or other body or persons in or out of the United States in furtherance of the purposes and within the limitations of the FAA. To determine how well contractors are performing to meet the requirements of the contract, USAID requires periodic performance reports from contractors. The performance reporting requirements are contained in the USAID clause New AIDAR reports (October 1996).

Annual Reporting Burden: Respondents: 350. Total annual responses: 2,000. Total annual hours requested: 8,000.

Dated: September 11, 1997.

Willette L. Smith,

Acting Chief, Information and Records Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 97–24828 Filed 9–17–97; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–383]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences

AGENCY: United States International Trade Commission

ACTION: Institution of investigation and scheduling of hearing

SUMMARY: On September 5, 1997, the Commission received a request from the United States Trade Representative (USTR) for an investigation under section 332(g) of the Tariff Act of 1930 for the purpose of providing advice concerning possible modifications to the Generalized System of Preferences (GSP). Following receipt of the request and in accordance therewith, the Commission instituted Investigation No. 332–383 in order to provide as follows—

(1) In accordance with sections 503(a)(1)(A), 503(e) and 131(a) of the Trade Act of 1974, as amended (''the 1974 Act''), and pursuant to authority of the President delegated to the United States Trade Representative by sections 4(c) and 8 (c) and (d) of Executive Order 11846 of March 31, 1975, as amended, the articles identified in Part A of the attached Annex are being considered for designation as eligible articles for purposes of the United States GSP, as set forth in Title V of the 1974 Act. In accordance with sections 503(a)(1)(A), 503(e) and 131(a) of the 1974 Act and under the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the Commission is requested to provide its advice with respect to the articles in Part A of the attached Annex, as to the probable economic effect on the United States industries producing like or directly competitive articles and on consumers of the elimination of United States import duties under the GSP;

(2) In accordance with section 503(c)(2)(E) of the 1974 Act, which exempts from one of the competitive need limits in section 503(c)(2)(A) of the 1974 Act articles for which no like or directly competitive articles was being produced in the United States on January 1, 1995, advice as to whether products like or directly competitive with the articles in Part A of the attached annex were being produced in the United States on January 1, 1995;

(3) With respect to the article listed in Part B of the attached annex, advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal of the article in Part B of the attached annex from eligibility for duty-free treatment under the GSP;

(4) In accordance with section 503(d)(1)(A) of the 1974 Act, advice as to whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for the country specified with respect to the articles in Part C of the attached annex.

In providing its advice under (1) the Commission will assume, as requested by USTR, that the benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act. With respect to the competitive need limit in section 503(c)(2)(A)(I)(I) of the 1974 Act, the

Commission, as requested, will use the dollar value limit of $80,000,000.

As requested by USTR, the Commission will seek to provide its advice not later than December 15, 1997.

EFFECTIVE DATE: September 11, 1997.

FOR FURTHER INFORMATION CONTACT:

(1) Project Manager, Cynthia B. Foreso (202–205–3348)
(2) Agricultural and forest products, Douglas Newman (202–205–3328)
(3) Energy, chemicals, and textiles, Eric Land (202–205–3349)
(4) Minerals, metals, machinery, and miscellaneous manufactures, Vincent DeSapio (202–205–3435)
(5) Services, electronics, and transportation, Laura Polly (202–205–3408)

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Background

The USTR letter noted that the Trade Policy Staff Committee (TPSC) announced on August 13, 1997 in the **Federal Register** the acceptance of product petitions for modification of the GSP received as part of the 1997 annual review. The letter stated that modifications to the GSP which may result from this review will be announced in the spring of 1998, and become effective in the summer of 1998.

Public Hearing

A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on October 21, 1997, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, D.C. The hearing may, if necessary, continue on October 22. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter asking to testify with the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on October 7, 1997. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on October 10, 1997. Posthearing briefs should be filed with the Secretary by close of business on October 29, 1997. In the event that no requests to appear at the hearing are received by the close of business on October 7, 1997, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after October 17, 1997 to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on October 29, 1997. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: September 12, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Attachment

Annex I (HTS Subheadings) [1]

A. Petition to add products to the list of eligible articles for the Generalized System of Preference (GSP).

0409.00.00	3204.12.45
0703.10.40	3204.12.50
0712.90.75(pt.)	3824.90.28
0812.10.00	7108.12.50
2002.90.00(pt.)	7108.13.70
2917.12.10	8108.10.50
3204.12.20	8704.10.50
3204.12.30	

B. Petitions to remove duty-free status from beneficiary countries for products on the list of eligible articles for the GSP. [2]
3920.62.00 (India)

C. Petitions for waiver of competitive need limit for products on the list of eligible products for the specified country.
0811.20.20 (Chile)
1604.30.20 (Russia)
2849.90.50 (South Africa)
2933.71.00 (Russia)
4011.10.10 (Brazil)
4011.10.50 (Brazil)
4011.20.10 (Brazil)
4011.20.50 (Brazil)
8108.90.60 (Russia)

[1] See USTR **Federal Register** notice of August 13, 1997, (62 F.R. 43408) for article description.

[2] While the Trade Policy Staff Committee (TPSC) review will focus on India, the TPSC reserves the right to address removal of GSP status for countries other than India as well as GSP status for the entire article.

[FR Doc. 97–24725 Filed 9–17–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–97–11]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 26, 1997, at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–750 (Final) (Vector Supercomputers from Japan)—briefing and vote.
5. Outstanding action jackets:

1. Document No. GC–97–044: Approval of disposition of civil penalty, remedy, public interest, and bonding issues in Inv. No. 337–TA–372 (Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same (Enforcement)).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: September 16, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–24925 Filed 9–16–97; 11:37 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Plum Creek Manufacturing, L.P.*, Civil Action No. CV 96–42–M–CCL, was lodged on September 2, 1997, with the United States District Court for the District of Montana.

The proposed Consent Decree pertains to Plum Creek Manufacturing, L.P.'s (''Plum Creek'') sawmill located in Pablo, Montana (''Pablo Facility'') within the boundaries of the Flathead Indian Reservation. In this action against Plum Creek, the United States sought civil penalties and injunctive relief pursuant to Section 113 of the Clean Air Act (''CAA''), 42 U.S.C. § 7401 *et seq.*, for violations of the CAA's New Source Performance Standards (''NSPS''), Subparts A and Dc, 40 C.F.R. §§ 60.1 *et seq.* and § 60.40c *et seq.* The proposed Consent Decree resolves the United States' claims against Plum Creek in return for an agreement to: (1) Pay $300,000 in civil penalties; (2) expend $75,000 for the purchase and delivery of low particulate producing road sand for the Confederated Salish and Kootenai Tribes of the Flathead Reservation (the ''Tribes'') as a supplemental environmental project (''SEP''); (3) replace an old, unregulated oil-fired boiler with a natural gas boiler which will reduce potential sulfur dioxide emissions below 40 tons per year and (4) comply with all applicable NSPS requirements.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Plum Creek Manufacturing, L.P.*, DOJ Ref. # *90–5–2–1–1673A*.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of Montana, 2929 2nd Avenue North, Suite 400, Billings, Montana 59101; the Region VIII Office of the Environmental Protection Agency, 999 18th St., Suite 500, Denver, Colorado 80202–2466; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs), for each copy. The check should be made payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–24766 Filed 9–17–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

National Institute of Justice; Office of Research and Evaluation; Agency Information Collection Activities: Proposed Collection; Comment Requested

ACTION: Request for OMB emergency approval; Crime mapping survey.

The Department of Justice, Office of Justice Programs, National Institute of Justice has submitted the following information collection request to the Office of Management and Budget (OMB) for emergency review and approval in accordance with 5 CFR 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. Emergency OMB approval has been requested by September 12, 1997, and public comments will be accepted until October 20, 1997. If granted, the emergency approval is only valid for 180 days.

This notice was originally published in the **Federal Register** on June 2, 1997, and requested emergency approved by OMB and allowed a 60 day public comment period. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: DOJ Desk Office, Washington, DC 20503. During the first 30 days of this same period a regular review of this information collection is also being conducted.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collected of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Cyndy Nahabedian (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Cyndy Nahabedian, (202) 514–5981, Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, NW, Room 303, Washington, DC 20531. Additionally, comments may also be submitted to ORE via facsimile to (202) 307–6394.

Overview of this information collection:

(1) *Type of information collection:* New collection.

(2) *Title of the form/collection:* Crime Mapping Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: none Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Law enforcement agencies. Other: none. This national survey is designed to determine the extend to which police departments, specifically crime analysts, are using computerized crime mapping. Surveys will be mailed to a randomly select sample of police departments. The questionnaire will determine the level of crime mapping within departments, both in terms of hardware and software responses as well as the types of maps that are produced and how they are used. The information collected from this survey will be used to advise our newly established Crime Mapping Research Center.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,798 respondents at an average of 33 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 562 burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: September 12, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–24771 Filed 9–17–97; 8:45 am]

BILLING CODE 4410–09–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974 and Personal Responsibility and Work Opportunity Reconciliation Act of 1996

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of system of records to include new routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), the Federal Mine Safety and Health Review Commission is issuing notice of our intent to amend the system of payroll records (FMSHRC–01) to include new routine uses. We invite public comment on this publication. In addition, we are updating our identification of the system location to reflect the Commission's present payroll servicing agent.

DATES: The changes will become effective as proposed, on October 1, 1997 as required by law. Comments will be received for 30 days from the date of this notice, and, if changes are necessary based on the Commission's review of comments received, the Commission will publish a new final notice.

ADDRESSES: Interested individuals may comment on this publication by writing to Richard L. Baker, Executive Director, Federal Mine Safety and Health Review Commission, Suite 600, Washington, DC 20006. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Richard L. Baker, Executive Director, (202) 653–5625.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Changes to Routine Use of Systems of Records

Pursuant to the Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Federal Mine Safety and Health Review Commission (FMSHRC) will disclose data from its payroll records to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for use in its Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. Information on this system was last published at 61 FR 38754, July 25, 1996.

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. Effective October 1, 1997, the FPLS will be enlarged to include the National Directory of New Hires, a database containing information on employees commencing employment, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. Effective October 1, 1998, the FPLS will be expanded to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified of the participant's current employer. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

The data to be disclosed by the National Finance Center of the United States Department of Agriculture, on behalf of the Federal Mine Safety and Health Review Commission to the FPLS include wages earned and income taxes to be paid both state and federal, and the following data elements relating to the employee—employees name and social security number, date and state of hire, date of birth, address; and the following data elements relating to the Commission: Federal EIN (employer identification number), employer name and address.

In addition, names and social security numbers submitted by the Federal Mine Safety and Health Review Commission to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct.

The data disclosed by the Federal Mine Safety and Health Review Commission to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of the Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

II. Compatibility of Proposed Routine Uses

We are proposing these routine uses in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)). The Privacy Act permits the disclosure of information about individuals without their consent for a routine use where the information will be used for a purpose which is compatible with the purpose for which the information was originally collected. The Office of Management and Budget has indicated that a ''compatible'' use is a use which is necessary and proper. *See* OMB Guidelines, 51 FR 18982, 18985 (1986). Since the proposed uses of the data are required by Pub. L. 104–193, they are clearly necessary and proper uses, and therefore ''compatible'' uses which meet Privacy Act requirements.

Finally, we are changing the system location of the Commission's payroll records to reflect the agency's present contractor—United States Department of Agriculture, National Finance Center.

III. Effect of the Proposed Changes on Individuals

We will disclose information under the proposed routine uses only as required by Pub. L. 104–193 and as permitted by the Privacy Act.

Accordingly, the payroll records system (FMSHRC–01) notice originally published at 49 FR 30668 (July 31, 1984) is further amended as set forth below.

* * * * *

SYSTEM LOCATION: United States Department of Agriculture, National Finance Center, copies held by FMSHRC. USDA holds records for the Commission under inter-agency agreement.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1). To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support and for enforcement action.

(2). To the Office of Child Support Enforcement for release to the Social Security Administration for verifying

social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement;

(3). To Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

* * * * *

Dated: September 12, 1997.

Richard L. Baker,

Executive Director, Federal Mine Safety and Health Review Commission.

[FR Doc. 97–24767 Filed 9–17–97; 8:45 am]

BILLING CODE 6735–01–P

MORRIS K. UDALL SCHOLARSHIP & EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meeting

The Board of Trustees of the Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation will hold a meeting beginning at 3:00 p.m. on Friday, October 3, 1997, at the Morris K. Udall Building, 803/811 East First Street, Tucson, Arizona 85719.

The matters to be considered will include: (1) A review and approval of the 1998 budget; (2) Reports of on-going and planned Foundation programs; and (3) A report from the Udall Center for Studies and Public Policy. The meeting is open to the public.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, 803 East First Street, Tucson, AZ 85719. Telephone: (520) 670–5523.

Dated this 15th day of October, 1997.

Christopher L. Helms.

[FR Doc. 97–25024 Filed 9–16–97; 3:56 pm]

BILLING CODE 6820–FN–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Materials Research #1203.

Dates and Times: October 5, 1997, 7:00 pm–10:00 pm and October 6–7, 1997, 8:00 am–5:00 pm.

Place: University of Florida, Gainesville, FL.

Type of Meeting: Closed.

Contact Person: Dr. W. Lance Haworth, Acting Executive Officer, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1815, FAX (703) 306–0515.

Purpose of Meeting: To provide advice and recommendations concerning the continued support for the National High Magnetic Field Laboratory (NHMFL) operated by Florida State University, the University of Florida, and Los Alamos National Laboratory.

Agenda: To review and evaluate the progress report and proposal for continued funding from the NHMFL.

Reason for Closing: The progress report being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 12, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–24801 Filed 9–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub L.92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Materials Research (1203) will be holding panel meetings for the purpose of reviewing preproposals submitted to the Integrative Graduate Education and Research Training Program. These preproposals reflect multidisciplinary research themes that draw from all areas of science, engineering, and education supported by the National Science Foundation. In order to review the large volume of proposals, panel meetings will be held on October 6–8, 1997 (2). All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, from 8:00 AM to 5:00 PM each day.

Contact person: Dr. Henry Blount, Head, Office of Multidisciplinary Activities, Office of the Assistant Director for Mathematical and Physical Sciences, National Science Foundation, Room 1005, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1946.

Reason For Closing: The preproposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 12, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–24802 Filed 9–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Communication.

Date and time: October 9, 1997; 8:00 a.m. to 5:00 p.m. October 10, 1997; 8:00 a.m. to 5:00 p.m.

Place: Rooms 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of meeting: Closed.

Contact person: Dr. Christopher Dede, Senior Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Career Program.

Reason for closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 12, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–24800 Filed 9–17–97; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider certain technical amendments to the bylaws, matters relating to administration and relating to

enforcement of the price regulation, and to deliberate and make final rulings in certain petitions for exemption from operation of the price regulation.

DATES: The meeting is scheduled for September 25, 1997, 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Cat 'n Fiddle Restaurant, 118 Manchester Street, in Concord, NH.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Compact Commission will hold its regular monthly meeting. The Commission will consider certain technical amendments to the bylaws and matters relating to administration, as well as guidelines for enforcement of the compact over-order price regulation. The Commission will also deliberate and make final rulings in certain administrative petitions for exemption from operation of the price regulation. See 62 FR 35065 (June 30, 1997).

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress (codified at 7 U.S.C. 7256); Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.

Daniel Smith,

Executive Director.

[FR Doc. 97–24792 Filed 9–17–97; 8:45 am]

BILLING CODE 1650–01–P–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on October 2–3, 1997, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the**Federal Register** on Thursday, January 23, 1997 (62 FR 3539).

Thursday, October 2, 1997

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman

(Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–10:45 A.M.: Human Performance and Reliability Implementation Plan

(Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed Human Performance and Reliability Implementation plan.

11:00 A.M.–12:00 Noon: Proposed Resolution of a Differing Professional Opinion Concerning Steam Generator Integrity

(Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of a Differing Professional Opinion associated with the steam generator tube integrity.

1:00 P.M.–3:00 P.M.: Proposed Changes Related to 10 CFR 50.59 and Proposed Revision 1 to Generic Letter 91–18

(Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Nuclear Energy Institute regarding proposed changes related to 10 CFR 50.59 (Changes, tests and experiments) and the proposed Revision 1 to Generic Letter 91–18, ''Information to Licensees Regarding NRC Inspection Manual Sections on Resolution of Degraded and Nonconforming Conditions.''

3:45 P.M.–7:00 P.M.: Preparation of ACRS Reports

(Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, October 3, 1997

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman

(Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.–10:00 A.M.: Meeting With the Director of the NRC Office for Analysis and Evaluation of Operational Data (AEOD)

(Open)—The Committee will hear presentations by and hold discussions with the AEOD Director on items of mutual interest, including Accident Sequence Precursor Program, and other AEOD Programs.

10:15 A.M.–10:30 A.M.: Subcommittee Report

(Open)—The Committee will hear a report by the Chairman of the Thermal-Hydraulic Phenomena Subcommittee regarding the items discussed during the September 29–30, 1997 Subcommittee meeting.

10:30 A.M.–10:45 A.M.: Reconciliation of ACRS Comments and Recommendations

(Open)—The Committee will discuss responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports. The EDO responses are expected to be provided to the ACRS prior to the meeting.

10:45 A.M.–11:15 A.M.: Future ACRS Activities

(Open)—The Committee will discuss the recommendations of the Planning and Procedures Sub-committee regarding items proposed for consideration by the full Committee during future meetings.

11:15 A.M.–11:45 A.M.: Report of the Planning and Procedures Subcommittee

(Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, qualifications of candidates nominated for appointment to the ACRS, and organizational and personnel matters relating to the ACRS.

Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

12:45 P.M.–1:45 P.M.: Planning To Review the Safety Research Program

(Open)—The Committee will discuss plans and areas of assignments for individual ACRS members related to the review of the NRC Safety Research Program.

1:45 P.M.–7:00 P.M.: Preparation of ACRS Reports

(Open)—The Committee will complete its discussion of proposed ACRS reports on matters considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 4, 1997 (62 FR 46782). In accordance with these procedures, oral

or written statements may be presented by members of the public and representatives of the nuclear industry, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Pub.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 A.M. and 4:15 P.M. EDT.

ACRS meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' The Direct Dial Access number to FedWorld is (800) 303–9672 or ftp.fedworld. These documents and the meeting agenda are also available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: September 12, 1997.

John C. Hoyle,

Acting Advisory Committee Management Officer.

[FR Doc. 97–24804 Filed 9–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–245, 50–336, and 50–423 and Docket No. 50–213]

Northeast Utilities, Millstone Nuclear Power Station, Units 1, 2, and 3 and Haddam Neck Plant; Issuance of Partial Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Partial Director's Decision with regard to a Petition dated November 25, 1996, as amended on December 23, 1996, filed by Ms. Deborah Katz and Mr. Paul Gunter on behalf of the Citizens Awareness Network (CAN) and the Nuclear Information and Resource Service (NIRS), hereafter referred to as ''Petitioners.'' The Petition pertains to the Millstone Nuclear Power Station, Units 1, 2, and 3, and the Haddam Neck Plant.

The Petitioners requested that the NRC: (1) Immediately suspend or revoke Northeast Utilities' (NU's or Licensee's) licenses to operate its nuclear facilities in Connecticut; (2) investigate possible Licensee material misrepresentations to the NRC; (3) continue the shutdown of the Licensee's facilities until the Department of Justice completes its investigation and the results are reviewed by the NRC; (4) continue the shutdown until the NRC evaluates and approves the Licensee's remedial actions; (5) continue listing the Licensee's facilities on the NRC's ''Watch List'' should any facility resume operation; (6) bar any predecommissioning or decommissioning activity at any of the Licensee's nuclear facilities in Connecticut until the Licensee and the NRC take certain identified steps to assure that such activities can be safely conducted; (7) initiate an investigation into how the NRC allowed the asserted illegal situation at the Licensee's nuclear facilities in Connecticut to exist and continue for more than a decade; and (8) immediately investigate of the need for enforcement action for alleged violation of 10 CFR Part 50, appendix B, with respect to nitrogen calculations.

The bases for the assertions are Licensee and NRC inspection findings and Licensee documents referred to in the Petition and a VHS videotape, Exhibit A, which accompanied the Petition. The videotape records an August 29, 1996, Citizens Regulatory Commission televised interview of a former Millstone Station employee expressing his views on Licensee management. Areas identified in the Petition include inadequate surveillance testing, operation outside the design basis, inadequate radiological controls, failed corrective action processes, and degraded material condition. The Petition asserts that this information demonstrates that there are inadequate quality assurance programs at the Licensee's nuclear facilities in Connecticut, that the Licensee has made material false statements regarding its Millstone units, and that safe decommissioning of the Haddam Neck facility is not possible because of the deficiencies in the design and licensing bases of the facility.

The Director of the Office of Nuclear Reactor Regulation has partially granted the Petition. The reasons for this partial grant are explained in the ''Partial Director's Decision Pursuant to 10 CFR 2.206'' (DD–97–21), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, New London Turnpike, Norwich, Connecticut, and at the temporary local public document room located at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut, for Millstone Units 1, 2, and 3; and at the Russell Library, 123 Broad Street, Middletown, Connecticut, for the Haddam Neck Plant.

A copy of the Partial Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided for by this regulation, the Decision will constitute the final action of the Commission (for Requests 1, 2, 5, 6, and 8) 25 days after the date of issuance unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, MD, this 12th day of September.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Deputy Director, Office of Nuclear Reactor Regulation.

Partial Director's Decision Pursuant to 10 CFR 2.206

[DD–97–21]

I. Introduction

On November 25, 1996, as amended on December 23, 1996, Ms. Deborah Katz and Mr. Paul Gunter filed a Petition on behalf of the Citizens

Awareness Network (CAN) and the Nuclear Information and Resource Service (NIRS), hereafter, referred to as Petitioners. These two submittals will hereafter be referred to as the Petition. The Petition was filed with the U.S. Nuclear Regulatory Commission (NRC) and the NRC Executive Director for Operations pursuant to § 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206).

The Petitioners requested that the NRC take the following actions: (1) Immediate suspension or revocation of Northeast Utilities' (NU's or Licensee's) licenses to operate its nuclear facilities in Connecticut; (2) investigation of possible NU material misrepresentations to the NRC; (3) continued shutdown of the NU facilities until the Department of Justice completes its investigation and the results are reviewed by the NRC; (4) continued shutdown until the NRC evaluates and approves NU remedial actions; (5) continued listing of the NU facilities on the NRC's Watch List should any facility resume operation; (6) prohibition of any predecommissioning or decommissioning activity at any NU nuclear facility in Connecticut until NU and the NRC take certain identified steps to assure that such activities can be safely conducted; (7) initiation of an investigation into how the NRC allowed the asserted illegal situation at NU's nuclear facilities in Connecticut to exist and continue for more than a decade; and (8) an immediate investigation of the need for enforcement action for alleged violation of 10 CFR part 50, Appendix B.[1]

The bases for the Petitioners' assertions are NU and NRC inspection findings and NU documents referred to in the Petition and a VHS videotape, Exhibit A, which accompanied the Petition. No new information regarding Licensee activities was provided by the Petitioners except for the alleged violation referred to in Request 8. The Petitioners assert, in Request 8, that NU relied partly on draft calculations in its presentation at a public predecisional enforcement conference with the NRC staff, which included a discussion of an event at the Haddam Neck Plant. The Petitioners further assert that the calculations had not been reviewed and approved in accordance with the requirements of 10 CFR part 50, appendix B.

[1] Petitioners requested copies of the Licensee's calculations performed in response to the event at the Haddam Neck Plant that resulted in the introduction of a nitrogen bubble into the reactor vessel. The calculations requested were discussed during a predecisional enforcement conference held on December 4, 1996. The calculations were provided to the Petitioners on July 21, 1997.

The areas of concern identified in the Petition include inadequate surveillance testing, operation outside the design as specified in the updated Final Safety Analysis Report (UFSAR), inadequate radiological controls, failed corrective action processes, and the degraded material condition of the plants. The Petitioners also assert that this information demonstrates that there are inadequate quality assurance programs at NU's nuclear facilities in Connecticut, that NU has made material false statements regarding its Millstone units, and that safe decommissioning of the Haddam Neck Plant is not possible given the defective nature of the design and licensing bases for the facility. The videotape records an August 29, 1996, Citizens Regulatory Commission televised interview of a former Millstone Station employee expressing his views on NU management. The tape has been transcribed and placed on the dockets of the facilities cited. The videotape interview included the former employee's views relating to NU's poor management in allowing degradation of the material condition of the plant; poor radwaste practices resulting in potential radiation exposure to employees; and harassment, intimidation, and subsequent illegal termination of employees raising safety concerns.

On January 23, 1997, the NRC acknowledged receipt of the Petition and informed the Petitioners that the Petition had been assigned to the Office of Nuclear Reactor Regulation to prepare a response and that action would be taken within a reasonable time regarding the specific concerns raised in the Petition. The Petitioners were also informed that the requests for immediate action were denied. The Petitioners were further informed that copies of the Petition and videotape were sent to the NRC's Office of the Inspector General (OIG) in response to Petitioners' Request 7 and parts of Requests 5, 6, and 8.

II. Discussion

The NRC staff has reviewed the Petition and, with the exception of Request 8, has not identified any new information regarding either the Millstone or the Haddam Neck facilities. Both of the facilities have been the subject of close NRC scrutiny for several years.

Millstone Facility

With regard to the Millstone units, the NRC staff has been concerned for the last several years about the number and duration of violations at the Millstone site in the broad programmatic areas of design and licensing bases, testing, and radiological controls. Programmatic concerns in these areas, along with concerns in other areas, were major contributors to the decline in performance at the Millstone site. In the most recent systematic assessment of licensee performance (SALP) report of August 26, 1994, the NRC staff stated in the cover letter that it had noted several performance weaknesses, common to all three Millstone units. Among these were continuing problems with procedure quality and implementation, the informality in several maintenance and engineering programs (contributing to instances of poor performance), and the failure to resolve several longstanding problems at the site. In addition to these programmatic problems, the Licensee has had significant problems in dealing with employee concerns involving safety issues at the site.

On November 4, 1995, the Licensee shut down Millstone Unit 1 for a scheduled refueling outage. The NRC sent a letter to the Licensee on December 13, 1995, requiring the Licensee, before restarting Millstone Unit 1, to inform the NRC, pursuant to section 182a of the Atomic Energy Act of 1954, as amended (the Act), and 10 CFR 50.54(f), of the actions taken to ensure that in the future the Licensee would operate that facility according to the terms and conditions of the unit's operating license, the Commission's regulations, and the unit's FSAR.

In January 1996, the NRC designated the three Millstone units as Category 2 on the NRC's Watch List. Plants on the Watch List in this category have weaknesses that warrant increased NRC attention until the licensees demonstrate improved performance for an extended period of time.

On February 20, 1996, the Licensee shut down Millstone Unit 2 when it declared both trains of the high-pressure safety injection (HPSI) system inoperable because of a design issue. There was a potential that the HPSI throttle valves could become plugged with debris when taking suction from the sump during recirculation mode.

On March 30, 1996, the Licensee shut down Millstone Unit 3 after finding that containment isolation valves for the auxiliary feedwater turbine-driven pump were inoperable because the valves did not meet NRC requirements. In response to a Licensee root cause analysis of inaccuracies in the Millstone Unit 1 FSAR, identifying the potential for similar configuration control problems at Millstone Units 2 and 3 and the existing design configuration issues identified at these units, the NRC issued 10 CFR 50.54(f) letters to the Licensee on March 7 and April 4, 1996. These

letters required that the Licensee inform the NRC of the corrective actions taken regarding design configuration issues at Millstone Units 2 and 3 before the restart of each unit.

In June 1996, the NRC designated the three units at Millstone as Category 3 on the NRC's Watch List. Plants in this category have significant weaknesses that warrant maintaining them in a shutdown condition until the Licensee can demonstrate to the NRC that it has both established and implemented adequate corrective actions to ensure substantial improvement. This category also requires Commission approval before operations can be resumed.

On August 14, 1996, the NRC issued a Confirmatory Order directing the Licensee to contract with a third party to implement an Independent Corrective Action Verification Program (ICAVP) to confirm the adequacy of its efforts to reestablish the design basis and configuration controls for each of the three Millstone units. The ICAVP is intended to provide additional assurance, before a unit restart, that the Licensee has identified and corrected existing problems in the design and configuration control processes for that unit.

On April 16, 1997, the NRC issued another 10 CFR 50.54(f) letter, which superseded the previously mentioned 10 CFR 50.54(f) letters and consolidated its requests for information and periodic updates. The information requested included: (1) The identification of significant items needed to be accomplished before restart; (2) identification of items to be deferred until after restart; (3) NU's process and rationale for deferring items; and (4) a description of the actions taken by NU to ensure that future operation will be conducted in accordance with the terms and conditions of the operating licenses, the Commission's regulations, and the FSARs. The Licensee provided the initial information requested by letter dated May 29, 1997. Additional information and updates will be provided in accordance with the time intervals specified in the 10 CFR 50.54(f) letter.

During eight NRC inspections conducted between October 1995 and August 1996, more than 60 apparent violations of NRC requirements were identified at the Millstone site. These apparent violations were discussed at a public predecisional enforcement conference held at the Millstone site on December 5, 1996. During the meeting, the Licensee stated that management failed to provide clear direction and oversight, performance standards were low, management expectations were weak, and station priorities were inappropriate. The NRC staff is nearing completion of its evaluation of potential enforcement action to address these apparent violations and their overall impact on the safe operation of the Millstone units.

Additionally, the Licensee has had a chronic problem of not dealing effectively with employee concerns at the Millstone site. On December 12, 1995, the NRC established a review group to conduct an independent evaluation of the history of the Licensee's handling of employee concerns related to licensed activities at the Millstone facility. The review group determined that, in general, an unhealthy work environment, which did not tolerate dissenting views and did not welcome or promote questioning attitudes, has existed at the Millstone facility for the last several years. To address this problem, the NRC issued an Order on October 24, 1996, that directed NU to devise and implement a comprehensive plan for handling safety concerns raised by Millstone employees and to ensure an environment free from retaliation or discrimination. In addition, the Order required NU to have an independent third party oversee its employee concerns program. The third party is responsible for providing periodic reports to NU and the NRC detailing its findings and recommendations. The third-party findings and the NU responses to them will be assessed by the NRC staff for any restart issues.

The NRC regards compliance with regulations, license conditions, and Technical Specifications (TSs) as mandatory. However, the NRC also recognizes that plants will not operate trouble-free.[2] This is clearly articulated in Criterion XVI, Appendix B, Part 50, ''Quality Assurance Criteria for Nuclear Power plants and Fuel Reprocessing plants.'' Criterion XVI states that ''measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected.''

The appropriate response to an identified deficiency can and should vary, depending on the safety significance of the deficiency. For example, for rapidly developing situations, when prompt action is required to assure plants are not in an unsafe condition, automatic safety systems are in place to shut down the reactor. In other, less time-critical situations, TSs relating to structures, systems, and components (SSCs) vital to the safe operation of a nuclear plant require that specific actions be taken within a predetermined time period when the SSC is determined to be inoperable. The time period is dependent on the safety significance of the SSC. NRC Generic Letter 91–18, ''Information to Licensees Regarding Two NRC Inspection Manual Sections on Resolution of Degraded and Nonconforming Conditions and on Operability,'' provides guidance for licensees to determine what actions are required and when they need to be taken for identified degraded or nonconforming conditions.

The conduct of NRC regulatory oversight at the Millstone site is based on the recognition that it is the Licensee's primary responsibility to demonstrate that corrective actions have been effectively implemented. Thus, the Licensee must determine that a unit is in conformance with applicable NRC regulations, its license conditions, and its FSAR and that applicable licensing commitments have been met before the NRC staff can recommend that the Commission approve the restart of any unit. The Licensee's conformance with NRC regulations, license conditions, and licensing commitments is fundamental to NRC's confidence in the safety of licensed activities. In short, the Licensee has the primary responsibility for the safe operation of its facilities.

In a June 20, 1996, letter to the NRC, the Licensee described its Configuration Management Plan (CMP), which is its principal program to provide reasonable assurance that weaknesses at the Millstone units have been effectively corrected. The CMP includes efforts to understand and correct the licensing

[2] The NRC's approach to protecting public health and safety includes the philosophy of defense-in-depth, which supports the identification and correction of degraded or nonconforming conditions discussed above. Briefly stated, this philosophy (1) requires the application of conservative codes and standards, to establish substantial safety margins in the design of nuclear plants; (2) requires high quality in the design, construction, and operation of nuclear plants to reduce the likelihood of malfunctions, and promotes the use of automatic safety system actuation features; (3) recognizes that equipment can fail and operators can make mistakes and therefore requires redundancy in safety systems and components to reduce the chances that malfunctions or mistakes will lead to accidents that release fission products from the fuel; and (4) recognizes that, in spite of these precautions, serious fuel damage accidents can happen and therefore requires containment structures and safety features to prevent the release of fission products. In the unlikely event of an offsite fission product release, emergency plans are in place to provide reasonable assurance that protective actions can and will be taken to protect the population around nuclear power plants. These emergency plans are coordinated with local and State officials and the Federal Emergency Management Agency.

and design bases issues that led the NRC to issue the 10 CFR 50.54(f) letters and Order actions to prevent recurrence of those issues. The Licensee stated that the objective of the CMP was to document and meet the licensing and design bases requirements of each unit and to ensure that adequate programs and processes are in place to maintain control of these requirements.

The Licensee's CMP must either correct each FSAR deficiency or evaluate it to ensure that the change to the facility does not involve any unreviewed safety question or change to the facility TSs. NU has documented a large number of deficiencies, which vary in scope and safety significance for each unit. These lists contain significant deficiencies that must be corrected before restart and others that the Licensee is planning to correct after the restart. In its continuing reviews of the deficiency lists, the NRC staff will determine whether the Licensee has appropriately scheduled safety-significant items for completion before restart and whether those items that the Licensee will defer until after restart are appropriate for each unit. The results of these efforts will be documented in NRC inspection reports.

The NRC's regulatory oversight of the Licensee's corrective actions requires extensive planning and program integration. To focus more regulatory attention on all of the restart issues related to the Millstone units, the NRC has established a Special Projects Office (SPO) within the Office of Nuclear Reactor Regulation to oversee these activities. The SPO has developed a comprehensive and multifaceted oversight program to verify the adequacy of NU's corrective actions, programs, and processes. The breadth and significance of the problems identified at the Millstone site require this program. The SPO has developed a Restart Assessment Plan (Assessment Plan) for each of the Millstone units, which includes: (1) the appropriate aspects of NRC Inspection Manual, Manual Chapter (MC) 0350, ''Staff Guidelines For Restart Approval''; (2) oversight of NU's ICAVP; and (3) oversight of NU's corrective actions relating to employee concerns involving safety issues. The activities associated with the Assessment Plan are in addition to the normal inspection and licensing activities being carried out at the Millstone site.

MC 0350 establishes the guidelines for approving the restart of a nuclear power plant after a shutdown resulting from a significant event, a complex hardware problem, or serious management deficiencies. The primary objective of the guidelines in MC 0350 is to ensure that NRC's restart review efforts are appropriate for the individual circumstances, are reviewed and approved by the appropriate NRC management levels, and provide objective measures of restart readiness.

The Assessment Plan for each unit includes those issues listed in MC 0350 that the NRC staff has identified as relevant to the shutdown of the unit. Each Assessment Plan also includes additional issues determined to be applicable to the specific situation. The Assessment Plans include all actions the NRC expects NU to take before the NRC staff recommends to the Commission that a unit be permitted to restart. Accordingly, the staff will use the Assessment Plan for each Millstone unit to track and monitor all significant actions necessary to support a decision on restart approval of the unit.

The Assessment Plan for each Millstone unit includes the requirement to review the NU Operational Readiness Plan, the deficiency lists associated with the Assessment Plan, including restart and deferred items, the corrective action program, work planning and controls, the procedure upgrade program, the nuclear oversight function (quality assurance), outstanding enforcement items, and a Significant Issues List (SIL), which includes issues identified by both NU and the NRC as issues requiring resolution before restart. NRC MC 93802, ''Operational Safety Team Inspection'' (OSTI), provides the framework for a team inspection to be performed during the later stages of the restart process. The inspection will be structured to focus on the pertinent issues at each of the Millstone units.

Within the SPO, a Millstone Restart Assessment Panel (RAP) has been formed in accordance with MC 0350. The RAP meets to assess the Licensee's performance and its progress in completing the designated restart activities. The RAP is composed of the Director, SPO (chairman); the Deputy Directors of Licensing, Inspections, and Independent Corrective Action Verification Program Oversight; the Project Managers for the three Millstone units; the Inspection Branch Chief; the Senior Resident Inspectors for the three Millstone units; and the appointed Division of Reactor Safety representative. The RAP holds periodic meetings with the Licensee to discuss the Licensee's corrective actions and schedules of each Millstone unit. These meetings are noticed and are open to the public. An additional meeting with the public is usually held that same day in the evening to summarize the meeting with the Licensee, provide an update on NRC activities, and address comments from the public.

The purpose of the ICAVP, as stated in the Confirmatory Order, is to confirm that the plant's physical and functional characteristics are in conformance with its licensing and design bases. The ICAVP audit required by the NRC is expected to provide independent verification, beyond NU's quality assurance and management oversight, that the Licensee has identified and satisfactorily resolved existing nonconformances with the design and licensing bases; documented and utilized the licensing and design bases to resolve nonconformances; and established programs, processes, and procedures for effective configuration management in the future. NU has started programs to identify and understand the root causes of the licensing and design bases issues that led to NRC issuance of the 10 CFR 50.54(f) letters to NU and to implement corrective actions that will ensure that NU maintains the design configuration and that each unit is in conformance with its licensing basis. NU has indicated that the scope of its corrective programs will include those systems that it has categorized as either Group 1 (safety-related and risk-significant) or Group 2 (safety-related or risk-significant). The ICAVP audit must provide insights into the effectiveness of NU's programs so that the results can be reasonably extrapolated to the structures, systems, and components that were not reviewed in the audit.

As a practical matter, the NRC cannot do a 100-percent verification of the Licensee's corrective actions, processes, and programs for each Millstone unit. However, a comprehensive and multifaceted oversight process has been developed by the NRC staff to provide a high level of confidence that the Licensee has implemented required corrective actions and that all of the issues on the SILs have been resolved. The independent third-party evaluations required by the NRC will be used to enhance NRC confidence that the Licensee's corrective action programs have been effectively implemented at each unit.

NRC activities (including oversight of the ICAVP) to ensure that effective corrective actions are being taken by the Licensee will provide additional assurance that the Licensee's corrective action programs have been effectively implemented. These activities will include in-process reviews of the ICAVP contractor's activities, reviews of the ICAVP results, and additional independent reviews of compliance with the design and licensing bases of

selected systems. The State of Connecticut's Nuclear Energy Advisory Council has provided input to the NRC staff for selecting the systems which will be reviewed by the ICAVP contractor and has been invited to observe the NRC staff's ICAVP inspections.

When the restart review process has identified, corrected, and reviewed relevant issues regarding each Millstone unit, a restart authorization process will be initiated for that unit. Upon receipt of a staff recommendation and a briefing on any ongoing investigations, the Commission will meet to assess the recommendation and vote on whether to allow the restart of the unit. The same process will be followed for the remaining units.

Haddam Neck Facility

With regard to the Haddam Neck Plant, the Licensee shut down the plant on July 22, 1996, as required by the facility's TSs, because of concerns that the containment air recirculation fans service water piping may exceed design loads during certain accident scenarios. The Licensee determined that these concerns and other hardware and programmatic problems identified before and during the forced outage should be resolved before restarting the plant. Thus, the Licensee decided to begin Refueling Outage 19 on August 17, 1996. On October 9, 1996, the owners of the Haddam Neck Plant stated that a permanent shutdown of the plant was being considered by the Board of Trustees based on an economic analysis of operations, expenses, and the cost of replacement power. Subsequently, all fuel assemblies were removed from the reactor and placed in the spent fuel pool.

From November 21, 1995, to November 22, 1996, the NRC conducted numerous inspections at the Haddam Neck Plant to review several facets of plant performance. These inspections included a Special Team inspection by NRC headquarters staff focused on engineering performance; a special Augmented Inspection Team (AIT) inspection of a reactor vessel nitrogen intrusion event in late August and early September 1996 that lowered the reactor vessel water level; a special radiation protection inspection of a significant contamination event in November 1996; an emergency preparedness inspection to observe the Licensee's response during an emergency exercise held in August 1996; and several resident inspections. Numerous violations, as well as several significant regulatory concerns, were identified during these inspections. Most of the violations were discussed at a transcribed public predecisional enforcement conference at the Millstone training building in Waterford, Connecticut, on December 4, 1996. The December 4 conference was open to the public and focused on the broader programmatic deficiencies underlying the violations that contributed to the problems at Haddam Neck. A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $650,000 was issued on May 12, 1997, and subsequently paid by the Licensee.

The restart process described for the three Millstone units is not applicable to the Haddam Neck Plant. By letter dated December 5, 1996, the Licensee certified to the NRC, pursuant to 10 CFR 50.82(a)(1)(i) and 10 CFR 50.82(a)(1)(ii), that it had decided to permanently cease operations at the Haddam Neck Plant and had permanently removed the fuel from the reactor. The Licensee further noted that a Post-Shutdown Decommissioning Activities Report (PSDAR) and a site-specific decommissioning cost estimate would be submitted in accordance with 10 CFR 50.82, ''Termination of License.''

It is important to note that the NRC continues to identify problems at both the Millstone site and the Haddam Neck Plant, as documented in inspection reports issued after this Petition was filed. These findings indicate that the corrective actions required to restart the Millstone units have not yet been fully implemented. The NRC staff will not recommend that the Commission allow the restart of a Millstone unit until the Commission has determined, in accordance with the Assessment Plan, that the necessary corrective actions have been effectively implemented for the unit.

As for Haddam Neck, a Confirmatory Action Letter (CAL) was issued to the Licensee on March 4, 1997, concerning radiological-control problems at the Haddam Neck Plant. This CAL is an example of the type of action that the NRC takes to assure that the limited activities at the site will be conducted in a safe manner and in accordance with regulatory requirements. The CAL prohibits the Licensee from performing any radiological work except that required to maintain the plant in a safe configuration until the corrective actions identified in the CAL have been implemented.

III. NRC Response to Requested Actions

In summary, the Licensee's implementation of its Configuration Management Plan (CMP) for each Millstone unit, response to the elements in the NRC staff's Restart Assessment Plan (Assessment Plan) for each Millstone unit, implementation of actions to improve programs to address employee concerns at the Millstone site, and the implementation of the decommissioning process specified in 10 CFR 50.82 for the Haddam Neck Plant, as discussed above, are the bases for the NRC staff's responses discussed in this Partial Director's Decision to the specific actions that the Petitioners requested be taken against NU. The Petitioners' requested actions and the NRC staff's responses are discussed below.[3]

1. Petitioners request that the NRC immediately suspend or revoke NU's license to operate Connecticut Yankee (Haddam Neck) and the Millstone Nuclear reactors due to chronic, negligent management of the reactors which, for over a decade, has endangered and continues to endanger occupational and public health and safety and the environment due to resultant and cumulative major safety problems and violation of NRC regulations.

The Petitioners base their request to suspend or revoke the operating licenses of Haddam Neck and the three Millstone units on NU reports and NRC inspection findings referred to in the Petition and on a videotape in which a former Millstone Station employee expresses his views on NU management and plant conditions. As previously noted, based on the NRC staff review of these materials, the Petitioners have identified no new information.

With regard to the Millstone units, the units are currently in an extended shutdown and significant management changes at NU have been made in the past year. The NRC's focus is on evaluating improved performance, hardware and programmatic upgrades, and corrective actions. Specifically, NRC review and inspection emphasis will be directed toward the results of NU's actions to correct identified weaknesses in areas such as design controls, radiological controls, quality assurance, work control practices, corrective action processes, and the handling of employee concerns.

The previous discussion provides an overview of the Assessment Plans that the SPO has developed for assessing the adequacy of NU's corrective actions being taken prior to Commission approval of restart for any of the Millstone units. The NRC staff will have to reach a determination that the

[3] In this Partial Director's Decision, Petitioners' Requests have been identified as Requests 1 through 8. These requests correspond to Requests A.1 through 5, B and C in the initial Petition, and Request II.A in the amendment to the Petition.

corrective actions taken by NU provide reasonable assurance that future operation will be conducted in accordance with the terms and conditions of the operating license, the Commission's regulations, and the design basis, as documented in the FSAR, of each unit before recommending that the Commission approve the restart of any one of the units. Upon receipt of an NRC staff recommendation and a briefing on ongoing investigations, the Commission will hold a meeting to assess the recommendation and then vote on whether to approve the restart of each unit.

The restart process discussed for the Millstone units does not apply to Haddam Neck. The Licensee has certified to the NRC that operations at the facility have permanently ceased and that fuel has been permanently removed from the reactor.

The Petitioners' request to take immediate action was denied in the letter of January 23, 1997, which acknowledged receipt of the Petition. The request to suspend or revoke the licenses for the three Millstone units is denied based on the NRC staff's conclusion that such action is not warranted by the facts. Programmatic and review efforts are in place. If these efforts are successful, the NRC would allow the Millstone units to resume operation. The request to suspend or revoke the license to operate the Haddam Neck Plant is moot since the Licensee has certified to the NRC that the plant has permanently ceased operation and the fuel has been permanently removed from the reactor.

2. The Petitioners request that the NRC investigate the possibility that NU made material misrepresentations to the NRC concerning engineering calculations and other information or actions relied upon to assure the adequacy of safety systems at the Haddam Neck and Millstone reactors. The Petitioners said NU made possible material misstatements either through lack of rigor and thoroughness or by providing intentionally misleading information.

The NRC has ongoing investigations related to alleged wrongdoing by NU personnel. The investigative results will be reviewed for possible enforcement action. Depending on the results of the ongoing evaluations of inspections and investigations, both NU as an organization and NU employees found to have engaged in deliberate misconduct will be subject to appropriate enforcement action. Consistent with the General Statement of Policy and Procedures for NRC Enforcement Actions (NUREG–1600), some enforcement action is normally taken against a licensee for violations caused by significant acts of wrongdoing by its employees. Such action could include a civil penalty or an order. In deciding whether to also take action directly against the responsible employees, the NRC considers a number of factors such as the employee's level in the organization, the employee's training and experience, the degree of supervision, the employee's attitude, and the degree of management responsibility or culpability. A decision to take action directly against an individual is significant and normally will be taken only when the NRC is satisfied that the individual has engaged in deliberate misconduct. The action taken could include prohibiting the individual from involvement in licensed activities for a period of years.

As the NRC is currently evaluating alleged wrongdoing by NU personnel, the Petitioners' request is granted.

3. Petitioners request that the NRC revoke NU's operating licenses for the Haddam Neck and the Millstone Units 1, 2, and 3 reactors if an investigation determines that NU deliberately provided insufficient and/or false or misleading information to the NRC. If the NRC chooses not to revoke NU's licenses, the Petitioners specifically request that the reactors remain off-line until a United States Department of Justice (DOJ) independent investigation is complete and the NRC reviews the conclusions and recommendations contained therein for potential consequences to the Licensee and its agents under NRC regulations. The Petitioners note in a footnote that a DOJ report will likely produce information essential to the NRC's evaluation of NU's management problems. The Petitioners further stated that such information should influence any NRC decision concerning NU's future operation of nuclear reactors in Connecticut.

Since the NRC investigations are ongoing, the NRC cannot respond to the first portion of the request to revoke the licenses of the three Millstone units at this time.

The response to the Petitioners' Request 1 applies to the part of Request 3 asking that the reactors remain off line until the investigations are complete. As noted, the Commission will consider the status of all ongoing investigations, including any referrals to DOJ, in its deliberations before voting on the restart of any of the Millstone units.

The part of the request relating to revoking the licenses of the three Millstone units is deferred until all investigations are complete. The request that the reactors remain off line until the investigations are complete is denied.

This request does not apply to the Haddam Neck Plant, which has already permanently ceased operation.

4. The Petitioners request that, if NRC chooses not to revoke NU's licenses to operate the Haddam Neck Plant and the Millstone Units 1, 2, and 3 reactors and allows the reactors to return to operation, the reactors remain on the NRC's Watch List to oversee reactor operations until NU management demonstrates to the NRC that:

a. NU is able to fulfill NRC regulatory requirements;

b. NU has met all prior commitments concerning the repair, modification, maintenance, and documentation of the nuclear power stations;

c. NU has retrained all staff in the application and interpretation of NRC's regulations; and

d. NU has removed from any positions of responsibility for operation and/or management of the reactors all persons whom DOJ, NRC, or other government investigators and/or civil or criminal prosecutions find to have made material misrepresentations to the NRC during the past decade of mismanagement.

Due to the significance and programmatic nature of the concerns evolving from the various NRC reviews and inspections at the Millstone Station and the fact that each unit is shut down pending resolution of these issues, the Commission put the Millstone units in Category 3 of the Watch List. Accordingly, restart of any of the units is subject to Commission approval. SIL issues, which require resolution for safe operation, will have been addressed and a process will be in place to resolve any deferred items. If the Commission approves restart of any unit, that unit will be placed in Category 2 of the Watch List, where it will remain until the Licensee has demonstrated that satisfactory operational performance can be sustained at the unit.

The restart process, as previously discussed, will assure that the management attributes identified by the Petitioners in Request 4.a, b, and c, will be adequately considered within the context of the SPO's Assessment Plans before the NRC staff recommends that the Commission allow the restart of any unit. Request 4.d will be considered in the restart process when the Commission is briefed regarding investigation efforts and recommendations.

The request to retain the Millstone units on the NRC's Watch List, if the Commission approves restart, is granted.

Any unit permitted to restart will be placed in Category 2 of the Watch List, where it will remain until the Licensee has demonstrated that satisfactory performance can be sustained at the unit. Request 4.a, b, c, and d will be considered as set forth above.

This request does not apply to the Haddam Neck Plant because the Haddam Neck Plant has permanently ceased operation. The NRC will continue its oversight of the defueled facility.

5. Petitioners request that, as a minimum, the NRC keep Haddam Neck and the Millstone 1, 2, and 3 nuclear reactors off line until NU's chronic mismanagement has been analyzed, remedial management programs have been implemented, and the NRC has evaluated and approved the effectiveness of the Licensee's actions. As a minimum, NU should:

a. Thoroughly analyze root causes for deficiencies in NU's FSARs, its documentation of licensing and design bases, its safety analysis, its engineering, its quality assurance, its as low as reasonably achievable (ALARA) programs, and other necessary or required documentation.

b. Create a complete, accurate FSAR-mere ''reform'' is impossible when the basic document is inadequate and inaccurate;

c. Reevaluate of any of its activities initiated under (or which NU should have initiated under) 10 CFR 50.59 in order to confirm the validity of such activities, particularly to determine the extent to which the FSAR does not match ''as built'' configurations. This reevaluation requires more than a paper audit; it requires checking actual physical plant against the existing documentation, component by component and system by system and creating correct documentation where it is lacking and/or inadequate;

d. Institute and document an effective ALARA review of all operational and nonoperational activities that expose workers and/or the public to radiation;

e. Thoroughly document the root causes of NU's chronic and systemic mismanagement including, documentation of the NRC Region I inspection program's staff and management failures over the past decade to detect and deal with this problem;

f. Demonstrate, over a substantial period of time to the satisfaction of the NRC, NU's commitment to respect NRC regulatory requirements and consistently follow them;

g. Retrain all personnel involved in day-to-day operations so that they are thoroughly conversant with NRC regulations; and

h. Update and document Plant Design Change Requests (PDCRs) to include all changes to the reactor's design, and verification by the NRC staff of these design changes, with closeouts of PDCRs receiving the highest priority.

As previously noted, NRC regulatory oversight programs at the Millstone Station are based on the recognition that the Licensee is primarily responsible for demonstrating that corrective actions have been effectively implemented. Before the NRC staff can recommend that the Commission approve the restart of a Millstone unit, the Licensee must determine that the unit conforms with applicable NRC regulations, license conditions, and the FSARs and that applicable licensing commitments have been met. The Licensee's conformance with NRC regulations, license conditions, and licensing commitments is fundamental to the NRC's confidence in the safety of licensed activities.

The significant actions that the NRC is taking to monitor the Licensee's activities have been discussed in detail earlier in this Decision. Based on that discussion, the actions requested in Request 5.a through h, with the exception of the part of 5.e relating to NRC staff performance, will be adequately addressed within the context of the SPO's Assessment Plan for each of the Millstone units.

With regard to Request 5.e, the part of 5.e relating to the performance of the NRC staff is beyond the scope of the 2.206 process and will not be addressed in the Director's Decision relating to this Petition. This issue has been referred to the NRC's OIG for action as appropriate.

The request to keep the Millstone units off line until the items identified in Request 5.a through h, with the exception of the part of Request 5.e relating to NRC's previous actions in dealing with the Licensee, is granted to the extent that the issues will be considered within the SPO's Assessment Plan for each of the units.

This request does not apply to the Haddam Neck facility, which has permanently ceased operation.

6. Petitioners request that, if NU decides to shut down any or all of the nuclear power reactors at issue herein with the intent to commence the decommissioning process, the NRC not permit any decommissioning or predecommissioning activity to take place until:

a. All the documentation mentioned in earlier requests is available to the NRC and on site at the reactors;

b. All personnel involved in the decommissioning process have been retrained (or trained) in the use and interpretation of the applicable NRC regulations in Title 10 of the Code of Federal Regulations;

c. The NRC has appropriately evaluated and replaced personnel and has restructured the NRC Region I inspection program, its management, and the supervising NRC directorate to eliminate the regulatory anarchy that plagued the Connecticut nuclear reactors during the past 10 years; and

d. The NRC makes certain that NU does not employ any persons in management or operations who made material misrepresentations to the NRC about the status of operations, repairs, modifications, or maintenance of NU's Connecticut reactors.

On October 9, 1996, the owners of the Haddam Neck Plant stated that the Board of Trustees was considering a permanent shutdown of the plant, based on an economic analysis of operations, expenses, and the cost of replacement power. All fuel assemblies were removed from the reactor and placed in the spent fuel pool for temporary storage. By letter dated December 5, 1996, the Licensee certified to the NRC, pursuant to 10 CFR 50.82(a)(1)(i) and 10 CFR 50.82(a)(1)(ii), that it had determined to permanently cease operations at the Haddam Neck Plant and that the fuel had been permanently removed from the reactor. The Licensee further noted that a Post-Shutdown Decommissioning Activities Report (PSDAR) and the site-specific decommissioning cost estimate would be submitted in accordance with 10 CFR 50.82, ''Termination of License.'' The PSDAR will be submitted to the NRC and a copy sent to the affected state(s) within 2 years after operations have permanently ceased. The report must include, among other things, a description of the planned decommissioning activities and a schedule for their implementation. No major decommissioning activities may be performed until 90 days after the NRC receives the PSDAR.

The current activities at the site include the operation, monitoring, and maintenance of the spent fuel pool; radioactive waste management; radiological protection; and fire protection. These activities, including any activities relating to decommissioning, must be in compliance with the current license requirements, which apply when the reactor is defueled.

The degree of regulatory oversight required during decommissioning of a nuclear power reactor is considerably less than during its operational phase. When the reactor is operating, the fuel

in the reactor core undergoes a controlled nuclear fission reaction that generates a high neutron flux and large amounts of heat. Safe control of the nuclear reaction involves the use and operation of many complex systems, adherence to operational limits, testing of components and systems to assure their operability, specified procedure adherence, and operator actions. Once the fuel has been permanently removed and temporarily stored in the spent fuel pool, the fuel is still highly radioactive and generates heat caused by radioactive decay. However, no neutron flux is generated and the fuel slowly cools as its energetic decay products diminish. Since the spent fuel is stored in a configuration that precludes the nuclear fission, no generation of new radioactivity can occur. However, the same areas of the facility contain radioactive contamination and those areas must still be controlled to minimize radiation exposure to personnel and to control the spread of radioactive material.

The NRC staff continues to be concerned about the failures of the Haddam Neck radiological controls program (which recently resulted in the unplanned exposure of two individuals), long-standing discrepancies in the calibration of several radiation monitors that are used to monitor and control radiological effluent releases, and the inadequate control of radioactive material that resulted in the undetected release of contaminated equipment to a nonlicensed vendor.

In response, the NRC has taken comprehensive and significant actions to resolve concerns in the area of radiological controls, including the issuance of a CAL on March 4, 1997, confirming the Licensee's commitment to respond to the findings in Inspection Reports 50–213/96–12, dated December 19, 1996, and 50–213/97–02, dated March 21, 1997. The CAL restricts the Licensee from performing any radiological work except that required to maintain the plant in a safe configuration. The CAL identifies four significant activities required of the Licensee to bring its management and implementation of radiation control programs up to a standard acceptable to the NRC. The activities are to (1) identify, in writing, specific compensatory measures that the Licensee will establish to assure sufficient management control and oversight of ongoing or planned activities that require radiological controls; (2) engage the services of an independent assessor to assess the quality and performance of the Licensee's radiological control programs and their implementation; (3) by May 30, 1997, based on the results of that independent assessment, (a) identify problems, determine root causes, and develop broad-based and specific corrective actions; (b) identify performance measures that may be used to determine the effectiveness of radiological control programs; and (c) submit a plan and schedule to the Regional Administrator, NRC Region I, for implementing improvements in the radiological control programs; and (4) before eliminating any interim compensatory measures, meet with the Region I Administrator to describe program implementation and performance improvements achieved or planned.

In summary, the NRC is following the decommissioning process as specified in 10 CFR 50.82, which requires that no major activities may be performed until 90 days after the NRC receives the PSDAR. The Licensee must comply with all the applicable operating license requirements in effect for the defueled reactor relating to activities currently being performed at the Haddam Neck Plant. Further, the NRC will take appropriate actions for any defueled reactor to assure compliance with its license and license conditions, such as the actions described above for the failure of adequate radiological controls at Haddam Neck. The Haddam Neck Plant is the only reactor that the Licensee has determined to permanently shut down and decommission.

The request to forbid decommissioning activities or predecommissioning activity at any NU nuclear power reactor until all the requested actions identified in the Petition, including items a, b and d, of Request 6, have been completed is denied for the reasons stated above. The NRC staff has determined that the NRC requirements that govern decommissioning and the activities being undertaken by the Licensee in response to the CAL are sufficient to assure that the activities at the Haddam Neck facility are being conducted in a safe manner. Request 6.c, relating to the performance of the NRC staff, is beyond the scope of the 2.206 process and will not be addressed in the Director's Decision relating to this Petition. This issue has been referred to the NRC's OIG.

7. The Petitioners request that the NRC commence an investigation into how it allowed the illegal situation at NU's Connecticut reactors to exist and to continue over a decade. Particularly, Petitioners request that the Commission order its staff (directors of the responsible directorates, managers, and Region I management and staff) to answer the following questions, and hold these persons accountable for their answers and actions regarding the past 10 years at NU's Connecticut nuclear power reactors:

a. What documents did Region I inspectors, their supervisors, and NRC Project Directors and Project Managers review during 10 years of NU's out-of-compliance operation?

b. If NU provided documents that somehow deceived the Region I inspector, how does the information in these documents relate to the everyday workings and activities conducted during the otherwise undocumented decade of operations at the Millstone and Haddam Neck plants?

c. How did Region I inspectors, their supervisors, and NRC Project Directorates and Managers find that NU was conducting operations in a way that keeps worker and public exposures to radiation ALARA when NU was not adequately documenting either its licensing basis or the basis of reactor operations?

d. Knowing, as Region I inspectors must have known, of excessive worker exposures (for example, due to a long standing problem with leaking pipes as documented by an NU worker in the video tape provided with this Petition Exhibit A), how did the Region I inspectors certify that operations at the Millstone and Haddam Neck plants were being conducted ALARA? How did the supervisors, and those in the NRC Project Directorate, make the same certifications?

e. During the undocumented decade, how did Region I inspectors, their supervisors, and NRC Project Directors and Managers manage to track NU's activities at the Millstone and Haddam Neck plants under 10 CFR 50.59?

f. To what extent have NRC Region I inspectors, their supervisors, and NRC Project Directors and Managers allowed the same type of problems to develop at other nuclear power reactors in New England (i.e., Maine Yankee, Pilgrim, Seabrook, Vermont Yankee, and Yankee Rowe)?

g. Is there any connection between licensees employing Yankee Atomic Electric Company's consulting and engineering services and the serious problems with documentation and lack of compliance with the licensing and design bases nuclear power stations in New England or in other parts of the country?

This request is beyond the scope of the 2.206 process. It concerns the performance of the NRC staff and will not be addressed in the Director's

Decision relating to this Petition. This request has been referred to the NRC's OIG.

8. In the amendment to the Petition, the Petitioners request that the NRC take the following actions to enforce its regulations against NU. As part of the 2.206 process, the NRC should provide copies of Haddam Neck's nitrogen calculations to the Petitioners and conduct an independent review to see if the calculations meet the requirements of 10 CFR part 50, appendix B. If appendix B requirements were violated, the Petitioners are concerned that the Licensee cannot safely decommission the Haddam Neck Plant. Accordingly, NU's operating licenses for its Connecticut reactors should be revoked, and NU should not be permitted to commence decommissioning until it has complied with the conditions outlined in the main body of the original Petition. Finally, the Commission should inquire into the NRC staff's failure to discern this situation and its continuing failure to enforce the terms and conditions of NU's license and NRC regulations.

As noted above, the assertion by the Petitioners that the calculations performed by the Licensee violated NRC requirements is a new issue not previously considered by the NRC staff.

The subject calculations were performed subsequent to an event at the Haddam Neck Plant that resulted in the formulation of a nitrogen bubble in the reactor vessel. The results of the calculations, which were one of several methods used to confirm the water level during the event, were discussed by the Licensee during a public predecisional enforcement conference held on December 4, 1996.

By letter dated July 3, 1997, the Licensee provided information, including the requested calculations, relating to the different methods used for determining the reactor vessel water level resulting from the nitrogen intrusion event. This information has been placed in the NRC's Public Document Room and the Local Public Document Rooms. The Petitioners were provided a copy of the calculations as an enclosure to a Petition status letter dated July 21, 1997, since the calculations are relevant to the Petitioners' concern, are not proprietary, and are in the public domain.

On September 5, 1996, while investigating the root cause of the undetected accumulation of nitrogen gas in the reactor vessel, the Licensee performed a special test (ST 11.7–197, ''Determination of Reactor Vessel Level'') to verify reactor vessel level. This test was necessary because the reactor vessel level indication system and the core exit thermocouples had been removed from service in accordance with the Licensee's refueling procedures. The reactor level measurement problem had been exacerbated by the nitrogen gas intrusion, which displaced water from the reactor vessel into the pressurizer, resulting in an unquantified decrease in reactor vessel inventory. During the course of the event, the shift manager had requested that the worst-case (lowest) reactor vessel level achieved during the event be determined. As noted in NRC Inspection Report No. 50–213/96–80, ''NRC Augmented Inspection Team Review of the Undetected Introduction of Nitrogen Gas into the Reactor Vessel During Plant Shutdown,'' the plant staff completed a preliminary analysis on September 4, 1996. It was further noted that, at the end of the onsite inspection activities, the Licensee had yet to complete a final volumetric inventory balance calculation. In the Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $650,000 issued on May 12, 1997, the Licensee was cited for failure to take timely corrective actions following the nitrogen intrusion event, including the failure to timely establish the actual lowest reactor vessel level resulting from the event.

Subsequently, the Licensee completed two calculations: (1) Calculation 96–MDE–1515–MY, ''Reactor Vessel Level Determination,'' prepared on October 2, 1996, independently reviewed on November 1, 1996, and approved on November 5, 1996; and (2) Calculation 96–MDE–1536-MY, ''Reactor Vessel Level Determination,'' prepared on October 4, 1996, independently reviewed on November 22, 1996, and approved on December 1, 1996. These calculations were performed consistent with the requirements of 10 CFR part 50, appendix B.

Also, during the December 4, 1996, predecisional enforcement conference, the Licensee presented the results of reactor vessel water level simulations, which were calculated using the RELAP5/MOD3 code. These simulation results were presented by the Licensee to corroborate, with a diverse methodology, the lowest reactor vessel water level determined by Calculations 96–MDE–1515–MY and 96–MDE–1536–MY. The results of the RELAP5/MOD3 reactor vessel water level simulations presented by the Licensee during the predecisional enforcement conference were only used to corroborate and provide additional insight into the reactor vessel water level that had been determined through Calculations 96–MDE–1515–MY and 96–MDE–1536–MY. These two calculations had been independently reviewed and performed consistent with the applicable provisions in the Licensee's 10 CFR part 50, Appendix B, ''Quality Assurance Program,'' and are considered by the NRC staff to suffice to demonstrate the reactor vessel water level.

Under these circumstances, the RELAP5/MOD3 simulations were not required to have been independently verified.

Thus, the assertion by the Petitioners that the calculations discussed during the predecisional enforcement conference violated 10 CFR part 50, appendix B, requirements is unfounded and no further actions by the NRC are required. The part of Request 8 relating to the performance of the NRC staff is beyond the scope of the 2.206 process and will not be addressed in the Director's Decision relating to this Petition. This part of Request 8 has been referred to the NRC's OIG.

IV. Conclusion

The NRC staff has determined, for the reasons provided in the above discussion, that: Request 2 is granted for both the Millstone units and the Haddam Neck Plant; Requests 4 and 5 are partially granted for the Millstone units; Request 1 and parts of Requests 3, 4, 6, and 8 are denied for the three Millstone units; Requests 6 and 8 are partially denied for the Haddam Neck Plant; Request 3 is partially deferred for the three Millstone units; Requests 1, 3, 4, and parts of Request 5 are not applicable to Haddam Neck; and Request 7 and parts of Requests 5, 6, and 8 are beyond the scope of the 2.206 process and are not addressed. The deferred parts of Request 3 will be addressed in a Final Director's Decision after any possible wrongdoing is fully considered by the NRC staff.

As provided for in 10 CFR 2.206(c), a copy of this Partial Decision will be filed with the Secretary of the Commission for the Commission's review. This Partial Decision will constitute the final action of the Commission (for Petitioners Requests 1, 2, 5, 6, and 8) 25 days after issuance unless the Commission, on its own motion, institutes review of the Decision in that time.

Dated at Rockville, MD, this 12th day of September.

For the Nuclear Regulatory Commission.

Frank J. Miraglia Jr.,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–24807 Filed 9–17–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on September 23, 1997, 1:30 p.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public:

(1) Proposed Flexitime/Variable Workweek Changes
(2) Federal Ban on Smoking on Federal Property
(3) Employee Service—Environmental Contractors with CSX Transportation Company
(4) Coverage Determination—Pioneer Railroad Equipment Company, Ltd.
(5) Regulations—Part 230 (Reduction and Non-Payment of Annuities by Reason of Work)
(6) Local Area Network (LAN) Proposal for the Board Offices
(7) Year 2000 Issues
(8) Labor Member Truth in Budgeting Status Report

Portion Closed to the Public:

(A) Last Person Employment Deductions for Dual Annuitants (Marie A. Fese and Frank J. Fese)

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: September 15, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–24907 Filed 9–16–97; 8:57 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Forest City Enterprises, Inc., Class A Common Stock, $0.33⅓ Par Value; Class B Common Stock, $0.33⅓ Par Value) File No. 1–4372

September 12, 1997.

Forest City Enterprises, Inc. (''Company'') has filed an application with Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

According to the Exchange, trading in the Company's Security on the New York Stock Exchange, Inc. (''NYSE'') commenced at the opening of business on July 17, 1997 and concurrently therewith the Security was suspended from trading on the Amex.

The Company has complied with Amex Rule 18 by filing with the Exchange a certified copy of the preambles and resolutions adopted by the Board of Directors of the Company authorizing the withdrawal of the Security from listing and registration on the Amex, setting forth in detail the reasons for such proposed withdrawal, and the facts in support thereof.

Any interested person may, on or before October 3, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matters.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–24758 Filed 9–17–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22819; 812–10434]

Frank Russell Investment Company, et al.; Notice of Application

September 12, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (the ''Act'') for exemptions from sections 12(d)(1) (A) and (B), and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 to permit certain joint transactions.

SUMMARY OF APPLICATION: The requested order would permit nonmoney market funds of Frank Russell Investment Company and Russell Insurance Funds (''Investment Funds'') to purchase shares of one or more affiliated investment companies that are money market funds (the ''Money Market Funds'') for cash management purposes. The requested order would supersede a prior order.

Applicants: Frank Russell Investment Company (''FRIC''), Russell Insurance Funds (''RIF''), Frank Russell Investment Management Company (''FRIMCo''), and Russell Fund Distributors, Inc. (the ''Distributors'').

Filing Dates: The application was filed on November 14, 1996, and amended on August 14, 1997.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 909 A Street, Tacoma. WA 98402.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicants' Representations

1. FRIC and RIF are registered open-end management investment companies organized as Massachusetts business

trusts. RIF consists of four separate series and FRIC of twenty-three, three of which are Money Market Funds. FRIMCo is currently the investment adviser to FRIC and RIF and provides administrative services for each series. The Distributor serves as distributor for each series.

2. Each Investing Fund has, or may be expected to have, uninvested cash (''Uninvested Cash'') held by its custodian bank. Uninvested Cash may result from a variety of sources, including dividends or interest received from portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new monies received from investors. Applicants are requesting relief to permit each Investing Fund to use its Uninvested Cash to purchase and redeem shares of the Money Market Funds, and each Money Market Fund to sell its shares to, and redeem its shares from, each of the Investing Funds. Each Investing Fund will be a non-money market fund. The Uninvested Cash held for the benefit of an individual Investing Fund at any particular time may not be large enough generally to make the direct investment of the cash balances in money market instruments economical. However, by investing these cash balances in the Money Market Funds, as proposed, the Investing Funds will reduce their transaction costs, create more liquidity, enjoy greater returns on the Uninvested Cash and further diversify their holdings.

3. The Commission has previously granted an order to permit series of FRIC to purchase shares of a portfolio of FRIC that invests solely in short-term money market instruments without being subject to the limits imposed by sections 12(d)(1) (A) and (B) of the Act (the ''Prior Order'')[1] The requested order would supersede the Prior Order.

4. Applicants request that relief be extended to each current and subsequently created series of FRIC and RIF and any other registered investment company or series thereof that is now or in the future advised by any entity controlling, controlled by, or under common control with FRIMCo that serves as investment adviser to the Investing and Money Market Funds (the ''Investment Advisers'') (these funds are included in the terms ''Investment Fund'' and ''Money Market Fund,'' as appropriate).[2]

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits any registered investment company (the ''acquiring company'') or any company or companies controlled by the acquiring company from purchasing any security issued by any other investment company (the ''acquired company'') if the purchase will result in the acquiring company or companies it controls owning in the aggregate more than 3% of the outstanding voting stock of the acquired company, more than 5% of the acquiring company's total assets, or if the securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no acquired company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, layering of fees, and complex fund structures.

2. Applicants' request would permit the Investing Funds to use Uninvested Cash to acquire shares of Money Market Funds in excess of the percentage limitations set out in section 12(d)(1)(A). Applicants propose that each Investing Fund be permitted to invest in shares of a Money Market Fund so long as each Investing Fund's aggregate investment in such Money Market Fund does not exceed 25% of the Investing Fund's total net assets. Applicants' request also would permit Money Market Funds to sell their securities to Investing Funds in excess of the percentage limitations set out in section 12(d)(1)(B). Applicants state that relief permitting an Investing Fund to invest up to 25% of its total net assets in shares of the Money Market Funds is appropriate because at any given time, 25% or more of an Investing Fund's total net assets may be comprised of Uninvested Cash.

3. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that none of the concerns underlying section 12(d)(1) are presented by the proposed transactions and that the proposed transactions meet the section 12(d)(1)(J) standards for relief. Applicants state that since FRIMCo will waive its advisory fee for each Investing Fund in an amount that offsets the amount of the advisory fees of a Money Market Fund incurred by the Investing Funds, shareholders of the Investing Funds will not be subject to the imposition of duplicative management fees. Applicants further state that the Investment Advisers will not be susceptible to undue influence in their management of the Money Market Funds because of threatened redemptions from the Money Market Funds or loss of fees because the Investment Advisers and their affiliates will not derive any additional investment advisory fees or other compensation with respect to these transactions. In addition, applicants state that the net asset value of each Money Market Fund is maintained at a constant $1.00 per share. Therefore, applicants submit that the value of an Investing Fund's investments in the Money Market Funds will be easily determinable.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of that company. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser of the investment company and any person directly or indirectly controlling, or under common control with, the investment adviser. Under section 2(a)(3), each FRIC Fund and each RIF Fund may be deemed to be under common control with the other FRIC Funds and RIF Funds, respectively, and, therefore, each FRIC Fund would be an affiliated person of each other FRIC Fund, and each RIF Fund would be an affiliated person of each other RIF Fund. Accordingly, the sale by the Money Market Funds of their shares to the Investing Funds and the redemption of such shares by the Investing Funds could be deemed to be a principal transaction between affiliated persons that is prohibited under section 17(a).

2. Section 6(c) permits the Commission to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of

[1] *Frank Russell Investment Co.*, Investment Company Act Release Nos. 12514 (June 30, 1982) (notice) and 12562 (July 26, 1982) (order).

[2] All the Funds that currently intend to rely on the requested order have been named as applicants.

investors and the purposes fairly intended by the policies of the Act.

3. Section 17(b) permits the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned. Section 17(b) could be interpreted to exempt only a single transaction. However, the Commission, under section 6(c) of the Act, may exempt a series of transactions that otherwise would be prohibited by section 17(a).

4. Applicants state that the terms of the proposed transactions are fair because the consideration paid and received for the sale and redemption of shares of the Money Market Funds will be based on the net asset value per share of the Money Market Funds. In addition, the purchase of shares of the Money Funds by the Investing Funds will be effected in accordance with each Investing Fund's investment restrictions and policies as set forth in its registration statement. For these reasons, applicants believe that the terms of the transactions meet the standards of sections 6(c) and 17(b).

C. Section 17(d) and Rule 17d–1

1. Section 17(d) and rule 17d–1 prohibit affiliated persons from participating in joint arrangements with a registered investment company unless authorized by the Commission. In passing on applications for such orders, rule 17d–1 provides that the Commission will consider whether the participation of the investment company on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants state that the Investing Funds, the Investment Advisers, and the Money Market Funds participating in the proposed transactions could be deemed to be participants in a joint enterprise or other joint arrangement.

2. Applicants state that the investment by the Investing Funds in shares of the Money Market Funds would be on the same basis as an investment by any other person. Applicants also state that the proposed transactions would be beneficial to each of the participants and that there is no basis on which to believe that any participants would benefit to a greater extent than any other. In addition, applicants state that the Investment Advisers will not receive any increased investment advisory fee under the proposed transactions, although the Investment Advisers may enjoy certain reduced clerical costs. Further, applicants state that the proposed transactions should provide increased returns and reduced costs for the Investing Funds and their shareholders. Applicants believe that the relative advantages or disadvantages to the Money Market Funds from the proposed transactions will vary over time and are not expected to be material. Accordingly, applicants believe that the proposed transactions meet the standards for relief under section 17(d) and rule 17d–1.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2803(b)(9) of the National Association of Securities Dealers' Conduct Rules).

2. FRIMCo will waive its advisory fees for each Investing Fund in an amount that offsets the amount of the advisory fees of a Money Market Fund incurred by the Investing Fund.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment in such Money Market Funds does not exceed 25% of the Investing Fund's total net assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectuses and statements of additional information.

5. Each Investing Fund, each Money Market Fund, and any future fund that may rely on the order shall be advised by the Investment Advisers, or a person controlling, controlled by, or under common control with the Investment Advisers.

6. No Money Market Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24759 Filed 9–17–97; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Blood Donor Locator Service—0960–0501

Regulation 20 CFR 401.200 requires that requesting State agencies provide to the Social Security Administration (SSA) Blood Donor Location Service (BDLS) specific information on blood donors who have tested positive for Human Immunodeficiency Virus (HIV). The information is used to identify the donor, locate the donor's address in SSA records and assure that States meet regulatory requirements to qualify for using the BDLS. SSA will retain no record of the request or the information after processing has been completed. The respondents are requesting State agencies acting on behalf of authorized blood facilities.

Number of Respondents: 10.

Frequency of Response: 5.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 13 hours.

2. Child Relationship Statement—0960–0116

The information collected on Form SSA–2519 is used to help determine children's entitlement to Social Security benefits under Section 216(h)(3) of the Social Security Act (deemed child provision). The respondents are persons providing information about the relationship between the worker and his/her alleged biological child, in connection with a child's application for benefits.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 12,500 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

Waiver of Benefit Payment—0960–0533

Form SSA–149 is required to document the fact that benefits due are not being paid, because the beneficiary, (for personal reasons) has requested nonreceipt. Personal reasons can range from religious, patriotic, or political beliefs to situations where continued receipt of payment causes some adverse effect. The respondents are beneficiaries who wish to waive entitlement to benefit payments.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 3 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Date: September 11, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–24775 Filed 9–17–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 97–2 addressing safety practices to reduce the risk of casualties from runaway locomotives, cars, and trains caused by a failure to properly secure unattended rolling equipment left on sidings or other tracks.

FOR FURTHER INFORMATION CONTACT: Dennis Yachechak, Operating Practices Specialist, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., RRS–11, Mail Stop 25, Washington, D.C. 20590 (telephone 202–632–3370), or Nancy L. Goldman, Trial Attorney, FRA, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., RCC–12, Mail Stop 10, Washington, D.C. 20590 (telephone 202–632–3167).

SUPPLEMENTARY INFORMATION: A fatal head-on collision between a Union Pacific Railroad Company (UP) freight train and an unattended, runaway UP locomotive consist near Fort Worth, Texas, on August 20, 1997, has caused FRA to focus on the effectiveness of certain railroad procedures for protection of people and property from hazards caused by failure to properly secure locomotives, cars, and other rolling equipment left unattended on sidings or other tracks.

FRA and the National Transportation Safety Board (NTSB) are investigating the accident. In addition, FRA inspection teams are on UP's property to conduct safety assurance reviews on all aspects of the issue. The facts and findings developed in the investigations will be published when the individual investigations are complete.

In the meantime, FRA's preliminary findings indicate that the UP crew applied the hand brake on the lead locomotive of the locomotive consist and then applied the independent air brake. The crew then released the independent brake to verify that the hand brake would hold, which it appeared to do. The crew then reapplied the independent brake. Three of the four locomotives in the locomotive consist were already shut down. The remaining locomotive was then shut down and the crew left the locomotive consist unattended. Sometime later, however, it is believed that the air brakes eventually leaked off and that the single hand brake did not, by itself, sufficiently secure the locomotive consist, enabling it to roll out of the siding eastward and onto the main track where it collided head-on with a UP freight train.

Securement Procedures

The Federal power brake regulations at 49 CFR 232.13(f) require that, ''The automatic air brake must not be depended upon to hold a locomotive, cars or train, when standing on a grade, whether locomotive is attached or detached from cars or train. When required, a sufficient number of hand brakes must be applied to hold train, before air brakes are released. When ready to start, hand brakes must not be released until it is known that the air brake system is properly charged.''

Based upon FRA's review of the Fort Worth incident, and its awareness of other incidents involving improper securement of rolling equipment, it appears evident that further guidance regarding securement procedures may be of assistance to our nation's railroads. This advisory may be especially beneficial to those railroads that may not be aware of current practices in the industry regarding securement of rolling equipment. Accordingly, FRA believes that the following recommended procedures for the proper securement of unattended rolling equipment can be taken to reduce the likelihood of future accidents, which each railroad can then adapt to meet its own individual circumstances.

Recommended Action

FRA believes that the likelihood of further accidents, such as the one that occurred on the UP on August 20, 1997, would be greatly reduced by the inclusion of certain additional measures into railroads' procedures for securement of unattended locomotives, cars, and trains left on sidings or other tracks. Therefore, FRA recommends that each railroad adopt and implement its own procedures incorporating the following actions, or equally effective measures, with respect to a locomotive, car, or train that is left unattended:

1. Consistent with the railroad's rules and procedures, place each locomotive, car, or train on a track that is protected by a permanent derail or apply a portable derail, if available.

2. On cars: (a) Apply the appropriate number of handbrakes; to assist

crewmembers in this regard, railroads should develop and implement a process or procedure, such as a matrix, that would provide specific guidance in determining the appropriate number of hand brakes to apply, considering grade, tonnage, and other local conditions prevalent at the time of securement, for example, high winds or extreme cold; (b) where appropriate, remove slack from the train, or as commonly referred to in the industry, ''bunch the slack'; and (c) detach any locomotives from the cars to allow an emergency brake application.

3. On locomotives, fully apply all hand brakes on all unattended locomotives in the consist. If the grade exceeds one percent, or whenever it is otherwise required by railroad rules, in addition, chock or chain the front and back of at least one pair of wheels in the locomotive consist. Railroads should develop and implement procedures that would then verify that the hand brakes will hold the locomotive consist. Further, railroad instructions should address: (a) The throttle position; (b) status of the reverse lever; (c) position of the generator field switch; (d) status of the independent brakes; (e) position of the isolation switch; and (f) position of the automatic brake valve. The above procedures should also take into account winter weather conditions as they relate to throttle position and reverser handle.

FRA may modify Safety Advisory 97–2, issue additional safety advisories, or take other appropriate necessary action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC on September 15, 1997

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 97–24962 Filed 9–17–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 97–3 addressing safety practices to reduce the risk of accidents arising from the authorization of train movements past stop indications of absolute signals.

FOR FURTHER INFORMATION CONTACT: Dennis Yachechak, Operating Practices Specialist, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, SW., RRS–11, Mail Stop 25, Washington, DC 20590 (telephone 202–632–3370), or Nancy L. Goldman, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., RCC–12, Mail Stop 10, Washington, DC 20590 (telephone 202–632–3167).

SUPPLEMENTARY INFORMATION: A fatal head-on collision between a Union Pacific Railroad Company (UP) freight train and an unattended, runaway UP locomotive consist near Fort Worth, Texas, on August 20, 1997, has caused FRA to focus on railroad operating rules and procedures pertaining to protection against conflicting train movements when train dispatchers and control operators authorize movements past a stop indication of an absolute signal.

FRA and the National Transportation Safety Board (NTSB) are investigating the accident. FRA has also initiated an in-depth and comprehensive analysis of train dispatcher procedures employed by UP. FRA inspection teams are on UP's property to conduct safety assurance reviews on all aspects of the issue. The facts and findings developed in the investigations will be published when the individual investigations are complete.

The collision occurred in single track, centralized traffic control (CTC) territory. Preliminary FRA findings indicate that an unoccupied UP locomotive consist unintentionally rolled out of a controlled siding eastward onto a main track. A UP dispatcher noticed on his computer screen that the siding switch was out of correspondence, and that the main track segment beyond the switch was occupied. At least three times, the dispatcher radioed the runaway light locomotive consist, in an attempt to contact a crewmember. Not getting a response, the dispatcher then contacted a signal maintainer. Meanwhile, a UP control operator at Fort Worth, authorized a westbound freight train to pass a stop indication of an absolute signal at the west end of Centennial Yard in Fort Worth, and proceed onto the main track at restricted speed. Subsequently, the runaway light locomotive consist struck the westbound freight train at a speed of approximately 60 miles per hour. The UP engineer and engineer pilot were killed, and the UP conductor was seriously injured.

Operating Practices

FRA rules require each railroad to periodically instruct its employees on the meaning and application of the railroad's operating rules (49 CFR 217.11), and also require each railroad to periodically conduct operational tests and inspections to determine the extent of compliance with its code of operating rules, timetables, and timetable special instructions (49 CFR 217.9).

UP train dispatcher rule 20.6 pertains to movements in adjoining territories and requires that, ''Train dispatchers must not issue track warrants, track bulletins, or instructions or take any action that may affect safe train operation on another train dispatcher's territory unless the dispatchers reach an understanding.'' Rule 9.12.1 of the General Code of Operating Rules pertains to CTC Territory and requires that, ''At a signal displaying a Stop indication, if no conflicting movement is evident, the train will be governed as follows: Before authorizing the train to proceed, the control operator must know that the route is properly lined and no conflicting movement is occupying or authorized to enter the track between that signal and the next absolute signal governing movement or the end of CTC where applicable.''

Initial findings of the FRA investigation of the collision indicate, in part, that the train dispatcher and control operator did not communicate with each other as to the cause of the stop indication on the absolute signal at the west end of Centennial Yard. It appears that the train dispatcher did not contact the control operator of the adjoining territory and inform him of the track occupancy. Likewise, it appears that the control operator did not verify the cause of the stop indication by determining whether a conflicting movement was occupying the track segment between that signal and the next absolute signal governing movement, before authorizing the westbound train to pass the stop indication.

Recommended Action

FRA believes that the likelihood of further accidents, such as the one that occurred on the UP on August 20, 1997, would be greatly reduced by the inclusion of certain additional measures into the railroads' operating procedures. Therefore, FRA recommends that:

1. As soon as possible, but preferably within seven calendar days of the date of publication of this Safety Advisory in the **Federal Register**, each railroad should:

(a) Ensure that a railroad operating supervisor personally contacts each train dispatcher and control operator responsible for controlling train

movements, and in a face-to-face meeting:

(i) Informs them of the circumstances surrounding the UP accident described above;

(ii) Reemphasizes the importance of complying with existing operating rules and procedures pertaining to the authorization of train or engine movements past a stop indication; and

(iii) Reemphasizes rules and procedures that ensure that train dispatchers and control operators, dispatchers and other dispatchers, or control operators and other control operators are communicating with each other and with enough specificity to prevent conflicting movements. FRA recommends that such one-time face-to-face meetings be held in addition to the periodic instruction required by 49 CFR 217.11.

(b) Review train dispatcher and control operator procedures in order to determine if any gaps exist, particularly as they relate to necessary communication with adjoining territories.

(c) Revise operating rules and train dispatcher procedures as needed to assure that gaps do not exist.

2. As part of the tests and inspections required by 49 C.F.R. 217.9, each railroad should conduct operational tests and inspections to ensure compliance with operating rules and train dispatcher/control operator procedures pertaining to authorization to pass a stop indication and dispatcher/control operator communication.

FRA may modify Safety Advisory 97–3, issue additional safety advisories, or take other appropriate necessary action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC, on September 15, 1997.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 97–24967 Filed 9–17–97; 8:45 am]

BILLING CODE 4910–06–P

Corrections

Federal Register

Vol. 62, No. 181

Thursday, September 18, 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.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-802]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Gray Portland Cement from Mexico

Correction

In notice document 97–20933 beginning on page 42746, in the issue of Friday, August 8, 1997, make the following correction:

On page 42747, in the Final due date column of the table, ''12/13/97'' should read ''12/31/97''.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 409, 410, 411, 412, 413, 424, 440, 485, 488, 489, and 498

[BPD-878-FC]

RIN 0938-AH55

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates

Correction

In rule document 97–22890 beginning on page 45966 in the issue of Friday, August 29, 1997, make the following correction:

On page 46119, in the table, in the last column ''All FY 98 Changes'', in the first entry ''0.9'' should read ''-0.9''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–136–FOR; State Program Amendment No. 95–4]

Indiana Regulatory Program

Correction

In rule document 97–22413 beginning on page 44897 in the issue of Monday, August 25, 1997, make the following correction:

On page 44897, in the table, in the second column, in the fourth line, ''310 IAC 12.0–77.5'' should read ''310 IAC 12–0.5–77.5''.

BILLING CODE 1505-01-D

RAILROAD RETIREMENT BOARD

20 CFR Part 367

RIN 3220-AB26

Collection of Debts

Correction

In rule document 97–22130 appearing on page 44409, in the issue of Thursday, August 21, 1997, make the following correction:

On page 44409, in the second column, in the third line, ''10 days'' should read ''180 days''.

BILLING CODE 1505-01-D

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

Correction

In notice document 97–23342 beginning on page 46535 in the issue of Wednesday, September 3, 1997, make the following correction:

On page 46537, in the first column, before the FR document line, the signature line was omitted and should have appeared as follows:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505-01-D

Federal Register

Thursday
September 18, 1997

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Steel Pickling Facilities—HCl Process; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[IL–64–2–5807; FRL–5887–8]

RIN 2060–AE41

National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Steel Pickling Facilities—HCl Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for new and existing hydrochloric acid (HCl) process steel pickling lines and HCl regeneration plants pursuant to section 112 of the Clean Air Act (Act) as amended in November 1990. Steel pickling lines that employ the HCl process and associated HCl acid regeneration plants have been identified by the EPA as potentially significant emitters of hydrochloric acid, a chemical identified in the Act as a hazardous air pollutant (HAP). Chronic exposure to HCl has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute inhalation exposure may cause coughing, hoarseness, inflammation and ulceration of the respiratory tract, chest pain, and pulmonary edema. Hydrochloric acid regeneration plants have been identified as significant emitters of HCl and chlorine (CL_2), the latter of which is also identified in the Act as a HAP. Acute exposure to high levels of CL_2 in humans results in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels CL_2 is a potent irritant to the eyes, the upper respiratory tract, and lungs. This rulemaking will affect steel pickling lines that use HCl as the primary acid, acid regeneration plants, and acid storage tanks. The purpose of the proposed rule is to reduce emissions of HCl by about 8,360 megagrams per year (Mg/yr) and CL_2 by about 19 Mg/yr. The NESHAP provides protection to the public by requiring all HCl pickling lines, acid regeneration plants, and acid storage tanks to meet emission standards that reflect the application of maximum achievable control technology (MACT).

DATES: *Comments.* Comments on the proposed rule must be received on or before November 17, 1997.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by October 9, 1997, a public hearing will be held on October 20, 1997, beginning at 10 a.m.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate, if possible) to: Docket No. A–95–43 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor).

A copy of today's notice, technical background information document, and other materials related to this rulemaking are available for review in the docket. Copies of this information may be obtained by request from the Air and Radiation Docket and Information Center by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Background Information Document. The background information document (BID) for the proposed standard may be obtained from the docket or the U.S. Environmental Protection Agency by contacting Mary Hinson, Emission Standards Division (MD–13), Research Triangle Park, NC 27511, telephone number (919) 541–5601.

Public Hearing. If anyone contacts the EPA requesting a public hearing by the required date (see **DATES**), the public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should notify the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Jim Maysilles, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–3265, facsimile number (919) 541–5600, electronic mail address ''maysilles.jim@epamail.epa.gov.''.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those industrial facilities that perform steel pickling using the HCl process. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Steel pickling plants (SIC 3312, 3315, 3317) using HCl process.
Federal Government: Not affected.	
State/local/tribal governments: Not affected.	

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by final action on this proposal. This table lists the types of entities that the EPA is now aware could potentially be regulated by final action on this proposal. To determine whether your facility is regulated by final action on this proposal, you should carefully examine the applicability criteria in section V.A of this document, and in § 63.1155 of the proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Technology Transfer Network

The text of today's notice also is available on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 BPS modem. The TTN also is accessible through the Internet at ''TELNET ttnbbs.rtpnc.epa.gov.'' If more information on the TTN is needed, call the HELP line at (919) 541–5348. The HELP desk is staffed from 11 a.m. to 5 p.m.; a voice menu system is available at other times.

Electronic Access and Filing Addresses

The official record for this rulemaking, as well as the public version, has been established under Docket No. A–95–43 (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document.

Electronic comments can be sent directly to EPA's Air and Radiation Docket and Information Center at: ''A-

and-R-Docket@epamail.epa.gov.'' Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A–95–43). No CBI should be submitted through electronic mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Outline

The information in this preamble is organized as follows:

I. Statutory Authority

The statutory authority for this proposal is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, and 7601).

II. Initial List of Categories of Major and Area Sources

Section 112 of the Act requires that the EPA promulgate regulations requiring the control of HAP emissions from major and area sources. The control of HAP emissions is achieved through promulgation of emission standards under sections 112(d) and 112(f) and operational and work practice standards under section 112(h) for categories of sources that emit HAP.

An initial list of categories of major and area sources of HAP selected for regulation in accordance with section 112(c) of the Act was published in the **Federal Register** on July 16, 1992 (57 FR 31576). ''Steel Pickling—HCl Process'' is one of the 174 categories of sources listed. The category consists of facilities engaged in the pickling of steel using HCl as the pickling acid. This category does not include facilities that pickle steel with other acids. The listing was based on the Administrator's determination that HCl steel pickling facilities may reasonably be anticipated to emit hydrochloric acid, one of the listed HAP, in quantities sufficient to designate them as major sources. Information subsequently collected by the EPA as part of this rulemaking confirms that more than three-fourths of HCl pickling facilities emit or have the potential to emit HCl at levels greater than 9.1 megagrams per year (Mg/yr) (10 standard tons per year (tpy)) and therefore are major sources.

III. Background

A. Description of Steel Pickling Source Category

The ''Steel Pickling—HCl Process'' source category includes any facility engaged in the pickling of steel using hydrochloric acid as the pickling acid. Steel pickling is the process in which the heavy oxide crust or mill scale that develops on the surface of steel during hot forming or heat treating is removed chemically in a bath of aqueous acid solution. Removal of the oxide layer is necessary to prepare the surface for subsequent shaping or finishing. The source category does not include facilities which pickle steel using acids other than HCl.

The category includes both continuous and batch pickling operations. In the continuous pickling process the steel is fed through a sequence of tanks in a countercurrent direction to the flow of the acid solution; next, the steel is passed through a series of rinse tanks or a rinsing section. In the batch pickling process, the steel is immersed in an acid solution until the scale or oxide film is removed, lifted from the bath, allowed to drain, and then rinsed by spraying or immersion in rinse tanks.

To obtain current data on the industry, the EPA compiled data supplied by the industry in response to an information collection request (ICR) issued in May 1992. Facilities on the mailing list were identified from trade publications and other generally available information. Information reported included capacity and annual production or processing rate as well as design information for existing air pollution control systems. Some data were reported for acid storage tanks.

Data were also reported on HCl regeneration plants, which are operated at several facilities that conduct HCl pickling. Regeneration plants are an integral part of the pickling operation at those facilities.

Based on the sources of information used to develop the mailing list and the completeness of responses, the EPA believes that the reported information comprises a data base that adequately describes the industry and its air pollution control equipment for development of the MACT standards.

According to the data base, one Federal agency and 77 privately owned companies operated 101 steel pickling facilities and 10 acid regeneration facilities during 1991. Operations were located in 20 States in seven EPA Regions. Eight of the facilities operating acid regeneration plants are collocated with pickling facilities, while two are stand-alone custom or toll facilities. Therefore, a total of 103 facilities in this source category were operating in 1991. Many of the facilities are located adjacent to integrated iron and steel manufacturing plants or mini-mills that produce electric-furnace steel from scrap.

Five types of pickling processes have been identified. Table 1 summarizes the number of facilities and production for each process type.

TABLE 1.—HCL STEEL PICKLING AND ACID REGENERATION PROCESSES

Process	Number of plants	Number of lines or units	1991 Production (10^6)
Continuous Pickling:			
Continuous Strip	36	64 (lines)	33.3 tons.
Push-Pull Strip	19	22 (lines)	4.5 tons.
Rod/Wire	20	55 (lines)	0.6 tons.
Tube	4	11 (lines)	0.5 tons.
Batch Pickling	26	59 (lines)	0.9 tons.
Pickling Total*	101	211 (lines)	39.8 tons.
Acid Regeneration	10	13 (units)	98.0 gal.

*Four facilities perform batch and continuous rod/wire pickling processes. Eight facilities have acid regeneration plants on site. The total number of facilities is 103.

Steel pickling operations are characterized by the form of metal processed and the type of pickling equipment used. The principal forms of steel pickled include coils of sheet or strip, rod, wire, pipe, and various discreet shapes. Pickling operations may be continuous, semicontinuous, and batch.

A reported 39.8 million tons of steel, valued at about $18 billion based on the price of hot-rolled strip, were pickled in 1991, representing 65 percent of the industry capacity.

Hydrochloric acid used in the pickling bath can be recovered as regenerated acid, typically 16 to 20 percent HCl, from the spent pickle liquor. A marketable iron oxide product is also produced as a byproduct of the spray roasting or fluidized bed roasting processes used in the acid plants. Waste liquor conversion and acid recovery are complete in both of these processes. Annual facility capacities range from 3.15 to 38.9 million gallons of acid.

In 1991, actual production of regenerated acid from the ten facilities was 98 million gallons, which is estimated to be more than 40 percent of pickling acid requirements for the industry for that year. Without the savings provided by use of the regenerated acid, additional costs would be incurred for treatment or disposal of the waste pickle liquor (K062) that are otherwise avoided.

B. Emissions

Pickling lines of all types employ processing tanks that contain HCl solution. Emissions of HCl in the forms of HCl gas and mist of HCl in water are formed at the surface of the acid bath. The EPA estimates that pickling facilities emit approximately 8,920 Mg/yr of HCl at the current level of control.

Acid regeneration plants produce emissions containing HCl that is not recovered as acid solution and also Cl_2, which is formed as an unwanted byproduct of the process. The EPA estimates that acid regeneration facilities emit about 390 Mg/yr of HCl and 35 Mg/yr of Cl_2. Emissions in the forms of HCl gas and acid mist from tanks used to store virgin or regenerated acid are released from uncontrolled tank vents. An estimated 24 Mg/yr of HCl is emitted from tanks nationwide.

C. Summary of Considerations Made in Developing This Rule

The Clean Air Act was created in part to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population. (See section 101(b)(1)). Section 112(b) of the Act lists HAP believed to cause adverse health or environmental effects. Section 112(d) of the Act requires that emission standards be promulgated for all categories and subcategories of major sources of these HAP and for many smaller ''area'' sources listed for regulation under section 112(c) in accordance with the schedules listed under section 112(e). On December 3, 1993, the EPA published a schedule for promulgating these standards (58 FR 63941).

In the 1993 Amendments to the Act, Congress specified that each standard for major sources must require the maximum reduction in emissions of HAP that the EPA determines is achievable considering cost, health and environmental impacts, and energy requirements. In essence, these MACT standards would ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. At the same time, this approach provides a level economic playing field, ensuring that facilities that employ cleaner processes and good emission controls are not disadvantaged relative to competitors with poorer controls.

Emission data collected during the development of this rule show that pollutants that are listed in section 112(b)(1) and are emitted by HCl steel pickling processes include hydrochloric acid and chlorine. Hydrochloric acid and chlorine emissions would be reduced by implementation of the proposed emission limits and equipment and operating standards.

Adverse health effects from exposure to HCl and Cl_2 have been documented.[1] Chronic occupational exposure to HCl has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. Acute inhalation exposure may cause coughing, hoarseness, inflammation and ulceration of the respiratory tract, chest pain, and pulmonary edema in humans. No information is available on the reproductive, developmental, or carcinogenic effects of HCl in humans. The EPA has not classified HCl with respect to potential carcinogenicity.

Acute exposure to high levels (>30 parts per million (ppm) of Cl_2 in humans results in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death.[2] At lower levels (<3 ppm) Cl_2 is a potent irritant to the eyes, the upper respiratory tract, and lungs. Limited information is available on the chronic effects in humans. A recent epidemiologic study reported no

[1] Hydrochloric Acid. Hazardous Substance Data Bank. National Library of Medicine. National Institute of Health. Printouts dated August 13, 1992 and November 12, 1993. See also: Hydrogen Chloride. Integrated Risk Information System. U.S. Environmental Protection Agency. Printout dated July 10, 1995.

[2] Chlorine. Hazardous Substance Data Bank. National Library of Medicine. National Institute of Health. Printout dated August 18, 1993. See also: Chlorine. Integrated Risk Information System. U.S. Environmental Protection Agency. Printout dated September 1, 1995.

adverse effects in workers exposed to Cl_2 at 0 to 64 ppm over an average of 20 years. No information is available on the developmental, reproductive, or carcinogenic effects in humans via inhalation exposure. The EPA has not classified Cl_2 for carcinogenicity.

The EPA does recognize that the degree of adverse effects to health can range from mild to severe. The extent and degree to which the health effects may be experienced is dependent upon: (1) The ambient concentrations observed in the area (e. g., as influenced by emission rates, meteorological conditions, and terrain), (2) the frequency and duration of exposure, (3) characteristics of exposed individuals (e.g., genetics, age, pre-existing health conditions, and lifestyle) that vary significantly with the population, and (4) pollutant-specific characteristics (e.g., toxicity, half-life in the environment, bioaccumulation, and persistence).

IV. NESHAP Decision Process

A. Source of Authority for NESHAP Development

Section 112 specifically directs the EPA to develop a list of all categories of all major and such area sources as appropriate emitting one or more of the HAP listed in section 112(b). (See section 112(c)). Section 112 of the Act replaces the previous system of pollutant-by-pollutant health-based regulation that proved ineffective at controlling the high volumes and concentrations of HAP in air emissions. The provision directs that this deficiency be redressed by imposing technology-based controls on sources emitting HAP, and that these technology-based standards may later be reduced further to address residual risk that may remain even after imposition of technology-based controls. A major source is any source that emits or has the potential to emit considering controls 10 tpy or more of any one HAP or 25 tpy or more of any combination of HAP. The EPA published an initial list of source categories on July 16, 1992 (57 FR 31576), and may amend the list at any time.

B. Criteria for Development of NESHAP

The NESHAP are to be developed to control HAP emissions from both new and existing sources according to the statutory directives set out in section 112, as amended. The statute requires the standard to reflect the maximum degree of reduction of HAP emissions that is achievable taking into consideration the cost of achieving the emission reduction, any nonair quality health and environmental impacts, and energy requirements.

Emission reductions may be accomplished through application of measures, processes, methods, systems, or techniques, including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitution of materials, or other modifications, (2) enclosing systems or processes to eliminate emissions, (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage, or fugitive emissions point, (4) design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h), or (5) a combination of the above. (See section 112(d)(2)).

To develop a NESHAP, the EPA collects information about the industry, including information on emission source characteristics, control technologies, data from HAP emissions tests at well-controlled facilities, and information on the costs and other energy and environmental impacts of emission control techniques. The EPA uses this information to analyze possible regulatory approaches.

Although NESHAP are normally structured in terms of numerical emission limits, alternative approaches are sometimes necessary. In some cases, for example, physically measuring emissions from a source may be impossible, or at least impractical, because of technological and economic limitations. Section 112(h) authorizes the Administrator to promulgate a design, equipment, work practice, or operational standard, or a combination thereof, in those cases where it is not feasible to prescribe or enforce an emissions standard.

If sources in the source category are major sources, then a MACT standard is required for those major sources. The regulation of the area sources in a source category is discretionary. If there is a finding of a threat of adverse effects on human health or the environment, then the source category can be added to the list of area sources to be regulated.

C. Determining the MACT Floor

After the EPA has identified the specific source categories or subcategories of major sources to regulate under section 112, it must set MACT standards for each category or subcategory. Section 112 limits the EPA's discretion by establishing a minimum baseline or ''floor'' for standards. For new sources, the standards for a source category or subcategory cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source, as determined by the Administrator. (See section 112(d)(3)).

The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent that the average emission limitation achieved by the best-performing 12 percent of existing sources (excluding certain sources) for categories and subcategories with 30 or more sources, or the best-performing 5 sources for categories or subcategories with fewer than 30 sources. (See section 112(d)(3)).

After the floor has been determined for a new or existing source in a source category or subcategory, the Administrator must set MACT standards that are no less stringent than the floor. Such standards must then be met by all sources within the category or subcategory.

Section 112(d)(2) specifies that the EPA shall establish standards that require the maximum degree of reduction in emissions of hazardous air pollutants

> * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable * * *

In establishing standards, the Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory. (See section 112(d)(1)). For example, the Administrator could establish two classes of sources within a category or subcategory based on size and establish a different emissions standard for each class, provided both standards are at least as stringent as the MACT floor for that class of sources.

The next step in establishing MACT standards is the investigation of regulatory alternatives. With MACT standards, only alternatives at least as stringent as the floor may be selected. Information about the industry is analyzed to develop model plant populations for projecting national impacts, including HAP emission reduction levels, costs, energy, and secondary impacts. Several regulatory alternative levels (which may be different levels of emissions control or different levels of applicability or both) are then evaluated to select the regulatory alternative that best reflects the appropriate MACT level.

The selected alternative may be more stringent than the MACT floor, but the

control level selected must be technically achievable. In selecting a regulatory alternative that represents MACT, the EPA considers the achievable emission reductions of HAP (and possibly other pollutants that are co-controlled), cost, and economic impacts, energy impacts, and other environmental impacts. The objective is to achieve the maximum degree of emissions reduction without unreasonable economic or other impacts. (See section 112(d)(2)). The regulatory alternatives selected for new and existing sources may be different because of different MACT floors, and separate regulatory decisions may be made for new and existing sources.

The selected regulatory alternative is then translated into a proposed regulation. The regulation implementing the MACT decision typically includes sections on applicability, standards, test methods and compliance demonstration, monitoring, reporting, and recordkeeping. The preamble to the proposed regulation provides an explanation of the rationale for the decision. The public is invited to comment on the proposed regulation during the public comment period. Based on an evaluation of these comments, the EPA reaches a final decision and promulgates the standard.

V. Summary of Proposed Standards

A. Sources To Be Regulated

The proposed NESHAP would apply to new and existing pickling lines that use an acid solution in which 50 percent or more by weight of the acid in solution is HCl, HCl regeneration plants, and adjunct tanks used to store virgin or regenerated HCl at steel pickling facilities or acid regeneration plants that are major sources or are part of a major source. A steel pickling line employing a pickling solution in which less than 50 percent by weight of the acid in solution is HCl would not be subject to the proposed NESHAP.

B. Emission Limits and Requirements

Emission limits are being proposed for HCl and Cl_2. For existing continuous and batch pickling lines, HCl emissions would be limited to either: (1) Emissions from an air pollution control device (APCD) with a minimum HCl collection efficiency of 97.5 percent; or (2) an HCl concentration no greater than 10 parts per million by volume (ppmv) in the APCD or process exhaust gas. For new or reconstructed continuous and batch pickling lines, HCl emissions would be limited to either: (1) Emissions from an APCD with a minimum HCl collection efficiency of 99 percent; or (2) a maximum HCl concentration of 3 ppmv in the exhaust gas.

Emissions of HCl from existing acid regeneration plants would be limited to a maximum concentration of 8 ppmv HCl in the exhaust gas. A limit of a maximum concentration of 3 ppmv HCl in the exhaust gas is proposed for new or reconstructed acid regeneration plants.

Emissions of Cl_2 from existing and new acid regeneration plants would be limited to either a maximum concentration of 4 ppmv Cl_2 in the exhaust gas or an optional source specific maximum concentration limitation to be established for each source. The way in which the optional limitation is established is described in section VII.E of this document, ''Selection of Emission Limits''.

Under the proposed rule, the owner or operator of an existing or new tank used to store virgin or regenerated acid would be required to cover and seal all openings on the tank and route emissions from the atmospheric vent to an APCD. Acid loading and unloading would be conducted either through enclosed lines or with a local fume capture system, ventilated through an APCD, at each point where the acid is exposed to the atmosphere.

C. Compliance Provisions

Compliance with the standards would need to be achieved within 24 months of promulgation for existing sources, and upon startup or the promulgation date, whichever is later, for new or reconstructed sources. As provided by section 112(i), an owner or operator may request the Administrator or applicable permitting authority in a State with an approved permit program to grant 1 additional year if necessary to install controls.

For pickling lines and acid regeneration plants, an initial performance test would be required to demonstrate compliance. Sampling locations for all compliance tests would be determined by EPA Method 1 in appendix A to 40 CFR part 60. Stack gas velocity and volumetric flow rate would be determined by EPA Method 2; gas analysis would be conducted according to EPA Reference Methods 3 and 4 in appendix A to 40 CFR part 60. Testing of HCl and Cl_2 emissions would be performed using EPA Method 26A, ''Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Isokinetic Method'', in 40 CFR part 60, appendix A. If testing is conducted to demonstrate compliance with a collection efficiency limitation, sampling at the APCD inlet and at the outlet must be simultaneous. An average of three runs of sufficient duration to provide adequate samples for the expected concentration would be used to determine compliance. The owner or operator also would establish limiting values for control device operating parameters and regeneration process operating conditions based on the values measured during this test.

The installation of the required ventilation systems for acid storage tanks would be confirmed to the satisfaction of the Administrator by means of a visual inspection.

D. Monitoring Requirements

The proposed NESHAP allows two monitoring options for HCl, one option for Cl_2. For HCl, the owner or operator must either: (1) Monitor and record control device operating parameters and perform annual emission tests; or (2) operate a continuous emission monitoring system (CEMS) for the measurement and recording of HCl emissions. If a wet scrubber is used, the control device operating parameters monitored would be the pressure drop across the scrubber and the acidity of the scrubber effluent. The allowable range of values for pressure drop would be either the range of values recorded during multiple performance tests or a value within 1-inch of water column of the average value measured during the three test runs of one compliance test. Acidity would be monitored either by the use of instruments that measure acidity continuously or manual tests made once each shift for each operating day. If a device other than a wet scrubber is used, the owner or operator must monitor parameters appropriate for that device.

Each owner or operator also must develop and implement a written program to ensure the proper operation and maintenance of each emission control device and submit the written program to the applicable permitting authority as part of the operating permit. If a wet scrubber is used, the plan must include the minimum elements contained in the operating manual, e.g., it must: Require the manufacturer's recommended maintenance at the recommended intervals for pumps, scrubber fans and motors, and the exhaust system; require cleaning of the scrubber internals and mist eliminators at sufficient intervals to prevent fouling; and require periodic inspections of each scrubber to identify, repair, or replace specified elements as needed. If another type of control device is used, the owner or operator must develop and submit a similar written plan appropriate for the

device for approval by the applicable permitting authority.

If a defect is found during an inspection, the owner or operator must initiate corrective action procedures to remedy the defect within 1 working day of detection. Failure to perform the inspection as stated in the written maintenance plan or to initiate corrective actions would be a violation of the maintenance requirement.

Operation of the control device with excursions of operating parameters outside the ranges established during the initial performance test requires initiation of corrective action as specified by the maintenance requirement. Failure to initiate the required action is a violation of the maintenance requirements.

If excursions of control device operating parameters occur more often than six times during any 6-month reporting period, the owner or operator is required to install a CEMS and comply with all the requirements applicable to a continuous monitoring system (CMS) that are specified in § 63.8 in subpart A of 40 CFR part 63. For compliance with the exhaust gas concentration requirement, the CEMS shall be employed to monitor the process or control device exhaust gas. For compliance with the collection efficiency requirement, the CEMS shall be employed to monitor the APCD inlet and outlet gas streams. For compliance with the collection efficiency requirement, a single analyzer may be used to monitor both streams, with each stream being monitored 50 percent of the time during each 24-hour period.

For Cl_2, the owner or operator must perform annual emission tests and monitor and record roaster operating conditions. Operating conditions would include process offgas temperature and a measure of excess air fed to the process, the latter of which would consist of a measure of air feed rate, combustion fuel feed rate, and feed rate of iron in the spent liquor or any other acceptable combination of parameters. The operator could establish new allowable operating parameter values by conducting another performance test.

The owner or operator of a pickling facility would be found in violation of the emission limit if an annual performance test or reduced data from the CEMS show that the HCl emission limitation is being exceeded. The owner or operator of an acid regeneration plant would be found in violation of the emission limit if an annual emission test shows that the HCl and/or Cl_2 emission limitation is being exceeded, if reduced data from the CEMS show that the HCl emission limitation is being exceeded, or if the acid plant roaster is operated under conditions outside the values established during the initial performance test.

E. Notification, Recordkeeping, and Reporting Requirements

The owner or operator would be required to submit notifications described in the general provisions (40 CFR part 63, subpart A), which include initial notification of applicability, notifications of performance tests, and notification of compliance status.

As required by the general provisions, the owner or operator would be required to submit a report of performance test results; develop and implement a written startup, shutdown, and malfunction plan and report semiannually any events where the plan was not followed; and submit semiannual reports of excess emissions if any measured emissions are greater than the limits, or if any monitored parameters fall outside the range of values established during the performance test. If excess emissions are reported, a quarterly report would be required until there have been no excess emissions for one year; the owner or operator could then report semiannually unless excess emissions reoccur.

The owner or operator also would be required to maintain records required by the general provisions and records needed to document compliance with the standard. These records would mainly include operating parameter measurements, a copy of the written maintenance plan, and APCD inspection records.

All records must be retained for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. The records for the most recent 2 years must be retained on site; records for the remaining 3 years may be retained off site but still must be readily available for review. The files may be retained on microfilm, microfiche, on a computer, or on computer or magnetic disks. The owner or operator may report required information on paper or a labeled computer disk using commonly available and compatible computer software.

VI. Summary of Environmental, Energy, and Economic Impacts

A. Facilities Affected by This NESHAP

The proposed standards would apply to all HCl steel pickling facilities and HCl regeneration facilities that are major sources or are part of a major source. The EPA estimates that approximately 80 pickling facilities and all 10 regeneration facilities emit HCl in amounts that are greater than major source levels (i. e., greater than 10 tpy). At least one regeneration facility is a major source for Cl_2.

Sixty-nine pickling facilities control emissions from all lines (119). In the remaining 32 facilities, 90 of 92 lines are uncontrolled. Twelve of the 13 acid regeneration processes are equipped with control systems. Of an estimated 369 storage tanks, about one-third, at 40 pickling and 4 acid regeneration facilities, are equipped with control equipment.

Many of the 69 controlled pickling facilities not already meeting the requirements of the proposed rule could possibly achieve compliance with minor equipment modifications or changes in operating conditions. Of the 32 facilities that would require additional control systems, 17 are batch picklers and 12 are continuous rod and wire picklers.

Many acid regeneration facilities may be able to comply with the proposed NESHAP using existing control equipment and operating procedures. Three plants are known to already meet the proposed standard for HCl, three plants are known to meet the standard for Cl_2. Other plants may already be in compliance or able to comply using only improved operating or maintenance procedures.

All impacts were estimated by determining the effect of the proposed regulation on model plants that were developed to represent the industry rather than estimating the impact on each facility on a case-by-case basis, which was considered impractical. Seventeen model plants were developed to represent the five types of pickling operations and one acid regeneration process. The model plants include small, medium, and large plant size variations (except for continuous tubing pickling, for which only small and large size variations were used) with associated emission control systems.

B. Air Quality Impacts

At current levels of control, nationwide HCl emissions from this source category are estimated to be 9,330 Mg/yr; 6,980 Mg/yr for continuous pickling lines, 1,940 Mg/yr for batch pickling lines, 390 Mg/yr for acid regeneration plants, and 24 Mg/yr from acid storage tanks. Nationwide Cl_2 emissions from acid regeneration plants are estimated to be 35 Mg/yr. Application of the proposed standards would reduce HCl emissions by approximately 8,360 Mg/yr to about 970 Mg/yr from all regulated sources, or about 90 percent, and Cl_2 emissions by

approximately 19 Mg/yr to about 16 Mg/yr, or about 54 percent.

C. Water Quality Impacts

The additional amount of water discharged from wet scrubbers would increase by approximately 460,000 cubic meters per year (m^3/yr) over current levels: 320,000 m^3/yr from continuous pickling processes, 130,000 m^3/yr from batch pickling processes, and 6,000 m^3/yr from acid regeneration plants. The portion of this water that would need to be treated on site prior to discharge is projected to be small because the scrubber discharge water can be, and is in many cases, recycled to the pickling process to provide makeup water and recover the acid values collected by the scrubber. The additional wastewater to be treated would be insignificant compared with the amount of waste pickle liquor generated by pickling operations. Treatment of both waste products can be accomplished by the same procedures.

D. Solid Waste Impacts

The volume of sludge generated by additional control could increase by up to 1,680 Mg/yr: 1,370 Mg/yr from continuous pickling processes, 280 Mg/yr from batch pickling processes, and 30 Mg/yr from acid regeneration plants. The sludge is produced by the treatment of scrubber discharge water. This amount of sludge is insignificant compared with the amount of sludge generated by treatment of waste pickle liquor. Also, the amount of sludge generated would be reduced proportionally by the amount of scrubber discharge water that is recycled to the pickling process, as described above in paragraph C, Water Quality Impacts.

E. Energy Impacts

Additional energy use is expected to result from implementation of the proposed standards. Increases would result from operation of additional ventilation systems and emission control devices. Energy use is expected to increase by about 10.2 million kilowatt hours per year (kWh/yr) over current levels. About 7.1 million additional kWh/yr would be needed for continuous pickling lines, 3.0 million kWh/yr for batch lines, and 140,000 kWh/yr for acid regeneration plants.

F. Cost Impacts

Nationwide capital costs of the proposed standards are estimated at $20 million with annual costs for operation and maintenance of about $7.1 million. Capital cost estimates include costs for purchasing new emission control devices (assumed to be scrubbers) for uncontrolled lines, upgrading existing scrubbers (assumed to be 40 percent of the cost of a new unit), and installing vent piping from acid storage tanks to the pickling line control device. Annual costs for these facilities are based on costs calculated for the model plants. Estimates of annual costs for facilities with existing controls include improved maintenance consisting of operating labor, shift supervision, materials, and overhead for each emission source based on the type and size of model plant. Annual costs were also added for upgrading existing scrubbers and for new control devices (assuming scrubbers), the costs for increased pressure drop, solids (sludge) disposal, wastewater treatment costs, and additional energy requirements.

Cost-to-sales ratios and percent increase in the cost of production statistics were estimated in order to determine the level of impact this regulation will have on steel pickling facilities and steel producers that conduct pickling activities. The analysis was completed on a national basis and for all 17 model plants. In addition, the ratios were evaluated on two alternative bases. The first utilizes all facilities in the industry to estimate the control cost per ton of steel produced. The second estimates the cost of control using only those facilities that will be required to install controls. The control costs were compared to the market price per ton of the relevant type of steel for each model plant to compute cost-to-sales ratios for each model plant. An average market price for steel was used to compute the national average ratio. Cost of production was estimated to be 93 percent of market price.

Nationally, the control costs for the steel pickling industry are 0.033 percent of sales revenues and represent a 0.035 percent increase in the cost of production. For those facilities that will be required to install controls to meet the MACT standard, the costs represent 0.052 percent of revenues and an increase in the cost of production of 0.056 percent. The costs for individual model plants vary from a low of 0.011 to a high of 0.79 percent increase in the cost of production and from 0.010 to 0.73 percent of revenues for all facilities in the industry. The costs range from 0.023 to 1.15 percent increase in the cost of production and from 0.021 to 1.07 percent of sales for the individual facilities required to install emission controls and incur costs.

The cost-to-sales ratios and percent increase in the cost of production are well below 1 percent for the industry as a whole and for the portion of the industry required to incur control costs as a result of this regulation. The costs on a model plant basis approximate or are less than a 1 percent increase in the cost of production and are an equivalent percent of sales for all model plants. The magnitude of the costs relative to production cost of the industry and sales revenues leads to a conclusion that this standard will not significantly adversely impact firms in the steel pickling industry. The results also indicate that a more sophisticated economic impact analysis is not required. No plant closures are anticipated nor are significant employment losses. Significant regional impacts are also not expected.

Costs for model pickling and acid regeneration facilities and acid storage tanks are given in the background information document, along with additional information on the model plant parameters.

G. Economic Impacts

Estimated annual costs of emission control for pickling steel would range from approximately $0.10 per ton of steel processed for large operations to $8.00 per ton of steel for facilities with low production rates. For producers of hot-rolled products, the estimated contribution of pickling and coiling to total steel production costs in 1992 was $7.27 per ton, or 2.3 percent of the total production cost. Based on these values, the cost of adding emission control systems can be proportionally higher for small producers and of comparable magnitude to the cost of pickling, but would still be small compared with the total cost of the steel product. The economic impact of the proposed rule on the industry as a whole is projected to be minor.

VII. Rationale for Selecting the Proposed Standards

This section describes the rationale for the decision made by the Administrator in selecting the proposed standards.

A. Selection of Source Category and Pollutants

Steel pickling facilities emit HCl, and acid regeneration facilities emit HCl and Cl_2. Both HCl and Cl_2 are among the HAP listed in section 112(b) of the Act.

In the most common type of continuous coil process used for steel strip, individual coils are welded end-to-end and continuously run through a series of, typically, three to four horizontal pickling tanks. Virgin or regenerated acid is added near the end where the strip exits; the pickling solution then cascades over weirs

toward the strip entry, countercurrent to the motion of the strip. The pickling liquor is typically maintained at 170 to 200°F by live steam injection or by internal or external heat exchange. The pickling section of a line may be up to 400 feet long. Following pickling, the material is rinsed with fresh water in another series of tanks to remove residual acid liquor. The rinsed material is then dried with heated air.

Hydrochloric acid is emitted as HCl gas by evaporation from the surface of the acid bath in the pickling tanks. Emissions may be substantial because of the high vapor pressure of HCl at high concentrations and temperatures. Also, mist of HCl in water can be produced by mechanical action such as agitation of the bath by steam sparging and movement of the steel through the bath.

A second, less common, type of continuous operation uses a vertical spray tower in which pickle liquor is sprayed onto moving strip in multiple vertical passes in an enclosed tower. Spray rinsing with fresh water follows. Currently, a total of three units are in operation in the country. Emissions are of a form similar to those from horizontal tanks, and emission control requirements are virtually the same.

Push-pull lines are physically similar to continuous lines. In this process, each coil is threaded through the pickling tanks separately. Push-pull lines are generally shorter than continuous lines because the speed is usually slower. The pickle liquor usually is maintained at 180°F or higher by external heat exchangers. Emissions are the same as those produced by continuous coil lines.

Continuous rod/wire and tubing lines are similar to but smaller than continuous strip lines. Emissions are of the same form as those from continuous coil and push-pull lines.

In batch lines, rod or wire in coils, pipe, and metal parts are dipped into the pickling tank until the scale is dissolved. When pickling is completed, the material is lifted from the bath, allowed to drain, and rinsed by spraying or by immersion in one or more rinse tanks. To reduce emissions, particularly from draining, batch pickling temperatures are usually lower, typically 100 to 105°F, than for continuous operations. Emissions from batch lines are produced in the same way as those from continuous lines and also from acid that is entrained in the steel removed from the bath, most of which subsequently flows or drips back into the bath.

Of the 13 acid regeneration plants identified at ten facilities, twelve are spray roaster designs; the other plant is a fluidized bed roaster. In the spray roasting process, waste pickle liquor is fed into a venturi evaporator where it is mixed with hot gas from the spray roaster. The liquor cools and cleans the gas of carryover iron oxide particles, while the gas evaporates some of the water and HCl in the liquor. Concentrated pickle liquor from the evaporator is fed to the roaster, in which the liquor is evaporated by hot gas fed to the chamber at about 1,200°C. The ferrous chloride reacts with oxygen and water vapor to form ferric oxide and HCl. The gases are drawn into the absorber, where the contained water and acid are condensed and combined with blowdown from the wet scrubber to form an acid solution containing 16 to 20 percent HCl. Exhaust from the absorber is usually drawn through a wet scrubber, which also acts as a final recovery system for HCl, provided that water without chemical additives is used as the scrubbing medium.

Equipment for the fluidized bed roasting process is similar, and emission control requirements are virtually the same as those for the spray roasting process.

Emissions of HCl that are not collected by the absorber or the wet scrubber are released from both types of regeneration plants.

Acid regeneration plants also emit Cl_2. Formation of Cl_2 increases as the operating temperature in the roaster decreases and as excess air increases. These processes are normally operated with sufficient excess air to insure that conversion to ferric iron is complete.

Acid storage tanks are present at nearly all facilities to contain the acid needed for pickling operations and the acid solution produced by the regeneration plants. These storage tanks are typically totally enclosed, except for loading and unloading of acid, with emissions from the atmospheric vent commonly routed to the pickling or acid plant emission control device or to a dedicated control device. Emissions from tanks in the form of HCl gas and acid mist are released from uncontrolled vents, especially during filling.

Emission tests at six continuous horizontal, one continuous vertical, and two push-pull steel pickling facilities and one acid regeneration facility showed that without controls, all of these facilities were major sources for HCl and the acid plant was a major source for Cl_2. With existing controls, one of the continuous horizontal pickling facilities was still a major source for HCl and the acid plant was still a major source for both HCl and Cl_2.

In order to assess emissions from other types of pickling operations, the EPA used an air emissions model for predicting HCl emission rates from open surface baths. This model, submitted to the EPA by a private engineering company that is experienced in the design and evaluation of emission control systems for steel pickling operations, takes into account the essential factors that affect emissions, including temperature, HCl concentration, concentration of dissolved ferrous chlorine, and air velocity across the tank surface. Application of this model showed that without controls, pickling operations of all five types can emit more than 10 tpy of HCl.

In view of the above findings, the EPA has determined that the source category includes all five types of pickling operations and also acid regeneration plants and that pickling operations are subject to regulation for emissions of HCl and acid plants for emissions of HCl and Cl_2, two of the HAP listed in section 112 of the Act. The standards being proposed would apply to all new and existing steel pickling lines that use the HCl process and all new and existing HCl regeneration plants.

The emission, equipment, and work practice standards being proposed would substantially limit emissions of HCl from the above sources. Lesser reductions of Cl_2 emissions from acid regeneration facilities would be achieved. The standards address HCl and Cl_2 directly rather than surrogates.

B. Selection of Affected Sources

The proposed standards apply to three types of emission sources at steel pickling and acid regeneration facilities: (1) Continuous and batch pickling lines using HCl as the pickling acid, (2) HCl regeneration plants, and (3) acid storage tank sources.

Affected process sources include all acid tanks employed in HCl pickling lines and all acid regeneration plants. In order to prevent acid fumes from invading the working environment, most pickling tanks are equipped with close fitting, overhead, push-pull, or side draft hoods exhausted through induced draft fans. Emissions from these tanks are found in the process exhaust gases that are discharged to the atmosphere. Standards are therefore being proposed to limit emissions of HCl from pickling tank exhaust gas vents.

Acid regeneration plant emissions are contained in the gases exhausted from the acid recovery or absorber unit. The proposed standards would limit HCl and Cl_2 emissions from absorber exhaust gases.

Fumes from the vents of acid storage tanks that are open to the atmosphere contain emissions of HCl. Acid storage tank vents were therefore selected for regulation. The proposed regulation would limit emissions of HCl from storage tanks by requiring that the tank atmospheric vents be equipped with APCDs and that any lines or vents used for transport of acid into or out of the tanks be enclosed or equipped with a local ventilation system exhausted through an APCD.

A fourth source considered for regulation was waste and wastewater treatment operations. The spent pickle liquor is typically managed by on site pretreatment and discharge to a publicly owned treatment works (POTW) or removal by waste disposal contractors. Available data indicate that wastewater treatment emissions are not significant because the low vapor pressure of HCl inhibits volatilization. For example, at 86°F the vapor pressure of HCl over a solution containing 4 percent HCl in water is below 0.0008 millimeters of mercury.[3]

C. Selection of Basis and Level for the Proposed Standards for Existing and New Sources

1. Background

As described previously in the NESHAP decision process discussion, section 112 establishes a minimum baseline, or ''floor'', for standards. For new sources, the standards cannot be less stringent than the emission control achieved in practice by the best controlled similar source. The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources for categories and subcategories with 30 or more sources or the best performing five sources for categories or subcategories with fewer than 30 sources.

When setting standards above the floor, the EPA may distinguish among classes, types, and sizes of sources within a category or subcategory. Furthermore, consideration must be given to the incremental impacts on emission reduction, cost, economics, energy, and other environmental concerns. The objective is to achieve the maximum degree of emissions reduction without unreasonable adverse impacts.

Subcategorization within a source category is considered only when there is enough evidence to demonstrate clearly that sources contained in the source category are significantly dissimilar. The criteria to consider include process operations (including differences between continuous and batch operations), emission characteristics, control device applicability and costs, safety, and opportunities for pollution prevention.

Steel pickling processes are differentiated by the form of metal treated and the configuration and operating cycle of the process. The different types of continuous processes vary little except in size and ancillary equipment. Batch operations differ significantly from continuous operations in three ways: (1) The physical arrangement of the unit must allow the steel to be placed into and withdrawn from the top instead of the ends of the tank, (2) emissions may vary substantially between the immersion and draining phases of the operation, and (3) emission capture requirements are different for the two types of operations.

Pickling tanks for all types of continuous lines are typically equipped with lids or close fitting hoods. Emission capture systems for batch pickling tanks may consist of two separate units: A push-pull ventilation system to capture fumes from the tank surface, and a side draft hood to capture fumes from steel that is suspended above the tank to drain. Although some batch picklers use canopy hoods, at least 15 of the 26 batch facilities employ side draft hoods. Emissions ventilated through these hoods vary substantially because the drain phase occurs for only a portion of the pickling cycle. Because of the different emission characteristics, the EPA proposes to regulate continuous/semicontinuous pickling lines and batch pickling lines as separate subcategories.

The EPA also examined the processes, the process operations, and other factors to determine if separate classes of units, operations, or other criteria have an effect on air emissions. Acid emission rates are affected by tank size, acid concentration and temperature, iron concentration, ventilation system, gas flow rate, bath temperature control method, and degree of agitation in the tank. The performance requirements for an emission control system may be affected by these process variables. A qualitative review of the data revealed that processes that employ steam sparging for bath temperature control tended to produce more HCl emissions than processes employing heat exchange, but no differences in control device requirements or control efficiencies could be attributed to differences in temperature control method. No effect of other process variables on control device requirements or control efficiency could be identified. The EPA therefore did not identify separate subcategories of sources based on process variables.

2. Selection of MACT

The EPA has taken alternative approaches to establishing MACT floor conditions for new and existing sources depending on the type, quality, and applicability of available data. The three approaches most commonly examined include reliance on: (1) Information on State regulations and/or permit limitations, (2) source test data that characterize actual emissions discharged by sources, and (3) use of a technology floor and an accompanying demonstrated achievable emission level that accounts for process and air pollution control device variability.

No Federal air emission standards currently apply to steel pickling or acid regeneration sources. Four states have established emission limits for HCl, which range from 0.73 to 3 pounds per hour of HCl. At least 18 states and territories have established ambient air limits for HCl; these limits are values for allowable concentrations of HCl outside the facility boundaries or in adjacent neighborhoods downwind from the source.[4] These limits vary widely. For example, one-hour exposure limits range from 75 to 2,000 $\mu g/m^3$, and 24-hour limits range from 2.03 to 700 $\mu g/m^3$. Similarly, at least 18 states and territories have established ambient air limits for Cl_2.[5] One-hour exposure limits range from 29 to 69 $\mu g/m^3$, and 24-hour limits range from 3.6 to 75 $\mu g/m^3$. These standards cannot be directly related to the requirements of this rule.

Applicable test data to characterize actual emissions from pickling lines are available for only 10 of the 152 continuous pickling lines and none of the 59 batch pickling lines. These data points are too few to establish 12 percent MACT floors for pickling lines; 18 points would be required for continuous lines and seven points for batch lines.

By comparison with the limited utility of state regulations and source test data, a substantial body of information is available on the types, configurations, and operating conditions of air pollution control devices applied across the industry. This information was collected through the

[3] Perry, R.H., D.W. Green, and J.O. Maloney, eds. Chemical Engineers' Manual. 6th ed. McGraw-Hill. New York. 1984. p. 3–64.

[4] World-Wide Limits for Toxic and Hazardous Chemicals in Air, Water, and Soil. M. Sittig. Noyes Publications. Park Ridge, NJ. 1994. pp. 425–426.

[5] Reference 4. pp. 178–179.

comprehensive survey by the EPA of known HCl steel pickling facilities that was conducted in 1992 through the information collection request (ICR), which was approved by the Office of Management and Budget for NESHAP information gathering. This survey produced substantial information on the design and operation of emission control equipment but little information on actual emissions. The EPA therefore used the technology floor approach to establishing MACT for pickling lines.

For acid regeneration plants, sufficient source test data are available to pursue an actual emissions approach for determining MACT floors. Only five data points would be required to establish the floor for acid regeneration plants because there are fewer than 30 plants in this subcategory. Enough data were available to construct average or median emission values for both HCl and Cl_2.

Continuous pickling lines. Wet scrubbers are the only kind of device known to control HCl emissions from pickling lines of all types. MACT for continuous pickling lines is therefore wet scrubbing. The two variations of scrubbers employed are packed bed and sieve tray.

Data from the ICR responses show that emissions from 107 of 152 continuous pickling lines are controlled, including 60 of 64 continuous coil, all 22 push-pull coil, 19 of 55 rod/wire, and five of 11 tubing picklers. Twenty-five lines are controlled with sieve tray scrubbers, 41 with vertical packed bed scrubbers, 16 with horizontal packed bed scrubbers, 14 with packed bed scrubbers of unidentified configuration, eight with scrubbers in series, and three with unidentified types of systems.

The use of a droplet eliminator (DE) in conjunction with a wet scrubber is considered standard practice, and mesh pad or chevron (vane) type DEs were identified in 13 control systems; they are assumed to be employed in the majority of systems. Data were available to determine the effectiveness of vertical packed bed and sieve tray scrubbers in combination with both types of DEs. No distinction could be made in the effectiveness of the mesh pad and chevron devices. Both types are therefore considered to be equally effective.

The effectiveness of a scrubber may depend on the collection medium used. The medium used in pickling line scrubbers is either unneutralized water from plant or public sources or water to which an alkaline substance has been added. Most of the wet scrubbers employed to control pickling emissions use water as the collection medium, but alkaline solution is used in some units. In principle, the use of alkaline solution could result in increases of HCl removal efficiency by reducing the vapor pressure of HCl in equilibrium with the scrubbing solution. In practice, however, increased efficiencies were not observed for pickling process scrubbing systems that could be attributed solely to the use of alkaline medium. Also, the equilibrium vapor pressure of HCl for weak hydrochloric acid solutions is inherently very low. The EPA concludes that use of an alkaline collection medium does not constitute a more effective level of control than the use of water for this application.

The characteristics of the scrubbers constituting the existing source and new source levels of control were determined by evaluating the results of emission tests conducted on units currently employed in the industry. Ten valid sets of emission test data on scrubbers applied to representative continuous strip and push-pull strip pickling lines were collected. All tests were conducted on sieve tray and vertical packed bed scrubbers. Fundamental design measures of performance for units of these types include the number of trays in sieve tray scrubbers and the depth of the packing in packed bed scrubbers.

The data from these tests are presented and discussed in detail in the background information document. The data are from four source tests conducted by the EPA and six tests conducted by industry. All data sets consist of results from sampling runs conducted under conditions representing normal scrubber and pickling line operations, and all data sets include simultaneous inlet and outlet measurements.

Six tests include a minimum of three sampling runs each, three tests include two runs each, and one test consists of one run. Of the six tests that include three or more sampling runs each, two were conducted on sieve tray scrubbers with six and three plates, respectively, and four were conducted on vertical packed bed scrubbers that contained packing ranging from 5 to 10 feet in depth. One sieve tray unit was equipped with a mesh pad DE, the other with a chevron DE. Two packed bed units were equipped with mesh pad DEs, two with chevron or vane DEs. Thus, all four combinations of scrubber and DE type are represented in these six tests. Of the three tests that included two sampling runs each, all were conducted on vertical packed bed scrubbers with mesh pad DEs. The test with one sampling run was conducted on a five-plate sieve tray scrubber equipped with a chevron DE.

Of the remaining lines using the same types of devices, at least 10 employ sieve tray scrubbers with a number of trays in the range of those tested (3 to 6) and 15 employ vertical packed bed units with packing depth in the same range as those tested (5 to 10 feet). Thus, on these design criteria, the control devices tested represent those employed by at least 35 lines. No scrubber designs employed in this source category have been demonstrated to be more effective than these. The EPA therefore assumes that the best controlled 12 percent (18 lines) are found in this group of 35.

All tests were conducted using either EPA Method 26A in appendix A to 40 CFR part 60 or a method equally valid for this application. Field evaluations indicate that Method 26A is an acceptable procedure for measuring HCl from municipal waste combustors at levels as low as 3 ppmv.[6] The EPA considers the method to be equally valid for measuring emissions from pickling and acid regeneration sources. Emission reduction efficiency values on the above tests were adjusted on the premise that measured outlet HCl concentrations below 3 ppmv may not be accurate enough to determine numerical emission standards. Reported outlet concentrations of less than 3 ppmv were assumed to be 3 ppmv for purposes of calculating reduction efficiencies and determining the numerical emission limits.

Reduction efficiencies for HCl for the ten scrubbers range from 99.9 to 92.7 percent; HCl outlet concentrations range from 3.0 to 92 ppmv.

The best controlled lines are two lines that achieve both 99 percent or greater HCl collection efficiencies and 3 ppmv or lower HCl outlet concentrations. One line is served by a six-plate sieve tray scrubber and one by a packed bed scrubber. These control devices are the most effective devices demonstrated in this application and therefore constitute the new source MACT floor for continuous pickling operations.

For the remaining eight scrubbers, neither sieve tray nor vertical packed bed units as groups were superior to the other type of device. The existing source MACT floor therefore is sieve tray scrubbers with 3 to 5 trays and vertical packed bed scrubbers with 5 to 10 feet of packing.

[6] Laboratory and Field Evaluation of a Methodology of Determination of Hydrogen Chloride Emissions from Municipal and Hazardous Waste Incinerators. U.S. Environmental Protection Agency. Office of Research and Development. Atmospheric Research and Exposure Assessment Laboratory. EPA–600/3–89–064. 1989.

The EPA is required to consider levels of control more stringent than the floor level if such levels exist. No higher level of control exists for new sources than the level proposed. For existing sources, the new source level of control is more stringent and therefore was considered. As discussed below in section VII.E of this document, ''Selection of Emission Limits'', the proposed emission limits for existing source MACT are 97.5 percent minimum HCl reduction efficiency or 10 ppmv maximum HCl outlet concentration. According to a cost analysis, the additional cost of controls to reduce emission levels from either an outlet concentration of 10 to 3 ppmv HCl or increase reduction efficiencies from 97.5 to 99 percent is estimated to be $20.7 million for capital costs and $3.0 million for annual costs. The associated emission reduction is estimated to be 450 Mg/yr. The cost effectiveness is therefore $46,000 per Mg of HCl reduction for capital cost, $6,700 per Mg for annual cost. The EPA considers this burden to be excessive and therefore is not proposing the higher level of control for existing sources. By comparison, the cost effectiveness of the proposed rule is $2,400 per Mg of HCl reduction for capital cost and $850 per Mg of reduction for annual cost for pickling lines and acid regeneration units combined.

Batch pickling lines. According to data from the ICR responses, only 14 of the 59 batch pickling lines are controlled, although 36 lines are equipped with local ventilation. As with continuous picklers, wet scrubbers are the only type of control device identified. MACT for batch pickling lines is therefore wet scrubbing. Nine lines employ vertical packed bed scrubbers, two employ horizontal packed bed units, and two employ wet scrubbers of unknown types.

No valid test data are available for batch operations. The MACT floor must therefore be determined by an assessment of scrubbers of these types in similar applications, e. g., continuous pickling lines. Of the vertical packed bed systems employed, at least five scrubbers have packing depths equal to or greater than those found in continuous pickling line scrubbers (5 to 10 feet) and would be expected to perform as well as those units. The use of DEs will be inferred by the fact that they are standard equipment in similar types of applications. The existing source MACT floor technology therefore includes packed bed scrubbers of the same capability as the packed bed scrubbers in the existing source MACT floor technology for continuous pickling lines. The expected level of performance is assumed to be the same as that for existing continuous lines. The EPA therefore believes that selection of the same existing source MACT floor for batch pickling lines as for continuous lines is justified.

Unlike continuous pickling, data are not available on batch pickling to allow differentiation in terms of scrubber performance. No distinction could be made among the scrubbers constituting the existing source MACT floor. Consequently, the new source MACT floor is the same as the existing source MACT floor for this subcategory of sources.

The EPA considered one higher level of control than the MACT floor, namely the level of control for new continuous pickling sources, for application to both existing and new batch pickling sources. According to a cost analysis, the additional cost of controls for existing batch pickling lines to reduce emission levels of existing sources from either an outlet concentration of 10 to 3 ppmv HCl or increase reduction efficiencies from 97.5 to 99 percent was estimated to be $610,000 for capital costs and $140,000 for annual costs. The associated emission reduction is estimated to be 61 Mg/yr. The cost effectiveness is therefore $10,000 per Mg of HCl reduction for capital cost, $2,300 per Mg for annual cost. This burden is considerably lower than the additional burden required for existing continuous lines to reduce emissions to new source levels instead of existing source levels. The emissions reduction that would be achieved, however, is very low; 61 Mg/yr is less than one percent of the total of 8,360 Mg/yr that would be achieved by implementation of the proposed rule. In view of the minimal gain to be achieved, the EPA proposes that the more stringent level of control not be required for existing batch pickling sources.

The EPA proposes that the new source level of control for continuous pickling lines be required for new source batch pickling lines because the control technologies are virtually identical for both subcategories of sources.

Acid regeneration plants. Ten acid regeneration facilities, eight of which are collocated at pickling facilities, operate 13 regeneration plants. Based on information submitted in ICR responses from all 10 facilities, the following control devices are employed to reduce emissions. Nine plants use single-stage vertical packed bed scrubbers with water as the collection medium. Each scrubber is equipped with a DE and packing that ranges from 6 to 25 feet in depth. Two plants use two-stage vertical packed towers, with water as the collection medium in the first stage and alkaline solution in the second stage. One plant uses two-stage packed tower absorption, which is similar to single stage absorption followed by a stage of scrubbing; the second absorber is followed by a venturi scrubber that uses alkaline solution. The thirteenth plant is uncontrolled.

Similarly to EPA's technical judgement on the effectiveness of scrubbing with alkaline media versus unneutralized water for HCl control on pickling lines, the EPA does not believe that the use of alkaline media in scrubbers necessarily enhances control over the use of unneutralized water for HCl control on acid regeneration plants, even though the use of alkaline media does enhance Cl_2 control. Consequently, any improvement in HCl control by the control systems that employ dual stages of absorption or scrubbing plus use of an alkaline medium is due in EPA's opinion to the existence of multiple stages rather than the use of alkaline media.

Because the source category includes fewer than 30 acid regeneration plants, the MACT floor for existing sources is determined by the average emission limitation achieved by the best controlled five plants.

HCl collection efficiency data were available for only one plant. Collection efficiency could therefore not be used as a basis for determining MACT. By comparison, scrubber outlet concentration data were available for five plants; this information was used to determine the MACT floors for new and existing sources.

Measured scrubber outlet concentration values are 0.9, 1.0, 3.1, 16, and 137 ppmv HCl. The 137 ppmv value is far out of line with the other values and is considered to be the result of a malfunction in the acid regeneration plant, specifically inefficient absorber operation. This value is therefore not included in any determinations.

Referring to the limitation of the test method employed discussed previously in this section, concentration values below 3 ppmv cannot be measured with assurance. Measured values of less than 3 ppmv are assumed to be 3 ppmv for the purpose of determining MACT and the numerical emission limit. The outlet concentration values used were therefore 3, 3, 3.1, and 16 ppmv HCl.

New source MACT for HCl control is based on the lowest exhaust gas concentration achieved in practice by the best similar source or sources. Three plants currently achieve measured HCl

concentrations of 3.1 ppmv or lower and constitute MACT. These plants employ two-stage scrubbing with vertical packed bed scrubbers or two-stage absorption followed by a venturi scrubber. Consequently, the floor and MACT for new sources is the level of control demonstrated by two-stage scrubbing or two-stage absorption.

If the MACT floor for existing sources is to be determined by the median of the concentrations achieved by the best 5 controlled plants, the value will be 3 ppmv (3.1 ppmv rounded off). If the floor is to be determined by the average of the concentrations achieved by the best 5 controlled plants, a fifth value will have to be assumed. The assumed value would be 16 ppmv because it cannot be determined that any of the other 8 plants employing single-stage scrubbing performs at either a higher or lower level than the plant for which information is available. The average of 3, 3, 3.1, 16, and 16 ppmv is 8 ppmv.

In choosing between using the average or the median concentration to determine the MACT floor, the EPA considered the capabilities of the control technology currently in use and also the relative costs and benefits of the two options. As described above, three plants have been shown to achieve the 3 ppmv HCl median value. These include two plants that employ two-stage scrubbing with vertical packed bed scrubbers and a third plant that employs two-stage absorption and single-stage scrubbing with a venturi scrubber. Nine of the twelve plants that are controlled, however, employ single-stage scrubbing, which has not been demonstrated to be capable of achieving the 3 ppmv level of control. Also, according to a cost analysis that is presented later in this section, the incremental annual cost of increasing control from 8 ppmv to 3 ppmv is $7,600 per Mg of HCl reduction, which EPA considers to be excessive. Based on these considerations, the EPA is proposing to use the average level of control, 8 ppmv HCl outlet concentration, to determine the existing source MACT floor. Although no single-stage scrubber employed in an acid regeneration plant has been demonstrated to meet this level of control, it would be more achievable than 3 ppmv. Also, the existing source level of control proposed for pickling lines is a similar value, 10 ppmv, and the scrubbers used to control pickling lines are mainly single-stage units.

MACT for chlorine emission control was determined from the best five controlled plants for Cl_2. Collection efficiency data were too limited to be used. Data were available from three plants; two were the plants that use two-stage scrubbing with alkaline media in the second stages, and the third was a plant that uses single-stage water scrubbing. Chlorine reduction was virtually nil from the latter plant because water does not absorb Cl_2 effectively. The secondary scrubbers using alkaline solution reduce Cl_2 emissions from 5.1 to 2.1 ppmv and from 7.8 to 0.27 ppmv. Respective Cl_2 collection efficiencies are 53 and 94 percent, a wide variation for two identical units operated with the same goal. The EPA consequently believes that neither MACT nor a numerical emission limit for Cl_2 can be determined from collection efficiency data.

Outlet Cl_2 concentration data were available from four plants. Measured values are 0.3, 2.1, 3.3, and 60 ppmv. As discussed previously in this section, EPA Method 26A in appendix A to 40 CFR part 60 is considered acceptable for HCl concentrations as low as 3 ppmv. Although no lower limit is given for Cl_2, the EPA believes that the limit would be similar to that for HCl considering the details of the test method. Consequently, the actual Cl_2 outlet concentrations are taken to be 3, 3, 3.3, and 60 ppmv.

The 60 ppmv value appears to be high enough compared with the other values to be considered a result of inefficient operation and therefore was not included in the data used to determine MACT or the numerical limit.

The existing source MACT floor for Cl_2 control was determined from the median level of achievement of the best five performing sources, i. e., the third best controlled source. Because the best performing three plants have virtually identical performance, all three technologies constitute MACT. Two of these plants are those that employ two-stage scrubbing with caustic media in the second stages. The third plant uses only single-stage scrubbing with water. The latter facility, however, controls Cl_2 emissions through control of process operating conditions. The existing source MACT floor for Cl_2 control therefore is scrubbing with an alkaline medium or control of plant operating conditions.

Wet scrubbing systems that do not use alkaline solution as the collection medium do not effectively control Cl_2 emissions. Scrubbing with alkaline solution, however, has a significant disadvantage in that the scrubber blowdown cannot be recycled to either an acid plant or a pickling process but must be disposed of; thus, alkaline scrubbing creates an additional waste product.

By comparison, control of process conditions does not create a waste product nor require a control device. Formation of Cl_2 in acid regeneration can be reduced by increasing the operating temperature and decreasing the amount of the excess oxygen in the roaster.[7] These processes are normally operated with sufficient excess air to insure that conversion of ferrous iron to ferric iron is complete. At least one facility, however, operates under conditions that are chosen to reduce Cl_2 formation. The EPA therefore believes that regeneration plants can be operated to minimize Cl_2 formation while maintaining product quality. The facility that operates with a specific goal of reducing Cl_2 formation has measured a Cl_2 concentration of 3.3 ppmv in the process offgas. As discussed above, the facility operating two regeneration plants has measured Cl_2 concentrations in the process offgases prior to alkaline scrubbing of 5.1 and 7.8 ppmv, which are of the same order as 3.3 ppmv. The EPA believes that controlling process operating conditions can result in reducing Cl_2 formation to a demonstrated concentration level and therefore proposes that control of process operating conditions be included in the MACT floor for reducing Cl_2 emissions from acid regeneration plants. Because of the limited data available to support this conclusion, the EPA solicits comment on this selection of MACT.

New source MACT for Cl_2 control is determined by the single best performing plant. The outlet concentration values of 3, 3, and 3.3 ppmv are virtually identical, and therefore the best performing plant could be any one of the best three. The new source MACT floor for Cl_2 control is therefore the technology used by all three plants, i.e., the same as the existing source MACT floor.

As in the case of the standard for pickling lines, the EPA considered levels of control more stringent than the MACT floor. For HCl control, no higher level of control exists for new sources than the level proposed. For existing sources, the new source level of control is more stringent and therefore was considered. The additional cost of controls to reduce outlet concentrations from 8 to 3 ppmv HCl is estimated to be $2.9 million for capital costs and $1.0 for annual costs. The associated

[7] Chlorine Control of Pickling Acid Regeneration Plants. E. Th. Herpers, B. Schweinsberg, N. Ozer, and J. Bozcar. International Chemical Engineering Symposium Series No. 57. pp. BB1–BB14. Available from University of California, Los Angeles, PSTL/ Interlibrary Loans, 8251 Boelter Hall, Los Angeles, CA 90024–1598.

emission reduction is estimated to be 133 tpy. The cost effectiveness is therefore $22,000 per Mg of HCl reduction for capital cost, $7,600 per Mg for annual cost. The EPA considers this burden to be excessive and therefore is not proposing the higher level of control for existing sources.

For Cl_2 control, no higher level of control is known than that proposed, and therefore no higher level could be considered.

Acid storage tanks. Storage tanks typically provide complete enclosure of the acid. Based on data from ICR responses, 40 pickling facilities and four regeneration plants employ emission control systems on tanks used for storage of virgin and regenerated acid. A total of 24 of the 40 pickling facilities and all four regeneration plants vent tank fumes to the scrubbers that service the associated pickling process or acid plant. The control systems at the remaining 16 facilities were not determined to be more or less effective than the pickling process and acid plant control systems at the 24 facilities. The MACT floor for existing acid storage tanks therefore includes covering and sealing all openings on the tank, except during loading and unloading of acid, and routing emissions from the atmospheric vent to a control device. The EPA is not requiring that fumes be vented to the same control device used to service the associated pickling line or acid plant because the tank may be in a remote location; in this case, a separate device may be used.

At least 15 facilities control acid fumes during acid transfer to and from the tanks by either conducting the transfer through sealed lines and connections or providing local ventilation through a control device at the point of transfer. The existing source MACT floor therefore also includes acid transfer fume control through either a sealed connection or use of local ventilation at the transfer point through a control device.

The effectiveness in HCl control of these systems could not be differentiated, and thus no one system that was more effective than the others could be identified. The new source MACT floor is therefore the same as the existing source floor.

D. Selection of Format

Section 112 of the Act requires the Administrator to prescribe emission standards for HAP control unless, in the Administrator's judgement, it is not feasible to prescribe or enforce emission standards. Section 112(h) defines two conditions under which it is not feasible to prescribe or enforce emission standards: (1) If the HAP cannot be emitted through a conveyance device designed and constructed to emit or capture the HAP; and (2) if the application of measurement methodology to a particular class of sources is not practicable because of technological or economic limitations. If it is not feasible to prescribe or enforce emission standards, then the Administrator may instead promulgate equipment, work practice, design, or operational standards, or a combination thereof.

Format options for numerical emission standards or limits include mass concentration (mass per unit volume), volume concentration (volume per unit volume), mass emission rate (mass per unit time), process emission rate (mass per unit of production or other process parameter), and degree or percentage of reduction.

1. Pickling Lines and Acid Regeneration Plants

A mass emission rate for HCl is not proposed for pickling lines because of the large variation in the size of the operations. The EPA did not propose a process emission rate because no correlation between HCl emissions and the amount of steel processed or the amount of acid used has been established. For acid regeneration plants, mass and process emission rates are not proposed for HCl or Cl_2 because too little information is available to establish any applicable relationship.

Wet scrubbers constitute MACT for HCl for pickling lines and acid regeneration plants. Control systems of this type are normally designed for a target emission reduction efficiency for these applications. For these reasons, EPA proposes that a minimum HCl reduction efficiency be established for subcategories where sufficient data are available to establish a numerical limit.

Concentration of a soluble pollutant in the scrubber outlet gas cannot be reduced below the value that corresponds to the equilibrium vapor pressure of the pollutant in contact with the inlet scrubbing medium. Furthermore, depending on temperature and humidity, some HCl may be present as an aerosol or in water droplets as well as a gas. The effect on control efficiency of the presence of aerosol or droplets is not known. High reduction efficiencies for process gases that contain low concentrations of HCl or HCl in aerosol or droplet form may therefore not be achievable. The EPA therefore proposes that a maximum exhaust gas concentration be established as an alternative to reduction efficiency in recognition of these limitations of MACT.

As discussed previously in section VII.C of this document, ''Selection of Basis and Level for the Proposed Standards for Existing and New Sources'', technical information on acid regeneration processes plus measured Cl_2 exhaust gas concentration values for three plants suggest that these processes can be operated under conditions that achieve a target outlet gas concentration of Cl_2.

Based on the above considerations, the EPA is proposing: (1) The options of meeting either an HCl reduction efficiency limit for APCD performance or an HCl exhaust gas concentration limit for pickling lines; and (2) meeting an HCl exhaust gas concentration limit for acid regeneration plants. The EPA is also proposing a Cl_2 exhaust gas concentration limit for acid regeneration plants.

2. Acid Storage Tanks

An equipment standard is proposed for acid storage tanks because emission measurements may be neither practicable nor cost-effective. Also, if the air pollution control system that services the associated pickling process or acid regeneration unit is used to control tank emissions, the need for making a separate measurement is precluded.

E. Selection of Emission Limits

1. Continuous Pickling Lines

Several types of information were available to determine the proposed emission limits for HCl:

(1) Emission tests conducted by a method valid for this source; (2) emissions data derived by other means; (3) emissions data reported by the facility with no basis given; and (4) information from vendors and designers that would indicate an expected level of performance. For purposes of this discussion, the term ''valid'' means data from tests conducted by EPA Method 26A, ''Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Isokinetic Method'' in appendix A to 40 CFR part 60, or an applicable equivalent method. The EPA decided to use only data from tests conducted by valid methods.

In selecting the emission limits for pickling line sources, the EPA decided to select limits that could demonstrably be met by a compliance test, i. e., a test conducted using EPA Method 26A (40 CFR part 60, appendix A) with a minimum of three sampling runs. Referring to the discussion in section VII.C above, the two scrubbers

constituting new source MACT are a six-tray scrubber and a packed bed scrubber. The six-tray scrubber was tested with three sampling runs. The average measured HCl outlet concentration was 2.0 ppmv, and the average measured HCl collection efficiency was 99.96 percent. The average scrubber inlet HCl loading for the three runs was 5,150 ppmv, which is the highest of all scrubbers tested. The packed bed scrubber was tested with 11 sampling runs. The average measured HCl outlet concentration was 1.6 ppmv, and the average measured HCl collection efficiency was 99.5 percent. The average scrubber inlet HCl loading was 260 ppmv, which is near the low end of the range for all scrubbers tested (the lowest being 98 ppmv). For the three worst consecutive runs of the eleven, the average measured HCl outlet concentration was 2.6 ppmv, and the average measured HCl collection efficiency was 98.9 percent. Except for one run, all collection efficiencies were above 99 percent, and all measured outlet concentrations were below 2.0 ppmv.

In view of this information, the EPA believes that the proposed numerical limit options of 99 percent HCl collection efficiency and 3 ppmv HCl outlet concentration are reasonable and can be met in compliance tests. Although the measured collection efficiency achieved by the best scrubber is considerably better than 99 percent (i.e., 99.96 percent), the EPA believes that this level of efficiency is achieved primarily because of the exceptionally high inlet scrubber loading. This level of efficiency may not be demonstrable for scrubbers with lower inlet loading, even at the middle of the expected range, because the required outlet concentration would be too low to measure with accuracy.

Four lines currently achieve a 3 ppmv or lower exhaust gas concentration limit and/or a 99 percent or greater reduction efficiency based on actual test results. Twenty-one additional lines would meet the standard based on reported outlet concentrations or reduction efficiencies.

Existing source MACT consists of the level of control that is achieved by the remainder of the scrubbers for which test data are available. Data from three or more runs are available for four of the scrubbers constituting existing source MACT. The averages of the runs were as follows:

HCl collection efficiency (percent)	HCl outlet concentration (ppmv)
98.1	62
97.5	42
97.0	12.7
94.7	8.0

In section VII.D of this document, ''Selection of Format'', EPA presented its rationale for proposing options of collection efficiency or outlet concentration. Because each owner or operator of a pickling facility has two options for meeting the proposed standard, the EPA decided to derive each numerical limits from the best performing scrubbers for that option. For collection efficiency, three scrubbers are clearly the best. The average performance for these three is 97.5 percent efficiency. For outlet concentration, two scrubbers are superior. The average performance for these two is 10 ppmv concentration. The numerical standards proposed for existing sources are therefore 97.5 percent minimum HCl reduction efficiency and 10 ppmv maximum outlet HCl concentration.

Seven continuous pickling lines meet the maximum 10 ppmv exhaust gas concentration standard and/or the minimum 97.5 percent reduction efficiency standard based on actual test results. Fifty additional lines would meet the standard based on reported outlet concentrations of 10 ppmv or lower or reduction efficiencies of 97.5 percent or higher.

2. Batch Pickling Lines

Referring to the discussion above in section VII.C of this document, given that MACT for existing batch lines is the same as MACT for existing continuous lines, the EPA believes that selection of the same emission limits for existing batch pickling lines as for existing continuous lines is justified. The numerical standards proposed for existing sources are 97.5 percent minimum HCl reduction efficiency and 10 ppmv maximum outlet HCl concentration. New source MACT for batch pickling lines is the same as existing source MACT for batch lines. However, as discussed in section VII.C of this document, the EPA is proposing the same level of control for new batch lines as for new continuous lines because the control technologies for the two subcategories of sources are indistinguishable from each other. The numerical standards proposed for new sources are therefore 99 percent minimum HCl reduction efficiency and 3 ppmv maximum outlet concentration.

3. Acid Regeneration Plants

Referring again to the discussion in section VII.C of this document, the proposed HCl outlet concentrations derived in determining the existing source and new source MACT floors were 8 ppmv and 3 ppmv, respectively.

Two plants currently meet the HCl exhaust gas concentration limit of 3 ppmv based on test results. A third plant achieves an outlet concentration of 3.1 ppmv HCl. No additional plants meet the 8 ppmv limit based on actual test results available; one additional plant meets the 8 ppmv limit based on reported outlet concentration.

As discussed in section VII.C of this document, the levels of control achieved by the new and existing MACT floors for Cl_2 control are virtually the same. The proposed maximum outlet concentrations for new and existing sources are therefore the same.

Because only one of the three plants for which Cl_2 emission data are available was tested with three sampling runs, the EPA considered results of individual runs in establishing the Cl_2 numerical limit. Measured values for Cl_2 outlet concentrations from one plant were 1.1, 1.9, and 3.4 ppmv; values measured for the second plant were 0.16 and 0.38 ppmv; and values measured for the third plant were 3.0 and 3.6 ppmv. Because of the limited number of data points, the EPA decided to propose an emission limit of 4 ppmv Cl_2 to accommodate the uncertainty of meeting a lower limit in a compliance test.

Three plants are known to meet the 4 ppmv Cl_2 maximum outlet gas concentration limit based on test results. The EPA notes that one plant that achieves this limit employs single stage scrubbing without the use of alkaline solution; the limit is achieved through process control. No additional plants meet this limit based on reported information.

The EPA is not aware that all existing acid regeneration plants are designed to operate at conditions under which this limitation can be achieved and therefore proposes that a plant can be operated at a higher concentration provided that it can demonstrate that a concentration of 4 ppmv cannot be achieved within the design operating conditions of the unit. Each facility will be allowed to conduct a demonstration test at maximum design operating temperature and minimum excess air consistent with iron oxide production of acceptable quality while measuring Cl_2 concentration in the exhaust gas. The measured concentration will become the standard for that regeneration plant.

As in the case of existing sources, a new source would have the opportunity to conduct a demonstration test at maximum design temperature and minimum excess air to establish a higher concentration limitation. However, a new source would also have to provide a reason why the process could not be designed to operate under conditions that would allow it to meet the 4 ppmv Cl_2 limitation.

F. Selection of Monitoring Requirements

The EPA evaluated the hierarchy of monitoring options available for the HCl pickling process and proposed control equipment. This hierarchy includes measurement of HCl and $C1_2$ by a CEMS, installation of measurement devices for continuous monitoring of process and control device operating parameters, and periodic performance tests. Each option was evaluated relative to its technical feasibility, cost, ease of implementation, and relevance to the process or control device.

CEMSs provide a direct measurement of emissions. Monitors for HCl and $C1_2$ emissions are commercially available. Although these systems have not yet been demonstrated for pickling and acid regeneration operations, the EPA believes that HCl monitors can be used for these applications; the technical feasibility of monitoring $C1_2$, however, is in question. The nationwide capital cost of this option (CEMSs for all scrubbers) is estimated at $18 million, with annual costs of $9.2 million for operation and maintenance, quality assurance and quality control performance evaluation, and reporting/recordkeeping requirements. Because of the high cost of using CEMSs compared with the cost of monitoring control device and process parameters, the EPA is not considering requiring the use of CEMSs to demonstrate compliance.

Another option is monitoring process and/or control device operating parameters plus conducting annual emission tests. Process parameters were not selected as indicators for HCl emissions because a good correlation does not exist between production and emission rates. Control device operating parameters were selected instead because measurements outside a range of values established during an initial performance test would indicate the control device was not operating properly. The estimated nationwide capital costs of this option are $450 thousand; annual costs are $1.5 million.

Annual emission tests by Method 26A in appendix A to 40 CFR part 60 would not require a capital investment. The estimated cost assumes the use of a test contractor and includes time for participation by plant personnel.

The EPA believes that reasonable assurance of compliance is achieved through monitoring control device operating parameters and annual emission tests.

1. Pickling Lines

The proposed NESHAP offers the owner or operator a choice of two monitoring options for HCl. The owner or operator would either install, operate, and calibrate devices for the continuous measurement and recording of scrubber pressure drop and scrubbing medium acidity and conduct annual performance tests by Method 26A in appendix A to 40 CFR part 60 or install and operate a CEMS and comply with all the requirements in the general provisions in subpart A of 40 CFR part 63 that apply to a CMS.

A number of facilities may be able to meet the proposed HCl emission limits if the existing control systems were maintained in improved working order. To ensure continued proper operation of the wet scrubber control devices, the proposed NESHAP includes a requirement for the development and implementation of a written maintenance program. The elements required to be included in the maintenance plan are:

- Perform the manufacturer's recommended maintenance at the recommended intervals on fresh solvent pumps, recirculating pumps, discharge pumps, and other liquid pumps, and exhaust system and scrubber fans and those motors associated with pumps and fans;
- Clean the scrubber internals and mist eliminators at intervals sufficient to prevent buildup of solids or other fouling that degrades performance below emission limits or standards;
- Conduct a periodic inspection of each scrubber and (1) clean or replace any plugged spray nozzles or other liquid delivery devices, (2) repair or replace missing, damaged, or misaligned baffles, trays, and other internal components, (3) repair or replace droplet eliminator elements as needed, (4) repair or replace heat exchanger elements used for temperature control of fluids entering or leaving the scrubber, and (5) check damper settings for consistency with the air flow level used to maintain compliance and adjust as required;
- Initiate appropriate repair, replacement, or other corrective action within one working day of detection; and
- Maintain a daily record (i. e., checklist), signed by a responsible plant official, showing the date of each inspection for each requirement, the problem, a description of the repair, replacement, or other action taken, and the date of repair or replacement.

In addition to correcting defects detected during inspections, the owner or operator would be required to ensure that the equipment is being operated at an appropriate level of reliability, i.e. without the need for continual or unusually frequent repairs or alterations that require down time. Excursions of control device operating parameters that occur with unacceptable frequency would indicate that some aspect of the maintenance program or procedures is flawed. Occurrences more frequent than an average of once per month over any reporting period would be unacceptable, and the owner or operator would be required to install a CEMS and comply with all requirements that apply to a CMS, in order to provide assurance of compliance. A frequency of once per month would correspond to operation out of compliance approximately five percent of the operating time, assuming one day of such operation for each occurrence and also assuming that the process will experience some down time each month for routine maintenance.

2. Acid Regeneration Plants

Monitoring requirements for HCl for acid regeneration plants are the same as those for pickling lines.

For Cl_2 monitoring, process parameters were selected to determine compliance with the Cl_2 emission limit for acid regeneration plants because process control is the means by which Cl_2 emissions are reduced. The cost of would be insignificant because these parameters are currently monitored routinely as part of normal operation.

For Cl_2 control, the owner or operator would install (if necessary), operate, and calibrate devices for the continuous measurement and recording of roaster temperature, rate of addition of iron in the spent liquor process feed, combustion gas feed rate, and air or oxygen feed rate.

To ensure proper operation of the acid regeneration plant, development and implementation of a written maintenance program is required. Elements required to be included in the plan are:

- Perform the manufacturer's recommended maintenance at the recommended intervals on all required systems and components;
- Initiate appropriate repair, replacement, or other corrective action within one working day of detection; and

• Maintain a daily record (i.e., checklist), signed by a responsible plant official, showing the date of each inspection for each requirement, the problem, a description of the repair, replacement, or other action taken, and the date of repair or replacement.

In addition to continuously monitoring process operating parameters, the owner or operator would conduct annual performance tests by Method 26A in appendix A to 40 CFR part 60.

G. Selection of Test Methods

The proposed NESHAP would require an initial performance test to determine compliance. The initial test would consist of emission testing of the exhaust gases from the scrubbers used to control HCl emissions from pickling lines and acid regeneration plants.

Test Method 26A in appendix A to 40 CFR part 60 has been developed and validated for the measurement of HCl and Cl_2 emissions. The following methods, also from 40 CFR part 60, appendix A, would be used for sampling and analysis. EPA Method 1 would be used to determine the number and location of sampling points. Method 2 would be used to determine gas velocity and volumetric flow rate. Method 3 would be used for gas analysis, and Method 4 would be used to determine the volumetric moisture content of the gas. The EPA selected these methods for use in the proposed rule because these methods and equivalent procedures are those used by EPA and other parties to collect the data upon which the proposed emission limits are based. Consistent with the methods and standard practice, the initial compliance test would consist of three runs by Method 26A conducted under conditions representative of normal operation. Compliance would be determined based on the average of the three runs. Simultaneous measurements and sampling must be done at the APCD inlet and outlet if compliance with the collection efficiency limitation is being demonstrated.

H. Selection of Notification, Recordkeeping, and Reporting Requirements

The proposed rule requires the owner or operator to comply with the notification, recordkeeping, and reporting requirements in the general provisions in subpart A of 40 CFR part 63.

Recordkeeping requirements for all MACT standards are established in § 63.10(b) of the general provisions in subpart A of 40 CFR part 63. In addition to these requirements, for wet scrubber operations the proposed NESHAP would require the owner or operator to maintain a copy of the scrubber maintenance program with records of inspections and repairs, records of pH or acidity levels taken manually (if applicable), and records of certification for accuracy of monitoring devices (if applicable). For acid regeneration operations, the owner or operator would maintain records of certification for accuracy of monitoring devices. All requirements that apply to a CMS would apply if a CEMS is used.

I. Solicitation of Comments

The EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Full supporting data and detailed analyses should be submitted with comments to allow the EPA to make maximum use of the comments. All comments should be directed to the Air and Radiation Docket and Information Center, Docket No. A–95–43 (see **ADDRESSES**). Comments on this notice must be submitted on or before the date specified in **DATES**.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it ''Confidential Business Information'' (CBI). Submissions containing such proprietary information should be sent directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Jim Maysilles, c/o Ms. Melva Toomer, U.S. EPA Confidential Business Information Manager, OAQPS (MD–13); Research Triangle Park, NC 27711. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by the EPA, the submission may be made available to the public without further notice to the commenter.

VIII. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

B. Public Hearing

If a request to speak at a public hearing is received, a public hearing on the proposed standards will be held in accordance with section 307(d)(5) of the Act. Persons wishing to present oral testimony or to inquire as to whether a hearing is to be held should contact EPA (see **ADDRESSES**). To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each.

Any member of the public may file a written statement on or before November 17, 1997. Written statements should be addressed to the Air and Radiation Docket and Information Center (see **ADDRESSES**) and refer to Docket No. A–95–43. A verbatim transcript of the hearing and written statements will be placed in the docket and be available for public inspection and copying, or mailed upon request, at the Air and Radiation Docket and Information Center.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the

listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

D. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, we have involved State regulatory experts in the development of this proposed rule. No tribal governments are believed to be affected by this proposed rule. Although not directly impacted by the rule, State governments will be required to implement the rule by incorporating the rule into permits and enforcing the rule upon delegation. They will collect permit fees that will be used to offset the resources burden of implementing the rule. Comments have been solicited from state partners and have been carefully considered in the rule development process. In addition, all states are encouraged to comment on this proposed rule during the public comment period, and the EPA intends to fully consider these comments in the development of the final rule.

E. Unfunded Mandates Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

Only four companies in the steel pickling industry are considered small entities. Of these four, one company is expected to meet the standard. Two companies are projected to be nonmajor sources based on calculations using an emissions estimating model along with information supplied by these firms. It is not anticipated that these three firms will be adversely impacted by the regulation. The remaining small firm employs a scrubber that may meet the emission limitation. If this firm incurs emission control costs, the costs would likely relate to upgrading existing equipment or improved maintenance practices. Any regulatory impacts for this firm are not expected to be significant. Based on this information, the EPA has concluded that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No.1821.01), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street SW., Washington, DC 20460, or by calling (202) 260–2740.

The proposed information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP general provisions (40 CFR part 63, subpart A), which are mandatory for all owners or operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the Act (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made is safeguarded according to Agency policies in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the general provisions. The proposed recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection, per respondent (averaged over the first 3 years after the effective date of the rule) is estimated to be 410 labor hours per year at a total annual cost of $14,800.

This estimate includes a one-time performance test and report (with repeat tests where needed); one-time submission of a startup, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; maintenance inspections; notifications; and recordkeeping. There are no capital/startup costs associated with these reporting and recordkeeping requirements. Operational and maintenance (O and M) cost burden is estimated at $13,800/yr. per respondent. These O and M costs are for performance testing, which is anticipated to be conducted by outside contractors.

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 purpose of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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.

Comments are requested on the EPA's need for this information, the accuracy of the provided burden estimates, any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137), 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, marked ''Attention: Desk Office for EPA.'' Include the ICR number in any correspondence. Because OMB is required to make a decision concerning the ICR between 30 and 60 days after September 18, 1997, comment to OMB is best assured of having its full effect if OMB receives it by October 20, 1997. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. Clean Air Act

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. This regulation will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air Pollution Control, Hazardous substances, Reporting and recordkeeping requirements, Steel pickling.

Dated: August 28, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Part 63 is amended by adding subpart CCC to read as follows:

Subpart CCC—National Emission Standards for Hazardous Air Pollutants From Steel Pickling Facilities—HCl Process

Sec.

Subpart CCC—National Emission Standards for Hazardous Air Pollutants From Steel Pickling Facilities—HCl Process

§ 63.1155 Applicability.

(a) The provisions of this subpart apply to all new and existing steel pickling facilities that pickle steel using an acid solution in which 50 percent or more by weight of the acid in solution is hydrochloric acid (HCl) and/or regenerate spent HCl from steel pickling operations that are major sources or are parts of facilities that are major sources. The provisions of this subpart do not apply to facilities that pickle using other acids or mixtures of acids in which the acid in solution is less than 50 percent HCl by weight or to facilities that regenerate other acids.

(b) For the purposes of implementing this subpart, the affected sources at a steel pickling facility subject to this subpart are as follows: batch and continuous pickling lines, acid regeneration plants, and virgin or regenerated acid storage tanks.

(c) Appendix A to this subpart specifies the provisions of subpart A that apply and those that do not apply to owners and operators of HCl steel pickling facilities and acid regeneration plants. The following sections of part 63 apply to this subpart as stated in subpart A and appendix A to this subpart: § 63.1 (Applicability), § 63.2 (Definitions), § 63.3 (Units and abbreviations), § 63.4 (Prohibited activities and circumvention), § 63.5 (Construction and reconstruction), § 63.7 (Performance testing requirements), § 63.12 (State authority and delegations), § 63.13 (Addresses of State air pollution control agencies and EPA Regional Offices), § 63.14 (Incorporations by reference), and § 63.15 (Availability of information and confidentiality). The following sections of part 63 apply to the extent specified in this subpart and appendix A to this subpart: § 63.6 (Compliance with standards and maintenance requirements), § 63.8 (Monitoring requirements), § 63.9 (Notification requirements), and § 63.10 (Recordkeeping and reporting requirements). Section 63.11 (Control device requirements) does not apply to this subpart.

§ 63.1156 Definitions.

Terms used in this subpart are defined in the Clean Air Act, in subpart A of this part, or in this section as follows:

Acid regeneration plant means the collection of equipment and processes configured to reconstitute fresh hydrochloric acid pickling solution from spent pickle liquor using a thermal treatment process.

Acid storage tank means a vessel used for the bulk containment of virgin or regenerated hydrochloric acid.

Batch pickling line means the collection of equipment and vessels configured for pickling metal in any form but usually in discrete shapes where the material is lowered in batches into a bath of hydrochloric acid solution, allowed to remain until the scale is dissolved, then removed from the solution, drained, and rinsed by spraying or immersion in one or more rinse tanks to remove residual acid.

Closed-vent system means a system that is not open to the atmosphere and that is composed of piping, ductwork,

connections, and flow-inducing devices that transport emissions from a process unit or piece of equipment (e. g., pumps, pressure relief devices, sampling connections, open-ended valves or lines, connectors, and instrumentation systems) to a control device or back into a closed system.

Continuous pickling line means the collection of equipment and vessels configured for pickling metal strip, rod, wire, tube, or pipe that is passed through an acid solution in a continuous or nearly continuous manner and rinsed in another vessel or series of vessels to remove residual acid. This definition includes continuous spray towers.

Spray tower means an enclosed vertical tower in which hydrochloric acid pickling solution is sprayed onto moving steel strip in multiple vertical passes.

Steel pickling means the chemical removal of iron oxides and scale that is formed on steel surfaces during hot rolling or forming of semi-finished steel products through contact with an aqueous solution of hydrochloric acid. This definition does not include operations for the removal of light rust or for activation of the metal surface prior to plating.

Steel pickling facility means any facility that operates one or more batch or continuous steel pickling lines or one or more acid regeneration plants.

§ 63.1157 Emission standards for existing sources.

(a) *Pickling lines.* (1) No owner or operator of an existing affected pickling line at a steel pickling facility shall cause or allow to be discharged into the atmosphere from the affected pickling line a hydrochloric acid (HCl) emission rate corresponding to a collection efficiency of less than 97.5 percent.

(2) As an alternative to the requirement of paragraph (a)(1) of this section, no owner or operator of an existing affected pickling line at a steel pickling facility shall cause or allow to be discharged into the atmosphere from the affected pickling line any gases that contain HCl in excess of 10 parts per million by volume (ppmv).

(b) *Acid regeneration plant.* (1) No owner or operator of an existing affected acid regeneration plant shall cause or allow to be discharged into the atmosphere from the affected acid regeneration plant any gases that contain HCl in excess of 8 ppmv.

(2) In addition to the requirement of paragraph (b)(1) of this section, no owner or operator shall cause or allow to be discharged into the atmosphere from the affected acid regeneration plant any gases that contain chlorine (Cl_2) in excess of either 4 ppmv or an optional maximum concentration limitation to be established for each source. The maximum concentration limitation shall be established according to § 63.1160(c)(2) of this subpart.

(c) *Acid storage tank.* The owner or operator of an existing affected acid storage tank shall provide and operate, except during loading and unloading of acid, a closed-vent system for each tank. Loading and unloading shall be conducted either through enclosed lines or each point where the acid is exposed to the atmosphere shall be equipped with a local fume capture system, ventilated through an air pollution control device.

§ 63.1158 Emission standards for new or reconstructed sources.

(a) *Pickling line.* (1) No owner or operator of a new or reconstructed affected pickling line at a steel pickling facility shall cause or allow to be discharged into the atmosphere from the affected pickling line an HCl emission rate corresponding to a collection efficiency of less than 99 percent.

(2) As an alternative to the requirement of paragraph (a)(1) of this section, no owner or operator of a new or reconstructed affected pickling line at a steel pickling facility shall cause or allow to be discharged into the atmosphere from the affected pickling line any gases that contain HCl in excess of 3 ppmv.

(b) *Acid regeneration plant.* (1) No owner or operator of a new or reconstructed affected acid regeneration plant shall cause or allow to be discharged into the atmosphere from the affected acid regeneration plant any gases that contain HCl in excess of 3 ppmv.

(2) In addition to the requirement of paragraph (b)(1) of this section, no owner or operator shall cause or allow to be discharged into the atmosphere from the affected acid regeneration plant any gases that contain Cl_2 in excess of either 4 ppmv or an optional maximum concentration limitation to be established for each source. The maximum concentration limitation shall be established according to § 63.1160(c)(2) of this subpart. Also, the owner or operator shall explain in writing to the Administrator's satisfaction why the process could not be designed to operate under conditions that would allow it to meet the 4 ppmv Cl_2 limitation. The explanation shall be submitted to the Administrator within 30 days after completion of the emission test made according to § 63.1160(c) of this subpart.

(c) *Acid storage tank.* The owner or operator of a new or reconstructed affected acid storage tank shall provide and operate, except during loading and unloading of acid, a closed-vent system for each tank. Loading and unloading shall be conducted either through enclosed lines or each point where the acid is exposed to the atmosphere shall be equipped with a local fume capture system, ventilated through an air pollution control device.

§ 63.1159 Compliance dates and maintenance requirements.

(a) *Compliance dates.* (1) The owner or operator of an affected existing steel pickling facility and/or acid regeneration plant subject to this subpart shall achieve initial compliance with the requirements of this subpart no later than _____ [Insert date 2 years from publication of final rule in the **Federal Register**].

(2) The owner or operator of a new or reconstructed steel pickling facility and/or acid regeneration plant subject to this subpart that commences construction or reconstruction after September 18, 1997 shall achieve compliance with the requirements of this subpart immediately upon startup of operations or by _____ [Insert date of publication of final rule in the **Federal Register**], whichever is later.

(b) *Operation and maintenance requirements.* (1) The owner or operator of an affected source shall comply with the requirements of § 63.6(e) of subpart A of this part.

(2) In addition to the requirements specified in paragraph (b)(1) of this section, the owner or operator shall develop and implement a written maintenance plan for each emission control device. The owner or operator shall submit the plan no later than the date of compliance to the applicable permitting authority. For a scrubber emission control device, the written program must include the minimum elements contained in the operating manual provided by the manufacturer and:

(i) Require the manufacturer's recommended maintenance at the recommended intervals on fresh solvent pumps, recirculating pumps, discharge pumps, and other liquid pumps, in addition to exhaust system and scrubber fans and motors associated with those pumps and fans;

(ii) Require cleaning of the scrubber internals and mist eliminators at intervals sufficient to prevent buildup of solids or other fouling;

(iii) Require an inspection of each scrubber at intervals of no less than 3 months with:

(A) Cleaning or replacement of any plugged spray nozzles or other liquid delivery devices;

(B) Repair or replacement of missing, misaligned, or damaged baffles, trays, or other internal components;

(C) Repair or replacement of droplet eliminator elements as needed;

(D) Repair or replacement of heat exchanger elements used to control the temperature of fluids entering or leaving the scrubber; and

(E) Adjustment of damper settings for consistency with the required air flow.

(iv) If the scrubber is not equipped with a viewport or access hatch allowing visual inspection, alternate means of inspection approved by the Administrator may be used.

(v) The owner or operator shall initiate corrective action within one working day of detection of an operating problem and provide appropriate repair, replacement, or other corrective action. Failure to initiate or provide appropriate repair, replacement, or other corrective action is a violation of the maintenance requirement.

(vi) The owner or operator shall maintain a record of each inspection, including each item identified in paragraph (b)(2)(iii) of this section, that is signed by the responsible plant official and that shows the date of each inspection, the problem identified, a description of the repair, replacement, or other corrective action taken, and the date of the repair, replacement, or other corrective action taken.

(3) In addition to the requirements specified in paragraphs (b)(1) and (b)(2) of this section, the owner or operator of each acid regeneration plant shall develop and implement a written maintenance program. The program shall require:

(i) Performance of the manufacturer's recommended maintenance at the recommended intervals on all required systems and components;

(ii) Initiation of appropriate repair, replacement, or other corrective action within one working day of detection; and

(iii) Maintenance of a daily record, signed by a responsible plant official, showing the date of each inspection for each requirement, the problems found, a description of the repair, replacement, or other action taken, and the date of repair or replacement.

§ 63.1160 Performance testing and test methods.

(a) The owner or operator shall conduct an initial performance test for each process or emission control device to determine and demonstrate compliance with the applicable emission limit or performance standard according to the requirements in § 63.7 of this part and in this section.

(1) Following approval of the site-specific test plan, the owner or operator shall conduct an emission test for each process or control device to measure either the mass flows of HCl at the inlet and the outlet of the control device (to determine compliance with the applicable collection efficiency standard) or the concentration of HCl (and Cl_2 for acid regeneration plants) in gases exiting the process or the emission control device (to determine compliance with the applicable emission concentration standard).

(2) Compliance with the applicable emission concentration or collection efficiency standard shall be determined by the average of three runs. Each run shall be conducted under conditions representative of normal process operations.

(3) Compliance is achieved if either the average collection efficiency as determined by the HCl mass flows at the control device inlet and outlet is greater than or equal to the applicable collection efficiency requirement or the average measured concentration of HCl or Cl_2 exiting the process or the emission control device is less than or equal to the applicable emission concentration requirement.

(b) During the emission test for each emission control device, the owner or operator using a wet scrubber to achieve compliance and electing to monitor emission control device operating parameters as described in § 63.1161(a)(2) of this subpart shall establish as site-specific operating parameters the pressure drop across the scrubber and the maximum acidity of the scrubber effluent.

(1) The owner or operator shall determine the operating parameter monitoring values as the average of the values recorded during each of the three runs constituting the test. An owner or operator may conduct multiple performance tests to establish a range of compliant operating parameter values.

(2) As an alternative to the requirement specified in paragraph (a)(1) of this section, the owner or operator may set as the compliant value for pressure drop the average value measured over the three test runs of one compliance test and accept ±1 inch of water column from the pressure drop value as the compliant range.

(c)(1) During the emission test for Cl_2 at an acid regeneration plant, the owner or operator shall establish as site-specific operating parameters the minimum process offgas temperature and the maximum proportion of excess air fed to the process as described in § 63.1161(d)(2) of this subpart. The owner or operator shall determine the operating parameter monitoring values as the average of the values recorded during each of the three runs constituting the test. An owner or operator may conduct multiple performance tests to establish a range of compliant operating parameter values.

(2) During this emission test, the owner or operator may establish an optional maximum concentration limitation for Cl_2. If the owner or operator can demonstrate to the Administrator's satisfaction that the plant cannot meet the 4 ppmv maximum concentration limitation by operating the plant within its design parameters, the plant shall be operated at maximum design temperature and with the minimum excess air that allows production of iron oxide of acceptable quality while measuring Cl_2 concentration in the process exhaust gas. The measured concentration shall be the maximum concentration allowed for that plant.

(d) The following test methods in appendix A to part 60 of this chapter shall be used to determine compliance under §§ 63.1157(a), 63.1157(b), 63.1158(a), and 63.1158(b) of this subpart:

(1) Method 1, to determine the number and location of sampling points;

(2) Method 2, to determine gas velocity and volumetric flow rate;

(3) Method 3, to determine the molecular weight of the stack gas;

(4) Method 4, to determine the moisture content of the stack gas; and

(5) Method 26A, ''Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Isokinetic Method'', to determine the HCl mass flows at the inlet and outlet of a control device or the concentration of HCl discharged to the atmosphere and also to determine the concentration of Cl_2 discharged to the atmosphere from acid regeneration plants. If compliance with a collection efficiency standard is being demonstrated, inlet and outlet measurements shall be performed simultaneously. The minimum sampling time for each run shall be 60 minutes and the minimum sample volume 0.85 dry standard cubic meters (dscm) [30 dry standard cubic feet (dscf)]. The concentration of HCl and Cl_2 shall be calculated as follows:

C_{HCl} (ppmv)=0.659 C_{HCl} (mg/dscm),

C_{Cl2} (ppmv)=0.339 C_{Cl2} (mg/dscm),

where:

C (ppmv) is concentration in ppmv and C(mg/dscm) is concentration in milligrams per dry standard cubic meter

as calculated by the procedure given in Method 26A in appendix A to part 60 of this chapter.

(e) The owner or operator may use equivalent alternative measurement methods approved by the Administrator.

§ 63.1161 Monitoring requirements.

(a) The owner or operator of a new, reconstructed, or existing steel pickling facility or acid regeneration plant subject to this subpart shall:

(1) Conduct annual performance tests to measure the HCl mass flows at the control device inlet and outlet or the concentration of HCl exiting the control device according to the procedures described in § 63.1160 of this subpart. If an annual performance test shows that the HCl emission limit is being exceeded, then the owner or operator is in violation of the HCl emission limit.

(2) In addition to conducting annual performance tests, if a wet scrubber is used as the emission control device, install, operate, and maintain systems for the measurement and recording of the:

(i) Pressure drop across the scrubber, which shall be measured and recorded at least once every 24-hour period, and

(ii) Acidity of the scrubber effluent, which shall be measured and recorded at least once every 8-hour period.

(3) If an emission control device other than a wet scrubber is used, install, operate, and maintain systems for the appropriate measurement and recording of the operating parameters.

(4) Each monitoring device shall be certified by the manufacturer to be accurate to within 5-percent and shall be calibrated semiannually in accordance with the manufacturer's instructions.

(5)(i) Operation of the control device with excursions of operating parameters listed in paragraph (a)(2) of this section outside the ranges established during the initial performance test will require initiation of corrective action as specified by the maintenance requirement in § 63.1159(b)(2) of this subpart. Failure to initiate the required action is a violation of the maintenance requirements.

(6) Failure to record each of the operating parameters listed in paragraph (a)(2) of this section is a violation of the monitoring requirements.

(b) As an option to the requirements of paragraphs (a)(1) through (a)(6) of this section, the owner or operator of a new, reconstructed, or existing steel pickling facility or acid regeneration plant subject to this subpart may do the following:

(1) Install, calibrate, certify, operate, and maintain according to the manufacturer's specifications a continuous emission monitoring system (CEMS) capable of measuring HCl concentrations in the ranges required to demonstrate compliance with this standard. Any owner or operator employing a CEMS shall be subject to all the requirements applicable to a continuous monitoring system (CMS) specified in § 63.8 of subpart A of this part and in this section.

(i) If the compliance option chosen is collection efficiency (§§ 63.1157(a)(1) or 63.1158(a)(1) of this subpart, whichever applies), then the air pollution control device inlet and outlet gases shall both be monitored. The owner or operator may employ a single analyzer to monitor both streams, with each stream being monitored 50-percent of the time during each 24-hour period.

(ii) If the compliance option chosen is concentration (§§ 63.1157(a)(2), 63.1157(b)(1), 63.1158(a)(2), or 63.1158(b)(1) of this subpart, whichever applies), then the air pollution control device or process offgas shall be monitored continuously.

(c) If excursions of the control device operating parameters listed in paragraph (a)(2) of this section outside the ranges established during the initial performance test occur more often than six times during any 6-month reporting period, the owner or operator shall install a CEMS and comply with the requirements specified in paragraph (b)(1) of this section.

(d) The owner or operator of a new or existing acid regeneration facility subject to this subpart shall also:

(1) Conduct annual performance tests to measure the concentration of Cl_2 exiting the process or the control device according to the procedures described in § 63.1160 of this subpart. If an annual performance test shows that the Cl_2 emission limit is being exceeded, then the owner or operator is in violation of the Cl_2 emission limit.

(2) In addition to conducting annual performance tests, install, operate, and maintain systems for the measurement and recording of the:

(i) Process offgas temperature, which shall be monitored and recorded continuously, and

(ii) Excess air feed rate, which shall be measured and recorded at least once every 8-hour period. Proportion of excess air shall be determined by a combination of total air flow rate, fuel flow rate, spent pickle liquor addition rate, and amount of iron in the spent pickle liquor or by any other combination of parameters approved by the Administrator.

(3) Each monitoring device must be certified by the manufacturer to be accurate to within 5-percent and must be calibrated semiannually in accordance with the manufacturer's instructions.

(4) Operation of the process with operating parameters listed in paragraph (a)(2) of this section in exceedance of the ranges established during the initial performance test is a violation of the emission limit specified in §§ 63.1157(b)(2) or 63.1158(b)(2) of this subpart, whichever applies. Failure to record each of these parameters is a violation of the monitoring requirements.

(e) The owner or operator of an affected acid storage tank shall inspect each tank monthly to determine that the closed-vent system and either the air pollution control device or the enclosed loading and unloading line, whichever is applicable, are installed and operating when required.

§ 63.1162 Notification requirements.

(a) *Initial notifications.* As required by § 63.9(b) of subpart A of this part, the owner or operator shall submit the following written notifications to the Administrator:

(1) The owner or operator of an area source that subsequently becomes subject to the requirements of the standard shall provide notification to the applicable permitting authority as required by § 63.9(b)(1) of subpart A of this part.

(2) As required by § 63.9(b)(2) of subpart A of this part, the owner or operator of an affected source that has an initial startup before the effective date of the standard shall notify the Administrator that the source is subject to the requirements of the standard. The notification shall be submitted not later than 120 calendar days after the effective date of this standard (or within 120 calendar days after the source becomes subject to this standard) and shall contain the information specified in §§ 63.9(b)(2)(i) through 63.9(b)(2)(v) of subpart A of this part.

(3) As required by § 63.9(b)(3) of subpart A of this part, the owner or operator of a new or reconstructed affected source, or a source that has been reconstructed such that it is an affected source, that has an initial startup after the effective date and for which an application for approval of construction or reconstruction is not required under § 63.5(d) of subpart A of this part, shall notify the Administrator in writing that the source is subject to the standards no later than 120 days after initial startup. The notification shall contain the information specified

in §§ 63.9(b)(2)(i) through 63.9(b)(2)(v) of subpart A of this part, delivered or postmarked with the notification required in § 63.9(b)(5) of subpart A of this part.

(4) As required by § 63.9(b)(4) of subpart A of this part, the owner or operator of a new or reconstructed major affected source that has an initial startup after the effective date of this standard and for which an application for approval of construction or reconstruction is required under § 63.5(d) of subpart A of this part shall provide the information specified in §§ 63.9(b)(4)(i) through 63.9(b)(4)(v) of subpart A of this part.

(5) As required by § 63.9(b)(5) of subpart A of this part, the owner or operator who, after the effective date of this standard, intends to construct a new affected source or reconstruct an affected source subject to this standard, or reconstruct a source such that it becomes an affected source subject to this standard, shall notify the Administrator, in writing, of the intended construction or reconstruction.

(b) *Request for extension of compliance.* As required by § 63.9(c) of subpart A of this part, if the owner or operator of an affected source cannot comply with this standard by the applicable compliance date for that source, or if the owner or operator has installed BACT or technology to meet LAER consistent with § 63.6(i)(5) of subpart A of this part, he/she may submit to the Administrator (or the State with an approved permit program) a request for an extension of compliance as specified in §§ 63.6(i)(4) through 63.6(i)(6) of subpart A of this part.

(c) *Notification that source is subject to special compliance requirements.* As required by § 63.9(d) of subpart A of this part, an owner or operator of a new source that is subject to special compliance requirements as specified in §§ 63.6(b)(3) and 63.6(b)(4) of subpart A of this part shall notify the Administrator of his/her compliance obligations not later than the notification dates established in § 63.9(b) of subpart A of this part for new sources that are not subject to the special provisions.

(d) *Notification of performance test.* As required by § 63.9(e) of subpart A of this part, the owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin to allow the Administrator to review and approve the site-specific test plan required under § 63.7(c) of subpart A of this part, if requested by the Administrator, and to have an observer present during the test.

(e) *Additional notification requirements for sources with continuous emission monitoring systems.* The owner or operator of an affected source using a CEMS shall furnish the Administrator written notification that applies to a CMS as specified in §§ 63.9(g)(1) through 63.9(g)(3) of subpart A of this part.

(f) *Notification of compliance status.* The owner or operator of an affected source shall submit a notification of compliance status as required by § 63.9(h) of subpart A of this part when the source becomes subject to this standard.

§ 63.1163 Reporting requirements.

(a) *Reporting results of performance tests.* As required by § 63.10(d)(2) of this part, the owner or operator of an affected source shall report the results of the initial performance test as part of the notification of compliance status required in § 63.1162 of this subpart.

(b) *Progress reports.* The owner or operator of an affected source who is required to submit progress reports under § 63.6(i) of subpart A shall submit such reports to the Administrator (or the State with an approved permit program) by the dates specified in the written extension of compliance.

(c) *Periodic startup, shutdown, and malfunction reports.* Section 63.6(e) of subpart A of this part requires the owner or operator of an affected source to operate and maintain each affected emission source and associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions (at least to the level required by the standard) at all times, including during any period of startup, shutdown, or malfunction. Malfunctions must be corrected as soon as practicable after their occurrence in accordance with the startup, shutdown, and malfunction plan.

(1) *Plan.* As required by § 63.6(e)(3) of subpart A of this part, the owner or operator shall develop and implement a written startup, shutdown, and malfunction plan that provides a detailed description of the procedures for operating the emission source or control system during a period of startup, shutdown, or malfunction and a program of corrective action for malfunctioning process and air pollution control equipment. If applicable, § 63.8(c)(1)(i) of subpart A also requires that the plan shall identify all routine or otherwise predictable malfunctions for a CEMS used to comply with the standard.

(2) *Reports.* As required by § 63.10(d)(5)(i) of subpart A of this part, if actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the startup, shutdown, and malfunction plan, the owner or operator shall state such information in a semiannual report. The report, to be certified by the owner or operator or other responsible official, shall be submitted semiannually and delivered or postmarked by the 30th day following the end of each calendar half; and

(3) Any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures in the startup, shutdown, and malfunction plan, the owner or operator shall comply with all requirements of § 63.10(d)(5)(ii) of subpart A of this part.

(d) *CEMS performance evaluations.* If a CEMS is used, the owner or operator is required to conduct an annual performance evaluation of the CEMS and submit a written report of the results as described for a CMS under § 63.10(e)(2) of subpart A of this part. The owner or operator shall submit the report simultaneously with the results of the initial performance test.

(e) *Excess emissions and CEMS performance report and summary report.* The owner or operator of an affected source required to install a CEMS shall comply with all requirements of § 63.10(e)(3) of subpart A of this part.

§ 63.1164 Recordkeeping requirements.

(a) *General recordkeeping requirements.* As required by § 63.10(b)(2) of subpart A of this part, the owner or operator shall maintain records for 5 years from the date of each record of:

(1) The occurrence and duration of each startup, shutdown, or malfunction of operation (i.e., process equipment and control devices);

(2) The occurrence and duration of each malfunction of the source or air pollution control equipment;

(3) All maintenance performed on the air pollution control equipment;

(4) Actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation) when such actions are different from the procedures specified in the startup, shutdown, and malfunction plan;

(5) All information necessary to demonstrate conformance with the startup, shutdown, and malfunction plan when all actions taken during periods of startup, shutdown, and malfunction (including corrective actions) are consistent with the procedures specified in such plan. This information can be recorded in a checklist or similar form. (See § 63.10(b)(2)(v) of subpart A. of this part.);

(6) All required measurements needed to demonstrate compliance with the standard and to support data that the source is required to report, including, but not limited to, performance test measurements (including initial and any subsequent performance tests) and measurements as may be necessary to determine the conditions of the initial test or subsequent tests;

(7) All results of initial or subsequent performance tests;

(8) If the owner or operator has been granted a waiver from recordkeeping or reporting requirements under § 63.10(f) of subpart A of this part, any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements;

(9) If the owner or operator has been granted a waiver from the initial performance test under § 63.7(h) of subpart A of this part, a copy of the full request and the Administrator's approval or disapproval;

(10) All documentation supporting initial notifications and notifications of compliance status required by § 63.9 of subpart A of this part; and

(11) Records of any applicability determination, including supporting analyses.

(b) *Subpart CCC records.* (1) In addition to the general records required by paragraph (a) of this section, the owner or operator shall maintain records for 5 years from the date of each record of:

(i) Records of pressure drop across the scrubber and of pH levels or other measures of acidity of the scrubber effluent if a wet scrubber is used and readings are taken manually;

(ii) Records of manufacturer certification that monitoring devices are accurate to within 5-percent and of semiannual calibration;

(iii) Copy of the written maintenance plan for each emission control device; and

(iv) Records of each maintenance inspection and repair, replacement, or other corrective action.

(2) The owner or operator of an acid regeneration plant shall also maintain records for 5 years from the date of each record of process offgas temperature and excess air feed rate.

(c) General records and subpart CCC records for the most recent 2 years of operation must be maintained on site. Records for the previous 3 years may be maintained off site.

(d) *CEMS recordkeeping requirements.* The owner or operator using a CEMS shall also comply with the recordkeeping requirements in §§ 63.10(b)(2)(vi) through 63.10(b)(2)(xiv) and § 63.10(c) of subpart A of this part that apply to a CMS, including:

(1) Each period when a CEMS is malfunctioning or inoperative (including out of control periods);

(2) All required measurements needed to indicate compliance with the standard that support data that the source is required to report including, but not limited to, 15-minute averages of continuous emission monitoring data and raw performance evaluations;

(3) All results of CEMS performance evaluations;

(4) All measurements necessary to determine the conditions of performance evaluations;

(5) All calibration checks on the continuous emission monitor;

(6) All adjustments and maintenance performed on a CEMS;

(7) All emission levels relative to obtaining permission to use an alternative to the relative accuracy test, if the owner or operator has been granted permission under § 63.8(f)(6) of subpart A of this part;

(8) All required CEMS measurements (including monitoring data recorded during unavoidable breakdowns and out of control periods);

(9) The date and time identifying each period during which the CEMS was inoperative (except for span checks) or out of control periods. (See § 63.8(c)(7) of subpart A of this part):

(10) The specific identification (i.e., the date and time of commencement and termination) of each time period of excess emissions and parameter exceedances and excursions that occurs during startups, shutdowns, and malfunctions of the emission source;

(11) The specific identification of each time period of excess emissions and parameter exceedances and excursions that occurs during periods other than startups, shutdowns, and malfunctions of the emission source;

(12) The nature and cause of any malfunction (if known);

(13) The corrective action taken or preventative measures adopted;

(14) The nature of the repairs or adjustments to the CEMS that was inoperative or out of control;

(15) The total process operating time during the reporting period; and

(16) All procedures that are a part of a quality control program developed and implemented for the CEMS under § 63.8(d) of subpart A of this part.

§ 63.1165 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(d) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b)(1) Section 63.1160(e) of this subpart for approval of an alternative measurement method; and

(2) Section 63.6(g) of subpart A of this part for approval of an alternative nonopacity emission standard.

§§ 63.1166 through 63.1174 [Reserved]

APPENDIX A TO SUBPART CCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART CCC

Reference	Applies to subpart CCC	Comment
63.1–63.5	Yes	
63.6(a)–63.6(f)	Yes	
63.6(g)	Yes	EPA reserves approval of alternative nonopacity emission standard.
63.6(h)	No	Subpart does not contain an opacity or visible emission standard.
63.6(i)–63.6(j)	Yes	
63.7	Yes	
63.8	Yes	Sections that apply to a CMS apply to a CEMS when used.

APPENDIX A TO SUBPART CCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART CCC—Continued

Reference	Applies to subpart CCC	Comment
63.9(a)–63.9(f); 63.9(h)–63.9(j)	Yes	
63.9(g)	Yes	Applies only when a CEMS is used.
63.10(a)	Yes	
63.10(b)(1)	Yes	
63.10(b)(2)(i)–63.10(b)(2)(v); 63.10(b)(2)(vii)–63.10(b)(2)(ix); 63.10(b)(2)(xii)–63.10(b)(2)(xiv).	Yes	
63.10(b)(2)(vi); 63.10(b)(2)(x)–63.10(b)(2)(xi)	Yes	Applies only when a CEMS is used.
63.10(b)(3)	Yes	
63.10(c)	Yes	Applies only when a CEMS is used.
63.10(d)(1)–63.10(d)(2)	Yes	
63.10(d)(3)	No	Subpart does not contain an opacity or visible emission standard.
63.10(d)(4)–63.10(d)(5)	Yes	
63.10(e)	Yes	Applies only when a CEMS is used.
63.10(f)	Yes	
63.11	No	The use of flares is not required.
63.12–63.15	Yes.	

* * * * *

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Federal Register

Thursday
September 18, 1997

Part III

Office of Personnel Management

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions; Notice

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1997, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Reinvention Office, Room 6A12, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 606–0830.

The following exceptions were current on June 30, 1997:

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside of the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring need exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions:

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 5 U.S.C. 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment;

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement assistance under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(s) (Reserved).

(t) Positions when filled by mentally retarded persons in accordance with the guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) [Reserved].

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) [Reserved].

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) [Reserved].

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) [Reserved].

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj–kk) [Reserved].

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) [Reserved].

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–14; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)–(f) [Reserved].

(g) *Bureau of Population, Refugees, and Migration.* (1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of

GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as ''interpreter-translator'' and ''special employees,'' when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)–(5) [Reserved].

(6) Two hundred positions of Criminal Investigator for special assignments.

(7)–(8) [Reserved].

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of the Comptroller of the Currency.* (1) Not to exceed six positions filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years, but may be extended for not to exceed an additional 90 days to complete critical projects.

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(2) Two positions of Senior Visiting Pension Actuary, GS–1510–14/15. Appointments to these positions must be for periods not to exceed 24 months.

(f) [Reserved].

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) [Reserved].

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1) Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(2)–(5) [Reserved].

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided,* that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(c) *Defense Contract Audit Agency.* (1) Not to exceed two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Accounting Fellowship Program. Appointments under this authority may not exceed 2 years.

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS–13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) *Asia-Pacific Center for Security Studies, Honolulu, Hawaii.* (1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

Section 213.3107 Department of the Army.

(a) *General.* (1)–(2) [Reserved].

(3) Not to exceed 500 Medical and Dental Intern, Resident and Fellow positions, whose incumbents are training under graduate medical/dental education programs in Army Medical Department facilities worldwide, and whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 years, unless extended with prior approval of OPM.

(b)–(c) [Reserved].

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) [Reserved].

(g) *Defense Language Institute.* (1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy.

(a) General. (1) [Reserved].

(2) Positions of Student Pharmacist for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating nonfederal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(3) [Reserved].

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from nonfederal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) [Reserved].

(6) Positions of Student Operating Room Technician for temporary, part-time, or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating nonfederal institution, whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(7) Positions of Student Social Worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of Student Practical Nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a nonfederal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) [Reserved].

(10) Positions of Medical Technology Intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in nonfederal institutions. Employment under this authority may be on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of Medical Intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating nonfederal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of Student Speech Pathologist at U.S. naval regional

medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating nonfederal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of Student Dental Assistant in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating nonfederal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved].

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) [Reserved].

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM–13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) [Reserved].

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) [Reserved].

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama.* (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

(j) *Air Force Logistics Command.* (1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice.

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2)–(4) [Reserved].

(5) Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(b) *Immigration and Naturalization Service.* (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(3) Not to exceed 25 positions, GS–15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration.* (1) [Reserved].

(2) One hundred and fifty positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) *National Drug Intelligence Center.* All positions.

Section 213.3112 Department of the Interior.

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister

rust control for not to exceed 180 working days a year: *Provided,* that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term ''Indian.''

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) [Reserved].

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) [Reserved].

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) [Reserved].

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) [Reserved].

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1–2) [Reserved].

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) [Reserved].

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; State performance assistants in the Consolidated Farm Service Agency; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102 or positions within the Forest Service.

(6) [Reserved].

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) [Reserved].

(d) *Consolidated Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided,* that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Farmers Home Administration.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) [Reserved].

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) [Reserved].

(1) *Food Safety and Inspection Service.* (1)–(2) [Reserved].

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) [Reserved].

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) One position of Administrative Assistant, GS–301–8, in the Office of Economic Affairs. New appointments may not be made after March 30, 1979.

(c) One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for: (1) Temporary, part-time, or intermittent employment in connection with major economic and demographic censuses or with surveys of a nonrecurring or noncyclical nature; and (2) indefinite employment for the duration of each decennial census for key employees located at the Master District Offices (MDO) and Processing Offices (PO): *Provided,* that temporary, part-time employment of the nature described in (1) above will be for periods not to exceed 1 year; and that such appointments may be extended for additional periods of not to exceed 1 year each; but that prior Office approval is required for extension of total service beyond 2 years.

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(3) Not to exceed 20 professional and scientific positions at grades GS–9 through GS–12 filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years.

(e)–(h) [Reserved].

(i) *Office of the Under Secretary for International Trade.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) [Reserved].

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of OPM, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) [Reserved].

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) [Reserved].

(l) *National Telecommunication and Information Administration.* (1)

Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) [Reserved].

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) [Reserved].

(b) *Public Health Service.* (1) Not to exceed five positions a year of Medical Technologist Resident, GS–644–7, in the Blood Bank Department, Clinical Center, of the National Institutes of Health. Appointments under this authority will not exceed 1 year.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) [Reserved].

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term ''Indian.''

(9) Twelve positions of Therapeutic Radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11) Pharmacy Resident positions at GS–7/9 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

(13) [Reserved].

(14) Not to exceed 30 positions at grades GS–11/13 associated with the postdoctoral training program for interdisciplinary toxicologists in the National Institute of Environmental Health Sciences, National Institutes of Health, Research Triangle Park, North Carolina.

(15) Not to exceed 200 staff positions, GS–15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)–(e) [Reserved].

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants.

(g)–(i) [Reserved].

(j) *Health Care Financing Administration.* (1) [Reserved].

(2) Not to exceed 10 professional positions, GS–9 through GS–15, to be filled under the Health Care Financing Administration Professional Exchange Program. Appointments under this authority will not exceed 1 year.

(k) *Office of the Secretary.* (1) [Reserved].

(2) Not to exceed 10 positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3121 Corporation for National and Community Service

(a) All positions on the staff of the Corporation for National Community Service. No new appointments may be made under this authority after September 30, 1995.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division.* (1) Temporary construction workers paid from ''purchase and hire'' funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals.* (1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison*. (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco, and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3129 Thrift Depositor Protection Oversight Board

(a) All positions. No new appointments may be made under this authority after December 31, 1995.

Section 213.3130 Securities and Exchange Commission

(a)–(b) [Reserved].

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program, as follows: (1) Seven positions, for employment of any one individual not to exceed 2 years; and

(2) Two additional identical positions, for employment of any one individual not to exceed 90 days, which may be used to provide a period of transition and orientation between Fellowship appointments. These additional identical positions must be filled by persons who either have completed a 2-year Fellowship or have been selected as replacement Fellows for a 2-year term. Appointments of outgoing Fellows under this authority must be made without a break in service of 1 workday following completion of their 2-year term; incoming Fellows appointed under this provision must be appointed to 2-year Fellowships without a break in service of 1 workday following their 90-day appointments.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3372(b)(2).

(e) Not to exceed 10 positions of accountant, GS–12/13, when filled by persons selected as SEC Accounting Fellows for the Full Disclosure Program. Employment under this authority may not exceed 2 years.

(f) Not to exceed four positions of Accountant, GS–14/15, when filled by persons selected as SEC Accounting Fellows for the Capital Markets Risk Assessment Program. Employment under this authority may not exceed 2 years.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

Section 213.3133 Federal Deposit Insurance Corporation

(a)–(b) [Reserved].

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) [Reserved].

(b) Positions when filled by member-residents of the Home.

Section 213.3137 General Services Administration

(a) [Reserved].

(b) Not to exceed 25 positions at grades GS–14/15, in order to bring into the agency current industry expertise in various program areas. Appointments under this authority may not exceed 2 years.

(c) All Law Clerk positions in the Board of Contract Appeals' Law Clerk Fellows Program. Appointments under this authority at GS–11 and GS–12 will be limited to 2 years with provision for a 1-year extension at the GS–13 level only in cases of exceptional circumstances, as determined by the Chief Judge and Chairman.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS–301–13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3156 Commission on Civil Rights

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Public Law 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

Section 213.3162 Ounce of Prevention Council

(a) Up to 10 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after October 31, 1997.

Section 213.3174 Smithsonian Institution

(a) [Reserved].

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) Positions at GS–15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One East Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, and one Social Science Program Administrator.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1997.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.* (1) One position of Assistant Director, Artists-in-Education Programs, Office of Partnerships.

(2) One position of Assistant Director for State Programs.

(3) One position of Director of Literature Programs.

(4) One position of Assistant Director of Theater Programs.

(5) One position of Director of Folk Arts Programs.

(6) One position of Director, Opera/Musical Theater Programs.

(7) One position of Assistant Director of Opera/Musical Theater Programs.

(8) One position of Assistant Director of Literature Programs.

(9) One position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) One position of Deputy Chairman for Public Partnership.

(11) Four Project Evaluators.

(12) One position of Director of Museum Programs.

(13) One position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) One position of Assistant Director of Music Programs.

(15) One position of Director of Expansion Arts Programs.

(16) One position of Director of Media Arts Programs.

(17) One position of Director, Challenge and Advancement Grant Program.

(18) One position of Assistant Director, Challenge and Advancement Grant Program.

(19) One position of Art Specialist, International Programs.

(20) One position of Director of Inter Arts Program.

(21) One position of Assistant Director of Expansion of Arts Programs.

(22) One position of Assistant Director of Media Arts Programs.

(23) One position of Assistant Director of Design Arts Program.

(24) One position of Assistant Director of Dance Programs.

(25) One position of Assistant Director of Visual Arts Programs.

(26) One position of Assistant Director of Museum Programs.

(27)–(29) (Reserved).

(30) One position of Director of Education Programs.

(31) One position of Director of Music Programs.

(32) One position of Director of Theater Programs.

(33) One position of Director of Dance Programs.

(34) One position of Director of Visual Arts Programs.

(35) One position of Director of Design Arts Program.

(36) (Reserved).

(37) One Director for State Programs.

(38) One Director for Artists-in-Education Programs.

(39) One position of Assistant Director of Inter-Arts Program.

(40) One position of Assistant Director of the International Program.

Section 213.3191 Office of Personnel Management

(a)–(c) [Reserved].

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) [Reserved].

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)–(d) [Reserved].

(e) *Maritime Administration.* (1)–(2) [Reserved].

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) [Reserved].

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect until April 15, 1998.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

(d) One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

Section 213.3199 Temporary Organizations

(a) Positions on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program*

(1) The Student Educational Employment Program consists of two components and two appointing authorities:

(i) The Student Temporary Employment Program (Schedule B 213.3202(a)).

(ii) The Student Career Experience Program (Schedule B 213.3202(b)).

(2) The appointment authority for each program is the same regardless of the educational program being pursued. Students may be appointed to these programs if they are pursuing any of the following educational programs:

(i) High School Diploma or General Equivalency Diploma (GED)

(ii) Vocational/Technical Certificate

(iii) Associate Degree

(iv) Baccalaureate Degree

(v) Graduate Degree

(vi) Professional Degree

(3) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93–842 are eligible for appointments under the student career experience program, Schedule B, 213.3202(b).

* * * * *

[The remaining text of provisions pertaining to the Student Educational Employment Program can be found in 5 CFR 213.3202 (b)–(d).]

(e)–(i) [Reserved].

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) [Reserved].

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS–15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

(i) Has completed the SES probationary period;

(ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

Section 213.3203 Executive Office of the President

(a) [Reserved].

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State

(a)–(c) [Reserved].

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) Four Physical Science Administration Officer positions at GS–11 through and GS–13 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 2½ years.

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Public Law 99–190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of an organization carrying out projects or contacts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) [Reserved].

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) [Reserved].

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(3) Positions at grades GS–11 through GS–15 for the Defense Policy Science and Engineering Fellowship Program. Appointments may be made not to exceed two years and may be extended for up to two additional years.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM–15.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(b) *Brooke Army Medical Center, Fort Sam Houston, Texas.* (1) Four Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical school surgical residency programs. Employment under this authority shall not exceed 12 months.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS–301–14, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, M–1173–14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) [Reserved].

(c) One Director of Instruction and 14 civilian instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years,

which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS–301–13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) [Reserved].

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) [Reserved].

(e) Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) [Reserved].

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS–7 through GS–12. Employment under this authority may not exceed December 31, 1992.

(b)–(c) [Reserved].

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Chairman, two Members, and one Alternate Member, Administrative Review Board.

(b) [Reserved].

(c) *Bureau of International Labor Affairs.* (1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

Section 213.3216 Department of Health and Human Services

(a)–(c) [Reserved].

(d) *National Library of Medicine.* (1) Ten positions of Librarian, GS–9, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3221 Corporation for National and Community Service

(a) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15 in the Department of the Executive Director.

(b) Three positions of Program Specialist at grades GS–7 through GS–15 in the Department of the Executive Director.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 200 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

(b) Positions of English Language Radio Broadcast Intern, S–1001–5/7/9. Employment is not to exceed 2 years for any intern.

Section 213.3231 Department of Energy

(a) Three Exceptions and Appeals Analyst positions filled by persons selected under DOE's fellowship program in its Office of Hearings and Appeals, Washington, DC. Employment under this authority shall not exceed 3 years. New appointments are not authorized.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) [Reserved].
(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3264 U.S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3274 Smithsonian Institution

(a) [Reserved].
(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3278 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.* (1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) [Reserved].
(b) *National Endowment for the Humanities.* (1) Professorial positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.
(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C

(Grades 5 Through 15)

Section 213.3303 Executive Office of the President

Council of Economic Advisers

CEA 1 Secretary to the Chairman
CEA 4 Secretary to the Chairman
CEA 5 Secretary to a Council Member
CEA 6 Secretary to a Council Member

Council on Environmental Quality

CEQ 7 Special Assistant to the Chair
CEQ 8 Special Assistant to the Chair
CEQ 9 Special Assistant to the Chair for Outreach and Strategic Planning

Office of Management and Budget

OMB 80 Confidential Assistant to the Executive Assistant to the Director
OMB 92 Confidential Assistant to the Associate Director for Legislative Reference and Administration
OMB 97 Confidential Assistant to the Administrator, Office of Information and Regulatory Affairs
OMB 102 Special Assistant to the Director, Office of Management and Budget
OMB 103 Staff Assistant to the Deputy Director, Office of Management and Budget
OMB 104 Legislative Assistant to the Associate Director for Legislative Affairs
OMB 107 Writer-Editor to the Associate Director for Communications
OMB 108 Staff Assistant to the Executive Associate Director
OMB 110 Confidential Assistant to the Executive Associate Director
OMB 112 Confidential Assistant to the Associate Director, National Resources Energy and Science
OMB 115 Confidential Assistant to the Associate Director for General Government and Finance
OMB 116 Confidential Assistant to the Associate Director, Human Resources
OMB 117 Confidential Assistant to the Associate Director, Health/Personnel
OMB 118 Special Assistant to the Controller

Office of National Drug Control Policy

ONDCP 78 Staff Assistant for Scheduling to the Director
ONDCP 82 Legislative Analyst to the Director, Office of Public Affairs and Legislative Affairs
ONDCP 83 Director, Public Affairs to the Director, Public and Legislative Affairs
ONDCP 86 Confidential Assistant to the Director
ONDCP 87 Confidential Secretary to the Deputy Director, Office of National Drug Control Policy
ONDCP 88 Writer-Editor to the Director, Office of National Drug Control Policy
ONDCP 90 Research Assistant to the Director, Strategic Planning
ONDCP 91 Executive Assistant to the Chief of Staff
ONDCP 93 Staff Assistant to the Director, Office of the National Drug Control Policy
ONDCP 94 Staff Assistant to the Director, Office of the National Drug Control Policy
ONDCP 95 Executive Assistant to the Deputy Director, Office of National Drug Control Policy

Office of Science and Technology Policy

OSTP 17 Deputy Director for Management and General Counsel to the Director, Office of Science and Technology Policy
OSTP 18 Special Assistant to the Director, Office of Science and Technology Policy
OSTP 19 Assistant to the Director, Office of Science and Technology Policy, for Intergovernmental Affairs and Policy
OSTP 21 Confidential Assistant to the Associate Director, Technology Division
OSTP 22 Confidential Assistant to the Associate Director for Environment
OSTP 23 Confidential Assistant to the Associate Director for National Security and International Affairs
OSTP 26 Chief of Staff to the Director, Office of Science and Technology Policy

Office of the United States Trade Representative

USTR 36 Confidential Assistant to the General Counsel
USTR 47 Supervisory Public Affairs Specialist to the Assistant U.S. Trade Representative for Public Affairs
USTR 52 Private Sector Liaison to the Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison

USTR 56 Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs
USTR 57 Writer (Speechwriter) to the Chief of Staff
USTR 58 Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs
USTR 60 Special Assistant to the U.S. Trade Representative
USTR 61 Confidential Assistant to the Deputy U.S. Trade Representative
USTR 62 Confidential Assistant to the Assistant U.S. Trade Representative for Intergovernmental and Public Affairs
USTR 63 Confidential Assistant to the Chief of Staff
USTR 64 Confidential Assistant to the Special Trade Negotiator
USTR 65 Confidential Assistant to the General Counsel

Official Residence of the Vice President

ORVP 1 Special Assistant to the Special Assistant to the Vice President and Chief of Staff to Mrs. Gore

President's Commission on White House Fellowships

PCWHF 7 Education Director to the Director, President's Commission on White House Fellowships
PCWHF 10 Special Assistant to the Director, President's Commission on White House Fellowships
PCWHF 11 Special Assistant to the Director, President's Commission on White House Fellowships

Section 213.3304 Department of State

ST 329 Staff Assistant to the Deputy Secretary of State
ST 359 Legislative Officer to the Under Secretary for Management
ST 374 Special Assistant to the U.S. Permanent Representative to the Organization of American States, Bureau of Inter-American Affairs
ST 376 Secretary to the Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs
ST 391 Special Assistant to the Counselor to the Department
ST 393 Legislative Analyst to the Assistant Secretary, Bureau of Legislative Affairs
ST 396 Staff Assistant to the Assistant Secretary, Bureau of Political-Military Affairs
ST 397 Special Assistant to the Principal Deputy Assistant Secretary/ Spokesman for Public Affairs
ST 399 Confidential Assistant to the Secretary of State
ST 400 Special Assistant to the Under Secretary for International Security Affairs
ST 402 Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs
ST 403 Foreign Affairs Officer (Ceremonials) to the Chief of Protocol
ST 405 Supervisory Protocol Officer (Visits) to the Foreign Affairs Officer (Visits)
ST 406 Secretary (Typing) to the Assistant Secretary, Bureau of Economic And Business Affairs
ST 408 Staff Assistant to the Assistant Secretary, Bureau of Public Affairs
ST 411 Protocol Assistant to the Supervisory Protocol Officer for Visits
ST 411 Protocol Officer to the Supervisory Protocol Officer
ST 412 Senior Advisor to the Assistant Secretary, Bureau of Inter-American Affairs
ST 415 Special Assistant to the Director, Policy Planning Staff
ST 416 Protocol Officer (Visits) to the Supervisory Protocol Officer for Visits
ST 417 Foreign Affairs Officer to the Chief of Protocol
ST 424 Secretary (OA) to the Assistant Secretary, Bureau of Intelligence and Research
ST 425 Public Affairs Specialist to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
ST 426 Secretary (Steno) to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
ST 431 Special Assistant to the Assistant Secretary, Bureau of Intelligence and Research
ST 432 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs
ST 433 Correspondence Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 445 Foreign Affairs Officer to the Deputy Assistant Secretary for Public Affairs/Chief Speechwriter
ST 447 Special Assistant to the Assistant Secretary for Economic and Business Affairs
ST 448 Legislative Management Officer to the Assistant Secretary, Legislative Affairs
ST 449 Special Assistant to the Assistant Secretary, Bureau of International Narcotics Matters
ST 450 Special Advisor to the Principal Deputy Assistant Secretary for Public Affairs
ST 451 Special Assistant to the Ambassador-at-Large
ST 452 Foreign Affairs Officer to the Assistant Secretary for Public Affairs
ST 458 Special Assistant to the Assistant Secretary, Bureau for Population, Refugees and Migration
ST 460 Staff Assistant to the Chief of Staff
ST 461 Senior Advisor to the Director, Policy Planning Staff
ST 462 Secretary to the Assistant Secretary, Bureau of European and Canadian Affairs
ST 465 Special Assistant to the Secretary of State
ST 467 Foreign Affairs Officer to the Deputy Chief of Protocol
ST 468 Protocol Assistant to the Deputy Chief of Protocol
ST 468 Protocol Assistant to the Foreign Affairs Officer
ST 470 Counselor to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 471 Special Assistant to the Legal Advisor, Office of the Legal Advisor
ST 474 Senior Policy Advisor to the Assistant Secretary for Legislative Affairs
ST 475 Special Assistant to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
ST 476 Special Advisor to the Senior Advisor to the Secretary to Coordinate Economic Initiatives for Ireland
ST 478 Foreign Affairs Officer to the Deputy Assistant Secretary for International Labor, External and Multilateral Affairs
ST 479 Resources, Plans and Policy Advisor to the Director, Plans and Policy
ST 480 Legislative Management Officer to the Under Secretary, for Management
ST 481 Special Assistant to the Director of Policy Planning Staff
ST 482 Foreign Affairs Officer to the Deputy Assistant Secretary
ST 483 Foreign Affairs Officer to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 484 Legislative Management Officer to the Assistant Secretary
ST 485 Member Policy Planning Staff to the Director
ST 486 Policy Analyst to the Assistant Secretary, Oceans and International Environmental and Scientific Affairs
ST 487 Senior Policy Advisor to the Assistant Secretary, Office of Legislative Affairs
ST 489 Senior Women's Coordinator to the Under Secretary for Global Affairs
ST 490 Special Assistant to the Assistant Secretary, International Organizational Affairs
ST 491 Policy Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs
ST 492 Senior Advisor to the Assistant Secretary, Bureau of South Asian Affairs

ST 493 Resources, Plans and Policy Advisor to the Director, Office of Resources, Plans and Policy
ST 494 Foreign-Affairs Officer to the Deputy Secretary, Office of the Deputy Secretary of State
ST 495 Foreign Affairs Officer to the Deputy Assistant Secretary for Public Affairs
ST 497 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 498 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 499 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs
ST 500 Staff Assistant to the Chief of Staff
ST 501 Special Assistant to the Chairman, International Joint Commission
ST 502 Senior Advisor to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
ST 503 Senior Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs
ST 504 Policy Analyst to the Assistant Secretary, Oceans and International Environmental and Scientific Affairs
ST 505 Senior Advisor to the Under Secretary for Management
ST 506 Foreign Affairs Officer to the Under Secretary for Global Affairs
ST 507 Secretary (Typing) to the Legal Advisor

International Boundary and Water Commission, United States and Mexico

IBWC 1 Confidential Assistant (OA) to the Commissioner, U.S. Section, International Boundary and Water Commission, U.S. and Mexico

Section 213.3305 Department of the Treasury

TREA 139 Director, Scheduling and Advance to the Chief of Staff
TREA 170 Assistant Director, Travel and Special Events Services to the Director, Administrative Operations Division
TREA 202 Director, Office of Legislative Affairs to the Senior Deputy Assistant Secretary for Legislative Affairs
TREA 213 Special Assistant to the Assistant Secretary for Legislative Affairs
TREA 230 Public Affairs Specialist to the Senior Advisor and Director, Office of Public Affairs
TREA 236 Special Assistant to the Deputy Assistant Secretary (Public Liaison)
TREA 244 Administrative Assistant to the Director, Office of Thrift Supervision
TREA 250 Director, Office of Public Affairs to the Deputy Assistant Secretary (Public Affairs)
TREA 254 Deputy Executive Secretary (Policy Analysis) to the Executive Secretary and Senior Advisor
TREA 277 Public Affairs Specialist to the Assistant Secretary for Public Affairs
TREA 284 Director, Office of Business Liaison to the Deputy Assistant Secretary (Public Liaison)
TREA 291 Confidential Assistant to the Assistant Secretary (Management)
TREA 315 Deputy (White House Liaison) to the Chief of Staff
TREA 317 Public Affairs Specialist to the Director of Public Affairs
TREA 318 Legislative Analyst to the Director, Office of Legislative Affairs
TREA 322 Deputy to the Executive Secretary
TREA 334 Staff Assistant to the Assistant Secretary (Enforcement)
TREA 336 Director, Administrative Operations Division to the Deputy Assistant Secretary (Administration)
TREA 338 Staff Assistant to the Special Assistant, Scheduling and Advance
TREA 342 Senior Advisor to the Treasurer of the United States
TREA 345 Policy Advisor to the Assistant Secretary (Enforcement)
TREA 346 Policy Advisor to the Assistant Secretary (Enforcement)
TREA 347 Senior Advisor to the Assistant Secretary (Enforcement)
TREA 349 Senior Advisor to the Assistant Secretary (Management)
TREA 351 Public Affairs Specialist to the Director, Office of Public Affairs
TREA 354 Deputy Director of Scheduling to the Special Assistant for Scheduling and Advance
TREA 356 Policy Advisor to the Deputy Under Secretary, Government Financial Policy
TREA 357 Director, Office of Public Correspondence to the Executive Secretary
TREA 358 Special Assistant to the Assistant Secretary (Economic Policy)
TREA 361 Attorney-Advisor (General) to the General Counsel
TREA 362 Special Assistant to the Assistant Secretary for Financial Institutions
TREA 364 Special Assistant to the Under Secretary for Domestic Finance
TREA 365 Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison)
TREA 367 Senior Advisor to the Comptroller of the Currency
TREA 368 Special Assistant to the Deputy Secretary of the Treasury
TREA 369 Staff Assistant to the Deputy Secretary of the Treasury
TREA 372 Special Assistant to the Assistant Secretary (Financial Markets)
TREA 373 Senior Advisor to the Under Secretary of International Affairs
TREA 375 Senior Advisor, Public Affairs to the Director of the U.S. Mint
TREA 376 Principal Senior Advisor to the Under Secretary (Enforcement)
TREA 378 Senior Advisor to the Assistant Secretary for Enforcement
TREA 379 Special Assistant to the Chief of Staff
TREA 380 Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison)
TREA 381 Legislative Information Specialist to the Director, Office of Legislative Affairs
TREA 382 Staff Assistant to the Assistant Secretary (International Affairs)
TREA 383 Deputy to the Assistant Secretary, Legislative Affairs and Public Liaison
TREA 384 Staff Assistant to the Chief of Staff
TREA 385 Special Assistant to the Deputy Secretary of the Treasury
TREA 386 Enforcement Policy Advisor to the Director, Office of Policy Development/(Senior Advisor the Assistant Secretary (Enforcement)
TREA 387 Enforcement Policy Advisor to the Director, Office of Policy Development (Senior Advisor to the Assistant Secretary (Enforcement)
TREA 388 Confidential Staff Assistant to the Deputy Secretary of the Treasury

Section 213.3306 Department of Defense

DOD 19 Personal and Confidential Assistant to the Director, Program Analysis and Evaluation
DOD 22 Personal and Confidential Assistant to the Assistant to the Secretary of Defense for Atomic Energy
DOD 24 Chauffeur to the Secretary of Defense
DOD 33 Personal Secretary to the Deputy Secretary of Defense
DOD 66 Executive Assistant to the Physician to the President
DOD 75 Chauffeur to the Deputy Secretary of Defense
DOD 101 Special Assistant to the Director of Net Assessment to the Director of Net Assessment
DOD 236 Director for Programs to the Assistant to the Secretary of Defense for Public Affairs
DOD 271 Private Secretary to the Principal Deputy Assistant Secretary of Defense (Reserve Affairs)
DOD 298 Confidential Assistant to the Under Secretary for Acquisition and Technology

DOD 310 Civilian Executive Assistant to the Chairman of the Joint Chiefs of Staff
DOD 317 Confidential Assistant to the Director, Defense Research and Engineering
DOD 319 Confidential Assistant to the Secretary of Defense
DOD 321 Executive Assistant to the Assistant to the Vice President for National Security Affairs
DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
DOD 339 Speechwriter to the Special Assistant to the Secretary of Defense for Public Affairs
DOD 355 Special Assistant for Strategic Modernization to the Assistant Secretary of Defense (Legislative Affairs)
DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
DOD 386 Personal and Confidential Assistant to the Assistant Secretary of Defense for Reserve Affairs
DOD 434 Speechwriter to the Assistant to Secretary of Defense for Public Affairs
DOD 435 Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs
DOD 439 Staff Specialist to the Under Secretary (Acquisition and Technology)
DOD 440 Personal and Confidential Assistant to the Deputy Under Secretary of Defense for Acquisition Reform
DOD 449 Staff Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 451 Assistant for Strategy Development to the Deputy Assistant Secretary of Defense (Strategy)
DOD 456 Special Assistant for Family Advocacy and External Affairs to the Deputy Assistant Secretary of Defense (Prisoner of War/Missing in Action Affairs)
DOD 457 Staff Assistant to the Deputy Assistant Secretary of Defense (Democracy and Human Rights)
DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 464 Defense Fellow to the Deputy Under Secretary for Logistics
DOD 468 Staff Specialist (International) to the Director, Defense Information Systems Agency
DOD 471 Defense Fellow to the Deputy Assistant Secretary of Defense (European and NATO Policy)
DOD 473 Personal and Confidential Assistant to the Assistant Secretary to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
DOD 477 Defense Fellow to the Director, (Special Support)
DOD 479 Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs)
DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
DOD 488 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
DOD 494 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DOD 500 Staff Specialist to the Project Director for National Performance Review
DOD 501 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 502 Special Assistant to the Under Secretary of Defense for Policy
DOD 504 Assistant for Antiterrorism Policy and Programs to the Deputy Assistant Secretary of Defense (Policy and Missions)
DOD 508 Defense Fellow to the Assistant Secretary of Defense (Legislative Affairs)
DOD 510 Staff Specialist to the Assistant Secretary of Defense (Legislative Affairs)
DOD 512 Staff Specialist to the Deputy Under Secretary of Defense for International and Commercial Programs
DOD 516 Staff Specialist to the Deputy Under Secretary of Defense for Environmental Security
DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
DOD 524 Confidential Assistant to the Deputy Secretary of Defense
DOD 527 Special Assistant for Demand Reduction to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
DOD 529 Staff Specialist to the Assistant to the Secretary of Defense, Legislative Affairs
DOD 534 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 535 Special Assistant to the Deputy to the Under Secretary of Defense for Policy Support
DOD 536 Personal and Confidential Assistant to the Deputy Under Secretary of Defense (International and Commercial Programs)
DOD 540 Senior Advisor for Defense Conversion Policy to the Deputy Under Secretary of Defense (Threat Reduction Policy)
DOD 545 Public Affairs Specialist to the Office of the Assistant Secretary of Defense (Public Affairs)
DOD 546 Private Secretary to the Assistant Secretary of Defense (International Security Policy)
DOD 547 Personal and Confidential Assistant to the Assistant Secretary of Defense (International and Security Policy)
DOD 548 Special Assistant to the Executive Director, President's Foreign Intelligence Advisory Board
DOD 552 Special Assistant to the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict
DOD 555 Confidential Assistant to the General Counsel, Department of Defense
DOD 557 Defense Fellow to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs
DOD 558 Special Assistant to the Director, Program Analysis and Evaluation
DOD 559 Confidential Assistant to the Assistant Secretary of Defense, Force Management Policy
DOD 562 Defense Fellow to the Assistant Secretary of Defense (International Security Affairs)
DOD 564 Program Analyst to the Deputy Under Secretary (Environmental Secretary)
DOD 566 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Policy
DOD 570 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology)
DOD 571 Secretary (OA) to the Inspector General, Department of Defense
DOD 572 Special Assistant to the Inspector General
DOD 577 Staff Specialist to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs)
DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
DOD 580 Defense Fellow to the Deputy Assistant Secretary of Defense, African Affairs
DOD 581 Associate Director Communications to the Senior Director, Communications, National Security Council
DOD 582 Foreign Affairs Specialist to the Deputy Assistant Secretary of Defense for Peacekeeping and Humanitarian Assistance
DOD 583 Speechwriter to the Assistant to the Secretary of Defense for Public Affairs
DOD 584 Staff Specialist for Cuban Affairs to the Deputy Assistant Secretary of Defense (Inter-American Affairs)
DOD 586 Personal and Confidential Assistant to the General Counsel

DOD 588 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 589 Speechwriter to the Assistant to Secretary of Defense for Public Affairs
DOD 591 Executive Director (House Affairs) to the Assistant Secretary of Defense (Legislative Affairs)
DOD 592 Program Analyst to the Deputy Assistant Secretary of Defense, Policy and Missions
DOD 595 Confidential Assistant to the Assistant Secretary of Defense (Public Affairs)
DOD 597 Staff Specialist to the Deputy Under Secretary for Logistics
DOD 598 Executive Director (Outreach and Integration) to the Deputy Under Secretary (Industrial Affairs and Installations)
DOD 600 Office Director and Special Coordinator for Cooperative Threat Reduction to the Deputy Assistant Secretary of Defense for Threat Reduction Policy
DOD 601 Personal and Confidential Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 603 Special Assistant to the Under Secretary of Defense for Personnel and Readiness for External Affairs and Management Support
DOD 604 Special Assistant for Outreach to the Deputy Under Secretary of Defense (Environmental Security)
DOD 606 Defense Fellow to the Deputy Assistant Secretary Defense, (Drug Enforcement Policy and Support)
DOD 607 Staff Specialist to the Assistant to the President/Director, White House Office for Women's Initiative and Outreach, Office of the Secretary
DOD 608 Staff Specialist to the Deputy Under Secretary of Defense (International and Commercial Program)
DOD 609 Private Secretary to the Deputy Secretary of Defense
DOD 610 Special Assistant to the Assistant Secretary for Health Affairs
DOD 611 Personal and Confidential Assistant to the Secretary of Defense
DOD 614 Staff Assistant to the Chief of Staff to President
DOD 615 Special Assistant to the Deputy Under Secretary of Defense (Industrial Affairs and Installation)
DOD 616 Protocol Specialist to the Special Assistant to the Secretary of Defense
DOD 617 Staff Specialist to the Director, NATO Policy

Section 213.3307 Department of the Army (DOD)

ARMY 1 Executive Staff Assistant to the Secretary of the Army
ARMY 2 Personal and Confidential Assistant to the Under Secretary of the Army
ARMY 5 Secretary (Stenography/OA) to the Assistant Secretary of the Army (Installations, Logistics and Environment)
ARMY 6 Secretary (OA) to the Assistant Secretary of the Army (Research, Development and Acquisition)
ARMY 17 Secretary (OA) to the Assistant Secretary of the Army (Civil Works)
ARMY 21 Secretary (Steno/OA) to the General Counsel
ARMY 55 Secretary (OA) to the Assistant Secretary of the Army (Financial Management)
ARMY 59 Confidential Assistant to the Secretary of the Army
ARMY 69 Defense Fellow (Public Affairs) to the Chief of Public Affairs
ARMY 73 Special Assistant for Policy to the Executive Staff Assistant
ARMY 74 Staff Assistant for Policy to the Executive Staff Assistant
ARMY 75 Special Assistant (Civilian Aide Program) to the Executive Staff Assistant, Office of the Secretary of the Army

Section 213.3308 Department of the Navy (DOD)

NAV 49 Staff Assistant to the Under Secretary of the Navy
NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)
NAV 57 Staff Assistant to the Secretary of the Navy
NAV 59 Staff Assistant to the Assistant Secretary of Navy (Manpower and Reserve Affairs)
NAV 60 Staff Assistant to the Assistant Secretary of Navy (Research, Development and Acquisition)
NAV 61 Special Assistant to the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs)
NAV 62 Attorney Advisor to the Principal Deputy General Counsel

Section 213.3309 Department of the Air Force (DOD)

AF 2 Confidential Assistant to the Under Secretary of the Air Force
AF 5 Secretary (Steno) to the Assistant Secretary (Acquisition)
AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs, Installation and Environment)
AF 8 Secretary (Steno/OA) to the General Counsel
AF 22 Secretary (Stenography/OA) to the Assistant to the Vice President for National Security Affairs
AF 29 Confidential Assistant to the Secretary of the Air Force
AF 31 Staff Assistant (Typing) to the Assistant to the Vice President for National Security Affairs
AF 39 Secretary (OA) to the Assistant Secretary of the Air Force (Financial Management and Comptroller)
AF 41 Confidential Assistant for Environmental Legislation to the Deputy Assistant Secretary for Environmental Safety and Occupational Health
AF 42 Staff Assistant to the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment)
AF 43 Special Advisor for International Affairs to the Assistant to the Vice President for National Security Affairs

Section 213.3310 Department of Justice

JUS 27 Special Assistant to the Assistant Attorney General for Environmental and Natural Resources
JUS 37 Secretary (OA) to the U.S. Attorney, District of Columbia
JUS 38 Secretary (OA) to the U.S. Attorney, Northern District of Illinois
JUS 40 Secretary (OA) to the U.S. Attorney, Eastern District of Michigan
JUS 47 Secretary (OA) to the U.S. Attorney, Western District of New York
JUS 75 Secretary (OA) to the U.S. Attorney, Northern District of Texas
JUS 83 Staff Assistant to the Assistant to the Attorney General (Chief Scheduler)
JUS 97 Staff Assistant to the Attorney General
JUS 114 Staff Assistant to the Attorney General
JUS 122 Public Affairs Specialist to the Director, Public Affairs
JUS 128 Secretary (OA) to the U.S. Attorney, District of Arizona
JUS 132 Special Assistant to the Commissioner, Immigration and Naturalization Service
JUS 140 Attorney Advisor to the Assistant Attorney General
JUS 141 Special Assistant to the Assistant Attorney General (Legislative Affairs)
JUS 144 Special Assistant to the Solicitor General
JUS 149 Special Assistant to the Assistant Attorney General for Environmental and Natural Resources
JUS 169 Secretary (OA) to the U.S. Attorney, Middle District of Florida
JUS 170 Assistant to the Attorney General
JUS 173 Secretary (OA) to the U.S. Attorney, Western District of Louisiana
JUS 198 Special Assistant to the Assistant Attorney General, Criminal Division

JUS 207 Staff Assistant to the Director, Office of Public Affairs
JUS 217 Special Assistant to the Director, Bureau of Justice Assistance
JUS 233 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 235 Public Affairs Specialist to the Director of Public Affairs
JUS 242 Attorney Advisor to the Assistant Attorney General, Civil Division
JUS 243 Staff Assistant to the Assistant Attorney General, Civil Rights Division
JUS 247 Special Assistant to the Commissioner, Immigration and Naturalization Service
JUS 248 Deputy Director to the Director, Violence Against Women Office
JUS 255 Counsel to the Assistant Attorney General, Civil Rights Division
JUS 264 Confidential Assistant to the Assistant Attorney General
JUS 266 Director, Special Projects to the Director, Office of Public Affairs
JUS 268 Litigation Counsel to the Assistant Attorney General
JUS 273 Special Assistant to the Associate Attorney General
JUS 279 Deputy Director, Office Intergovernmental Affairs to the Deputy Attorney General
JUS 281 Special Advisor to the Deputy Assistant Attorney General
JUS 282 Special Assistant to the Assistant Attorney General, Office of Policy Development
JUS 285 Logistics Coordinator to the Assistant Attorney General, Office of Legislative Affairs
JUS 289 Counsel to the Deputy Attorney General, Justice Management Division
JUS 296 Counsel to the Deputy Attorney General
JUS 299 Public Affairs Assistant to the Director, Office of Public Affairs
JUS 312 Senior Counsel to the Assistant Attorney General
JUS 323 Chief of Staff to the Assistant Attorney General, Office of Justice Programs
JUS 330 Attorney to the Deputy Director, Office of Intergovernmental Affairs
JUS 360 Deputy Assistant Attorney General to the Assistant Attorney General, Office of Policy Development
JUS 361 Special Assistant to the Director, Bureau of Justice Statistics
JUS 383 Assistant to the Attorney General
JUS 387 Deputy Director to the Director, Office of Public Affairs
JUS 389 Special Assistant to the Assistant Attorney General, Office of Legal Counsel
JUS 401 Counsel to the Deputy Attorney General
JUS 404 Assistant to the Attorney General
JUS 412 Public Affairs Specialist to the Director, Office of Public Affairs
JUS 418 Secretary (OA) to the U.S. Attorney, District of Nebraska
JUS 419 Public Affairs Specialist to the U.S. Attorney, Northern District of Florida
JUS 420 Confidential Assistant to the U.S. Attorney, Eastern District of Pennsylvania
JUS 421 Special Assistant to the U.S. Attorney, Southern District of California
JUS 422 Secretary (OA) to the U.S. Attorney, Eastern District of Wisconsin
JUS 423 Secretary to the U.S. Attorney, District of New Mexico
JUS 424 Secretary to the U.S. Attorney, Northern District of Iowa
JUS 425 Secretary (OA) to the U.S. Attorney, Middle District of Pennsylvania
JUS 426 Secretary (OA) to the U.S. Attorney, Sioux Falls, South Dakota
JUS 427 Secretary (OA) to the U.S. Attorney, District of New Hampshire
JUS 428 Secretary (OA) to the U.S. Attorney, District of Minnesota
JUS 431 Secretary (OA) to the U.S. Attorney, District of Oregon
JUS 433 Secretary (OA) to the U.S. Attorney, Middle District of Louisiana
JUS 434 Confidential Assistant to the U.S. Attorney, Sacramento, CA
JUS 435 Secretary (OA) to the U.S. Attorney, Western District of Arkansas
JUS 436 Secretary (OA) to the U.S. Attorney, Middle District of Alabama
JUS 437 Secretary (OA) to the U.S. Attorney, District of Delaware
JUS 443 Attorney Advisor (Special Counsel) to the Director, Executive Office for U.S. Attorney
JUS 445 Special Assistant to the Director, Community Relations Service

Section 213.3312 Department of the Interior

INT 171 Special Assistant to the Director of Communication
INT 172 Special Assistant to the Commissioner of Reclamation
INT 369 Staff Assistant to the Director, Office of Surface Mining Reclamation and Enforcement
INT 375 Special Assistant to the Secretary and White House Liaison to the Chief of Staff
INT 378 Special Assistant to the Director, Office of the Surface Mining
INT 426 Press Secretary to the Director of Communications
INT 436 Special Assistant to the Deputy Director, Bureau of Land Management
INT 442 Special Assistant to the Director, National Parks Service
INT 444 Deputy Director for Legislative and Intergovernmental Affairs to the Assistant to the Secretary, Office of Congressional and Legislative Affairs
INT 449 Special Assistant to the Director, Fish & Wildlife Service
INT 450 Special Assistant to the Director, Fish & Wildlife Service
INT 451 Deputy Director, Office of Insular Affairs to the Director, Office of Insular Affairs
INT 455 Special Assistant to the Deputy Assistant Secretary for Fish, Wildlife and Parks
INT 460 Special Assistant to the Secretary and Director of Scheduling and Advance to the Deputy Chief of Staff
INT 461 Special Assistant to the Director, National Park Service
INT 463 Special Assistant to the Director of the National Park Service
INT 467 Special Assistant to the Chief of Staff
INT 468 Special Assistant to the Chief of Staff
INT 474 Special Assistant to the Commissioner of Reclamation
INT 475 Special Assistant to the Commissioner of Reclamation
INT 476 Special Assistant to the Director, Bureau of Land Management
INT 479 Special Assistant to the Associate Director for Policy and Management Improvement
INT 483 Special Assistant to the Assistant Secretary, Water and Science
INT 485 Special Assistant to the Deputy Director, External Affairs, Fish and Wildlife Service
INT 486 Special Assistant (Speech Writer) to the Director, Office of Communications
INT 490 Special Assistant (Advance) to the Deputy Chief of Staff
INT 491 Deputy Scheduler to the Deputy Chief of Staff
INT 493 Special Assistant and Director of Executive Secretariat to the Deputy Chief of Staff
INT 494 Special Assistant to the Director, National Biological Service
INT 496 Special Assistant to the Deputy Assistant Secretary, Indian Affairs
INT 497 Special Assistant to the Deputy Chief of Staff
INT 500 Special Assistant to the Secretary of the Interior
INT 501 Special Assistant to the Deputy Secretary
INT 502 Special Assistant to the Assistant Secretary for Policy, Management and Budget
INT 503 Special Assistant to the Deputy Chief of Staff

INT 504 Special Assistant to the Director of the Bureau of Land Management
INT 505 Special Assistant to the Director, National Park Service
INT 506 Special Assistant to the Solicitor
INT 507 Special Assistant to the Commissioner of Reclamation
INT 508 Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs

Section 213.3313 Department of Agriculture

AGR 3 Confidential Assistant to the Executive Assistant to the Secretary
AGR 19 Confidential Assistant to the Administrator, Rural Utilities Services
AGR 24 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 26 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 33 Confidential Assistant to the Administrator, Consolidated Farm Service Agency
AGR 34 Special Assistant to the Administrator, Agricultural Stabilization Conservation Service
AGR 35 Staff Assistant to the Administrator, Federal Service Agency
AGR 56 Private Secretary to the Assistant Secretary for Congressional Relations
AGR 77 Director, Intergovernmental Affairs to the Assistant Secretary for Congressional Relations
AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 81 Confidential Assistant to the Administrator, Rural Housing Service
AGR 103 Confidential Assistant to the Administrator of the Foreign Agricultural Service
AGR 114 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 131 Private Secretary to the Assistant Secretary for Natural Resources and Environment
AGR 139 Staff Assistant to the Secretary of Agriculture
AGR 143 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 151 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 160 Confidential Assistant to the Associate Administrator, Foreign Agricultural Service
AGR 161 Special Assistant to the Director, Office of Public Affairs
AGR 175 Speech Writer to the Director, Office of Communications
AGR 175 Speech Writer to the Director, Office of Communications
AGR 186 Special Assistant to the Secretary of Agriculture
AGR 188 Northeast Area Director to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
AGR 190 Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service
AGR 191 Confidential Assistant to the Administrator, Farm Services Agency
AGR 192 Area Director, South West Area to the Administrator, Farm Service Agency
AGR 196 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 201 Deputy Chief of Staff to the Secretary of Agriculture
AGR 203 Special Assistant to the Secretary of Agriculture
AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 218 Confidential Assistant to the Assistant Secretary for Administration
AGR 232 Confidential Assistant to the Deputy Under Secretary for Operations and Management
AGR 236 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 238 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 267 Confidential Assistant to the Director, Office of Communications
AGR 268 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 270 Director, Office of the Executive Secretariat to the Secretary of Agriculture
AGR 276 Director, Legislative Affairs to the Under Secretary, Cooperative State Research, Education and Extension Service
AGR 279 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 281 Confidential Assistant to the Administrator, Farm Service Agency
AGR 285 Confidential Assistant to the Executive Assistant to the Secretary
AGR 287 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 289 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 290 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 294 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 295 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 301 Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service
AGR 306 Staff Assistant to the Director, Office of Communications
AGR 308 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 312 Executive Assistant to the Administrator, Farmers Home Administration
AGR 324 Confidential Assistant to the Under Secretary for Rural Development
AGR 330 Confidential Assistant to the Director, Office of Public Affairs
AGR 332 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 336 Confidential Assistant to the Secretary of Agriculture
AGR 341 Confidential Assistant to the Manager
AGR 345 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 346 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 352 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 368 Confidential Assistant to the Manager, Federal Crop Insurance Corporation
AGR 369 Confidential Assistant to the Administrator, Rural Development Administration
AGR 370 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
AGR 371 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
AGR 378 Deputy Press Secretary to the Director, Office of Communications
AGR 381 Confidential Assistant to the Under Secretary for Small Community and Rural Development
AGR 384 Confidential Assistant to the Secretary of Agriculture
AGR 386 Special Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 393 Confidential Assistant to the Administrator, Rural Development Administration

AGR 395 Confidential Assistant to the Director, Office of Civil Rights, Policy, Analysis and Coordination Center
AGR 397 Confidential Assistant to the Chief, Soil Conservation Service
AGR 399 Secretary (Typing) to the Assistant Secretary for Administration
AGR 400 Special Assistant to the Assistant Secretary for Administration
AGR 401 Staff Assistant to the Chief Economist
AGR 402 Confidential Assistant to the Acting Director, Office of Communications
AGR 404 Confidential Assistant to the Director of Personnel
AGR 406 Confidential Assistant to the Executive Assistant to the Secretary
AGR 413 Special Assistant to the Chief of Natural Resources Conservation Service
AGR 415 Confidential Assistant to the Administrator, Rural Electrification Administration
AGR 417 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 418 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 422 Special Assistant (Jackson, MS) to the Administrator, Farmers Home Administration
AGR 426 Deputy Director, Special Projects to the Director, Office of Communications
AGR 427 Special Assistant to the Deputy Assistant Secretary
AGR 428 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service
AGR 429 Confidential Assistant to the Director, Office of Civil Rights Enforcement
AGR 430 Deputy Press Secretary to the Director, Office of Public Affairs
AGR 431 Confidential Assistant to the Administrator
AGR 433 Confidential Assistant to the Administrator, Agricultural and Conservation Service
AGR 434 Area Director to the Deputy Administrator, State and County Operations
AGR 435 Confidential Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
AGR 436 Staff Assistant to the Administrator, Rural Electrification Administration
AGR 438 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 439 Special Assistant to the Chief, Natural Resources Conservation Service
AGR 440 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 442 Special Assistant to the Administrator, Cooperative State Research Education, and Extension Service
AGR 443 Confidential Assistant to the Under Secretary for Natural Resources and Environment
AGR 444 Confidential Assistant to the Administrator, Food and Safety Inspection Service
AGR 445 Special Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 446 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
AGR 447 Director, Native American Programs to the Administrator, Rural Housing Service
AGR 448 Confidential Assistant to the Administrator, Rural Business Service
AGR 449 Special Assistant to the Administrator, Farm Service Agency
AGR 450 Confidential Assistant to the Administrator, Agricultural Research Service
AGR 451 Confidential Assistant to the Administrator, Farm Service Agency
AGR 452 Staff Assistant to the Acting Director, Office of Communications
AGR 455 Confidential Assistant to the Director, Empowerment Zone Enterprise Community, Rural Business-Cooperative Service
AGR 456 Special Assistant to the Administrator, Rural Development/ Rural Housing Service
AGR 457 Special Assistant to the Administrator, Agricultural Marketing Service
AGR 458 Confidential Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 459 Confidential Assistant to the Administrator, Farm Agency Service
AGR 460 Special Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 461 Special Assistant to the Chief, Forest Service
AGR 462 Special Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 463 Special Assistant to the Chief, Forest Service
AGR 464 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 465 Confidential Assistant to the Administrator, Rural Utilities Service

Section 213.3314 Department of Commerce

COM 3 Senior Advisor to the Chief of Staff
COM 16 Executive Assistant to the General Counsel, Office of the General Counsel
COM 70 Director, Office of Communications and Congressional Liaison to the Assistant Secretary for Economic Development, Economic Development Administration
COM 100 Special Assistant to the Director, Minority Business Development Agency
COM 162 Special Assistant to the Assistant Secretary for International Economic Policy
COM 181 Special Assistant to the Assistant Secretary for Communications and Information
COM 189 Special Assistant to the Assistant Secretary for National Communications and Information Administration
COM 190 Director, Office of Congressional Affairs to the Assistant Secretary for Communication and Information
COM 191 Confidential Assistant to the General Counsel
COM 194 Special Assistant to the Under Secretary, National Oceanic and Atmospheric Administration
COM 204 Special Assistant to the Chief Scientist, National Oceanic and Atmospheric Administration
COM 258 Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration
COM 259 Director of Congressional Affairs to the Under Secretary for International Trade, International Trade Administration
COM 262 Special Assistant to the Assistant Secretary for Trade Development, International Trade Administration
COM 266 Special Assistant to the Assistant Secretary for Import Administration, International Trade Administration
COM 268 Executive Assistant to the Counselor and Chief of Staff
COM 275 Confidential Assistant to the Director, Office of Business Liaison
COM 289 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 289 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 290 Confidential Assistant to the Director, Office of Business Liaison
COM 291 Special Assistant to the Press Secretary and Acting Director, Office of Public Affairs
COM 298 Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration
COM 306 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 308 Special Assistant to the Assistant Secretary for Trade Development

COM 312 Special Assistant to the Director General of the U.S. and Foreign Commercial Service
COM 326 Confidential Assistant to the Assistant Secretary and Director General, U.S. and Foreign Commercial Service
COM 342 Confidential Assistant to the Director of White House Liaison
COM 350 Deputy Director, Office of Business Liaison to the Director, Office of Business Liaison
COM 352 Confidential Assistant to the Deputy Chief of Staff
COM 365 Special Assistant to the Director, Minority Business Development Agency
COM 374 Congressional Liaison Specialist to the Congressional Affairs Officer
COM 379 Special Assistant to the General Counsel
COM 385 Special Assistant to the Director, Bureau of Census
COM 390 Confidential Assistant to the Under Secretary for Economic Affairs/ Administrator, Economics and Statistics Administration
COM 397 Congressional Affairs Officer to the Assistant Director for Commerce
COM 398 Special Assistant to the Deputy Assistant Secretary for Domestic Operations
COM 415 Congressional Affairs Specialist to the Director, Office of Legislative Affairs, National Oceanic and Atmospheric Administration
COM 416 Director, Office of Consumer Affairs to the Secretary of Commerce
COM 418 Confidential Assistant to the Under Secretary for Economic Affairs
COM 420 Special Assistant to the Director General of the United States and Foreign Commercial Service, International Trade Administration
COM 423 Director of Congressional Affairs to the Assistant Secretary and Commissioner, Patent and Trademark Office
COM 438 Confidential Assistant to the Director, Office of Business Liaison
COM 447 Confidential Assistant to the Chief of Staff
COM 448 Confidential Assistant to the Assistant Secretary for International Economic Policy
COM 466 Director of Public Affairs to the Under Secretary, Technology Administration
COM 468 Confidential Assistant to the Under Secretary for Export Administration, Bureau of Export Administration
COM 469 Deputy Director for White House Liaison to the Director, Office of White House Liaison
COM 480 Director of Congressional Affairs to the Under Secretary for Technology
COM 482 Director, Executive Secretariat to the Chief of Staff
COM 485 Special Assistant to the Chief of Staff
COM 490 Deputy Director of External Affairs and Director of Scheduling to the Deputy Chief of Staff for External Affairs
COM 492 Confidential Assistant to the Director, Office of Policy and Strategic Planning
COM 519 Special Assistant to the General Council, National Oceanic and Atmospheric Administration
COM 527 Executive Assistant to the Secretary of Commerce
COM 530 Special Assistant to the Under Secretary for Technology, Technology Administration
COM 538 Special Assistant and Chief of Protocol to the Chief of Staff
COM 543 Confidential Assistant to the Director, Office of Public Affairs, International Trade Administration
COM 548 Confidential Assistant to the Assistant Secretary Legislative and Interagency Affairs
COM 549 Special Assistant to the Deputy Under Secretary Economic Affairs
COM 550 Special Assistant to the Assistant Secretary, Legislative and Intergovernmental Affairs
COM 551 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 560 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 561 Confidential Assistant to the Assistant Secretary and Commissioner, Patent and Trademark Office
COM 563 Deputy Director of Scheduling to the Deputy Director of External Affairs and Director of Scheduling
COM 569 Confidential Assistant to the Director, Office of Public Affairs and Press Secretary
COM 571 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance
COM 579 Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration
COM 585 Chief, Intergovernmental Affairs to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 592 Special Assistant to the Deputy Assistant Secretary for Technology and Aerospace Industries, International Trade Administration
COM 595 Deputy Director to the Director, Office of Air and Space Comercialization
COM 597 News Analyst to the Director, Office of Public Affairs
COM 601 Director, Office of Public Affairs to the Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration
COM 604 Assistant Director for Communications to the Director, Bureau of the Census
COM 607 Intergovernmental Affairs Specialist to the Chief Intergovernmental Affairs, Office of Sustainable Development and Intergovernmental Affairs (NOAA)
COM 608 Confidential Assistant to the Director of Public Affairs
COM 612 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration
COM 613 Executive Assistant to the Deputy Secretary of Commerce
COM 617 Director, Office of Energy, Infrastructure and Machinery to the Deputy Assistant Secretary for Basic Industries
COM 618 Confidential Assistant to the Director, Secretariat Staff, Office of the Executive Secretariat
COM 622 Confidential Assistant to the Assistant Secretary for Economic Development Administration
COM 625 Special Assistant to the Deputy Assistant Secretary for Technology Policy
COM 631 Special Advisor to the Director, Oceanic and Atmospheric Administration
COM 640 Confidential Assistant to the Director, Office of Public, Congressional and Intergovernmental Affairs, International Trade Administration
COM 643 Confidential Assistant to the Assistant Secretary and Commissioner of Patents and Trademarks
COM 644 Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 645 Special Assistant to the Director, Legislative, Intergovernmental and Public Affairs
COM 647 Deputy Press Secretary to the Press Secretary
COM 648 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education
COM 651 Confidential Assistant to the Director for Communications and Press Secretary
COM 654 Confidential Assistant to the Counselor to the Department of Commerce
COM 657 Confidential Assistant to the Director of Legislative Intergovernmental and Public Affairs
COM 659 Director, Office of White House Liaison to the Deputy Chief of Staff

COM 660 Congressional Liaison Specialist to the Director of Congressional Affairs
COM 662 Confidential Assistant to the Deputy Assistant Secretary for International Economic Development
COM 664 Special Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service
COM 666 Confidential Assistant to the Director, Office of Legislative Affairs
COM 668 Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development
COM 671 Special Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 672 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 674 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 676 Confidential Assistant to the Deputy Assistant Secretary for Environmental Technologies Exports
COM 677 Special Assistant to the Director of External Affairs
COM 680 Deputy Press Secretary-Agency Coordination to the Director for Communications and Press Secretary
COM 682 Associate Under Secretary for Economic Affairs to the Under Secretary for Economic Affairs
COM 683 Senior Advisor to the Assistant Secretary for Import Administration
COM 684 Special Assistant to the Senior Advisor to the Department for Puerto Rico Initiatives
COM 685 Deputy Assistant for Policy and Planning to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 687 Deputy Director to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 689 Confidential Assistant to the Deputy Chief of Staff for External Affairs
COM 690 Special Assistant to the Deputy Assistant Secretary for Agreements Compliance
COM 691 Director, Office of External Affairs to the Chief of Staff

Section 213.3315 Department of Labor

LAB 17 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 25 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 35 Special Assistant to the Director of the Women's Bureau
LAB 43 Special Assistant to the Assistant Secretary for Occupational Safety and Health
LAB 66 Executive Assistant to the Deputy Assistant Secretary, Office of Federal Contracts Compliance Programs, Employment Standards Administration
LAB 87 Staff Assistant to the Assistant Secretary for Employment Standards, Employment Standards Administration
LAB 94 Deputy Chief of Staff to the Chief of Staff
LAB 99 Special Counselor to the Assistant Secretary for Employment and Training
LAB 101 Special Assistant to the Administrator Wage and Hour Division, Employment Standards Administration
LAB 103 Secretary's Representative, Boston, MA to the the Associate Director, Intergovernmental Affairs
LAB 104 Secretary's Representative to the Associate Director, Intergovernmental Affairs
LAB 105 Secretary's Representative, Philadelphia, PA to the Associate Director, Office of Congressional and Intergovernmental Affairs
LAB 106 Secretary's Representative, Atlanta, GA, to the Associate Director, Intergovernmental Affairs
LAB 107 Secretary's Representative to the Associate Director, Congressional and Intergovernmental Affairs
LAB 109 Secretary's Representative to the Associate Director, Intergovernmental Affairs
LAB 111 Secretary's Representative to the Associate Director, Office of Congressional and Intergovernmental Affairs
LAB 112 Secretary's Representative, Seattle, WA, to the Director, Office of Intergovernmental Affairs
LAB 123 Special Assistant to the Deputy Assistant Secretary for Policy
LAB 125 Special Assistant to the Assistant Secretary, Employment Standards Administration
LAB 126 Special Assistant to the Assistant Secretary Employment Standards Administration
LAB 129 Press Secretary to the Assistant Secretary for Occupational Safety and Health, Occupational Safety And Health Administration
LAB 130 Special Assistant to the Executive Secretary
LAB 132 Associate Director for Congressional Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 139 Special Assistant to the Wage Hour Administrator
LAB 143 Special Assistant to the Assistant Secretary for Employment and Training
LAB 145 Intergovernmental Officer to the Associate Director Intergovernmental Affairs
LAB 151 Special Assistant to the Director, Women's Bureau
LAB 152 Special Assistant to the Director, Women's Bureau
LAB 159 Special Assistant to the Deputy Under Secretary for International Affairs, Bureau of International Labor Affairs
LAB 161 Special Assistant to the Chief Economist
LAB 164 Director of Communications and Public Information to the Assistant Secretary for Employment and Training
LAB 172 Special Assistant to the Deputy Secretary of Labor
LAB 175 White House Liaison to the Deputy Secretary
LAB 177 Staff Assistant to the Chief of Staff
LAB 190 Special Assistant to the Assistant Secretary for Policy
LAB 191 Special Assistant to the Assistant Secretary for Policy
LAB 197 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 199 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 203 Executive Assistant to the Assistant Secretary for Veterans' Employment and Training
LAB 208 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 210 Speech Writer to the Assistant Secretary for Policy
LAB 211 Special Assistant to the Executive Secretary
LAB 212 Special Assistant to the Assistant Secretary for Policy
LAB 215 Special Assistant to the Director of the Women's Bureau
LAB 217 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 220 Special Assistant to the Assistant Secretary for Public Affairs
LAB 225 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
LAB 230 Special Assistant to the Assistant Secretary for Public Affairs
LAB 231 Staff Assistant to the Chief of Staff
LAB 239 Special Assistant to the Chief of Staff
LAB 241 Special Assistant to the Assistant Secretary for Public Affairs
LAB 248 Special Assistant to the Assistant Secretary for Public Affairs
LAB 259 Special Assistant to the Assistant Secretary for Policy
LAB 260 Special Assistant to the Chief of Staff

LAB 262 Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs
LAB 263 Special Assistant to the Administrator, Wage and Hour Division
LAB 264 Staff Assistant to the Administrator, Wage and Hour Division
LAB 269 Intergovernmental Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 272 Special Assistant to the Assistant Secretary for Mine Safety and Health
LAB 273 Chief of Staff to the Assistant Secretary for Administration and Management
LAB 276 Advisor to the Assistant Secretary, Mine Safety and Health
LAB 280 Special Assistant to the Assistant Secretary for Occupational Safety and Health

Section 213.3316 Department of Health and Human Services

HHS 14 Special Assistant to the Executive Secretary
HHS 17 Director of Scheduling to the Chief of Staff, Office of the Secretary
HHS 31 Special Assistant to the Secretary of Health and Human Services
HHS 187 Special Assistant to the Deputy Assistant Secretary for Legislation (Health)
HHS 230 Attorney Advisor (Special Assistant) to the General Counsel
HHS 276 Special Assistant for Liaison to the Associate Commissioner for Legislative Affairs
HHS 331 Special Assistant to the Administrator, Health Care Financing Administration
HHS 336 Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services)
HHS 340 Executive Assistant to the Assistant Secretary for Legislation
HHS 344 Congressional Liaison Specialist to the Deputy Assistant for Legislation, (Congressional Liaison)
HHS 346 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 368 Senior Press Officer to the Administrator, Health Care Financing Administration
HHS 370 Confidential Assistant to the Associate Administrator for External Affairs
HHS 373 Confidential Assistant to the Executive Secretary
HHS 374 Confidential Assistant to the Executive Secretary
HHS 395 Special Assistant to the Director, Office of Community Services, Administration for Children and Families.
HHS 415 Special Assistant to the Secretary of Health and Human Services
HHS 419 Special Assistant to the Secretary of Health and Human Services
HHS 427 Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for the Administration for Children and Families
HHS 462 Special Assistant for Liaison Activities to the Administrator, Substance Abuse and Mental Health Services Administration
HHS 487 Confidential Assistant to the Administrator, Health Care Financing Administration
HHS 489 Special Assistant to the Assistant Secretary for Children and Families
HHS 500 Director, Office of Professional Relations to the Associate Administrator for External Affairs, Health Care Financing Administration
HHS 510 Deputy Director, Office of Professional Relations to the Director, Office of Professional Relations, Health Care Financing Administration
HHS 512 Special Assistant to the Assistant Secretary for Children and Families
HHS 513 Confidential Assistant to the Administrator, Health Care Financing Administration
HHS 539 Special Assistant to the General Counsel
HHS 549 Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media)
HHS 553 Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 556 Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media)
HHS 558 Confidential Assistant to the Assistant Secretary for Public Affairs
HHS 585 Special Assistant (Speechwriter) to the Director of Speechwriting
HHS 590 Confidential Assistant (Advance) to the Director of Scheduling and Advance
HHS 615 Special Assistant to the Director of Communications, Communications Services Division
HHS 622 Special Assistant to the Director, Office of Professional Relations
HHS 624 Special Assistant to the Commissioner, Administration for Children and Families
HHS 625 Special Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 628 Special Assistant to the Administrator, Substance Abuse and Mental Health Services Administration
HHS 632 Special Outreach Coordinator to the Assistant Secretary for Public Affairs
HHS 634 Special Assistant to the Deputy Director, Office of Child Support Enforcement
HHS 636 Senior Advisor to the Director, Indian Health Service
HHS 637 Special Assistant for Legislative Affairs to the Director, U.S. Office of Consumer Affairs
HHS 639 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
HHS 643 Executive Assistant for Legislative Projects to the Assistant Secretary for Health
HHS 644 White House Liaison to the Chief of Staff
HHS 646 Deputy Chief of Staff to the Chief of Staff
HHS 650 Confidential Advisor to the Associate Commissioner Child Care Bureau, Administration for Children and Families
HHS 652 Executive Assistant to the Assistant Secretary for Planning and Evaluation
HHS 654 Special Assistant to the Deputy Assistant Secretary for Planning and Evaluation
HHS 656 Confidential Assistant, Office of Scheduling to the Director of Scheduling
HHS 657 Executive Director, Presidential Advisory Council on HIV/AIDS to the Assistant Secretary for Public Health and Science
HHS 658 Confidential Assistant (Scheduling) to the Director of Scheduling
HHS 659 Special Assistant to the Deputy Secretary
HHS 660 Confidential Assistant to the Executive Secretary

Section 213.3317 Department of Education

EDU 1 Special Assistant to the Secretary's Regional Representative, Region IX
EDU 2 Confidential Assistant to the Director, Scheduling and Briefing
EDU 4 Deputy Secretary's Regional Representative, to the Secretary's Regional Representative, Region IV (Atlanta, GA), Office of Intergovernmental and Interagency Affairs
EDU 5 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 7 Special Assistant to the Assistant Secretary, Office of Postsecondary Education

EDU 9 Special Assistant to the Director, Office of Public Affairs
EDU 10 Confidential Assistant to the Assistant Secretary for Vocational and Adult Education
EDU 15 Special Assistant to the Director, Office of Educational Technology
EDU 16 Special Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
EDU 18 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 20 Steward to the Chief of Staff
EDU 21 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education.
EDU 22 Confidential Assistant to the Special Advisor to the Secretary of Education
EDU 24 Confidential Assistant to the Director, Regional Services Team
EDU 28 Confidential Assistant to the Assistant Secretary, Office of Civil Rights
EDU 30 Director, Scheduling and Briefing Staff to the Chief of Staff, Office of the Secretary
EDU 31 Special Assistant to the Secretary of Education
EDU 32 Special Assistant to the Inspector General
EDU 33 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement
EDU 34 Special Assistant to the Commissioner, Rehabilitation Service Administration
EDU 36 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 37 Special Assistant to the Assistant Secretary, Office for Civil Rights
EDU 38 Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 41 Confidential Assistant to the Chief of Staff
EDU 43 Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 44 Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement
EDU 46 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 48 Special Assistant/Chief of Staff to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 49 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 50 Special Assistant to the Director, Office of Public Affairs
EDU 52 Special Assistant to the Director, Office of Public Affairs
EDU 53 Special Assistant to the Under Secretary
EDU 54 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
EDU 55 Special Assistant (Special Advisor, HBCU) to the Director, Historically Black Colleges and Universities' Staff
EDU 57 Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 58 Confidential Assistant to the Director, Executive Secretariat
EDU 59 Special Assistant to the Deputy Secretary, Office of the Deputy Secretary
EDU 60 Confidential Assistant to the Deputy Chief of Staff, Office of the Secretary
EDU 62 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 63 Special Assistant to the Senior Advisor to the Secretary
EDU 65 Confidential Assistant to the Director, Office of Public Affairs
EDU 66 Special Assistant to the Assistant Secretary, Special Education and Rehabilitative Services
EDU 67 Special Assistant to the Secretary of Education
EDU 70 Confidential Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
EDU 71 Executive Assistant to the Deputy Secretary of Education
EDU 74 Chief of Staff to the Deputy Secretary
EDU 75 Confidential Assistant to the Secretary's Regional Representative, Region IX
EDU 79 Special Assistant to the Director, Office of Public Affairs
EDU 81 Special Assistant to the Secretary of Education
EDU 85 Special Assistant to the Deputy Assistant Secretary, Student Financial Assistance Programs
EDU 86 Deputy Assistant Secretary for Regional and Community Services and Secretary's Regional Representative, Region III to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 87 Special Assistant to the Director, Office of Special Education Programs
EDU 88 Special Assistant to the Special Advisor to the Secretary (Director, America Reads Challenge)
EDU 89 Special Assistant to the Counselor to the Secretary
EDU 90 Special Assistant to the Counselor to the Secretary
EDU 92 Deputy Assistant Secretary for Management and Planning to the Assistant Secretary for Elementary and Secondary Education
EDU 93 Confidential Assistant to the Special Assistant to the Secretary
EDU 94 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 96 Special Assistant to the Director, Scheduling and Briefing, Office of the Secretary
EDU 98 Special Assistant to the Assistant Secretary for Special Education and Rehabilitation Services
EDU 99 Special Assistant to the Senior Advisor to the Secretary, Director of America Reads
EDU 100 Confidential Assistant to the Special Advisor to the Secretary
EDU 101 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region I, Boston, MA
EDU 102 Special Assistant to the Deputy Secretary
EDU 103 Secretary's Regional Representative, Region VIII—Denver, CO, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 104 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
EDU 107 Secretary's Regional Representative, Region V, Chicago, IL, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 109 Secretary's Regional Representative, Region VII, Kansas City, MO, to the Director, of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 110 Secretary's Regional Representative—Region II—New York, N.Y. to the Deputy Assistant Secretary for Regional Services
EDU 113 Special Assistant to the Chief of Staff, Office of the Deputy Secretary
EDU 113 Special Assistant to the Director, Corporate Liaison
EDU 114 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 115 Special Assistant to the Senior Advisor on Education
EDU 117 Director, Historically Black Colleges to the Assistant Secretary, Office of Postsecondary Education
EDU 120 Special Assistant to the Deputy Secretary, Office of the Deputy Secretary
EDU 122 Deputy Secretary's Regional Representative Region VI, Dallas,

Texas to the Secretary's Regional Representative
EDU 123 Secretary's Regional Representatives Region VI—Dallas, TX, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 124 Executive Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 125 Deputy Director, Office of Bilingual Education and Minority Languages Affairs to the Director
EDU 127 Secretary's Regional Representative, Region I, Boston, Massachusetts to the Director, Regional Services Team
EDU 131 Secretary's Regional Representative, Region IX, San Francisco, CA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 132 Confidential Assistant to the Director, Office of Educational Technology, Office of the Deputy Secretary
EDU 133 Director, Office of Corporate Liaison to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 135 Confidential Assistant to the Deputy Assistant Secretary for Regional Services
EDU 138 Special Assistant to the Under Secretary
EDU 139 Confidential Assistant to the General Counsel
EDU 140 Liaison for Community and Junior Colleges to the Assistant Secretary for Vocational and Adult Education
EDU 141 Special Assistant to the Assistant Secretary, Office of Civil Rights
EDU 144 Director, Intradepartmental Services to the Director, Federal Interagency and Internal Services
EDU 145 Special Assistant to the Under Secretary
EDU 146 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 147 Special Assistant to the Counselor to the Secretary
EDU 150 Special Assistant to the Director, Community Services Team, Office of Intergovernmental and Interagency Affairs
EDU 156 Special Assistant to the Director, Historically Black Colleges and Universities
EDU 157 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 159 Confidential Assistant to the Chief Financial Officer
EDU 164 Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 166 Special Assistant to the Director Regional Services Team
EDU 171 Director, Legislation Staff to the Assistant Secretary, Assistant Secretary for Legislation and Congressional Affairs
EDU 172 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 173 Confidential Assistant to the Counselor to the Secretary
EDU 174 Special Assistant to the Chief of Staff, Office of the Deputy Secretary
EDU 177 Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 190 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 191 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 198 Confidential Assistant to the Assistant Secretary, Office of Secondary and Elementary Education
EDU 203 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 208 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 216 Confidential Assistant to the Under Secretary, Office of the Under Secretary
EDU 219 Congressional Assistant to the Special Assistant to the Deputy Secretary
EDU 220 Confidential Assistant to the Director, Office of Public Affairs
EDU 240 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 247 Confidential Assistant to the Deputy Secretary
EDU 249 Confidential Assistant to the Director, Public Affairs
EDU 273 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 282 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 299 Confidential Assistant to the Special Assistant to the Secretary of Education
EDU 340 Deputy Secretary's Regional Representative, Region II, New York, NY, to the Secretary's Regional Representative
EDU 347 Secretary's Regional Representative, Region X, Seattle, WA, to the Director of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 356 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
EDU 404 Secretary's Regional Representative, Region IV, Atlanta, GA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 427 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs

Section 213.3318 Environmental Protection Agency

EPA 168 Legal Counsel to the Assistant Administrator, Office of Air and Radiation
EPA 171 Congressional Liaison Specialist to the Director, Congressional Liaison Division
EPA 172 Special Assistant to the Assistant Administrator, Office of Solid Waste and Emergency Response
EPA 175 Director, Office of the Executive Secretariat to the Chief of Staff, Office of the Administrator
EPA 177 Senior Policy Advisor to the Assistant Administrator, Office of Air and Radiation
EPA 182 Legal Advisor to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
EPA 184 Chief, Policy Counsel to the Assistant Administrator, Office of Water
EPA 187 Counsel to the Assistant Administrator for Air and Radiation
EPA 188 Legislative Coordinator to the Assistant Administrator, Office of Solid Waste and Emergency Response
EPA 194 Special Assistant to the Associate Administrator for Communications, Education, and Public Affairs
EPA 198 Assistant to the Deputy Administrator for External Affairs
EPA 199 Policy Advisor to the Assistant Administrator for Air and Radiation
EPA 201 Executive Assistant to the Associate Administrator, Regional Operations and State and Local Relations
EPA 202 Special Assistant/Advanced Program Advisor to the Assistant Administrator for Enforcement and Compliance Assurance
EPA 203 Special Assistant to the Associate Administrator, Office of Regional Operations and State/Locale Relations
EPA 204 Special Assistant to the Chief of Staff
EPA 205 Senior Advisor to the Assistant Administrator for the Office of Policy Planning and Evaluation
EPA 206 Special Assistant to the Administrator
EPA 208 Special Assistant to the Associate Administrator

EPA 209 Assistant to the Deputy Chief to the Deputy Chief of Staff (Scheduling)
EPA 210 Staff Assistant to the Deputy Associate Administrator
EPA 211 Assistant to the Deputy Administrator for External Affairs

Section 213.3322 Surface Transportation Board (DOT)

STB 1 Confidential Assistant to the Chairman

Section 213.3323 Federal Communications Commission

FCC 24 Special Assistant to the Chief, International Bureau
FCC 26 Special Assistant (Public Affairs) to the Chief, Cable Services Bureau

Section 213.3325 United States Tax Court

TCOUS 40 Secretary and Confidential Assistant to a Judge
TCOUS 41 Secretary and Confidential Assistant to a Judge
TCOUS 42 Secretary and Confidential Assistant to a Judge
TCOUS 44 Secretary and Confidential Assistant to a Judge
TCOUS 45 Secretary and Confidential Assistant to a Judge
TCOUS 46 Secretary and Confidential Assistant to a Judge
TCOUS 48 Secretary and Confidential Assistant to a Judge
TCOUS 49 Secretary and Confidential Assistant to a Judge
TCOUS 50 Secretary and Confidential Assistant to a Judge
TCOUS 51 Secretary and Confidential Assistant to a Judge
TCOUS 52 Secretary and Confidential Assistant to a Judge
TCOUS 53 Secretary and Confidential Assistant to a Judge
TCOUS 54 Secretary and Confidential Assistant to a Judge
TCOUS 55 Secretary and Confidential Assistant to a Judge
TCOUS 56 Secretary and Confidential Assistant to a Judge
TCOUS 57 Secretary and Confidential Assistant to a Judge
TCOUS 58 Secretary and Confidential Assistant to a Judge
TCOUS 59 Secretary and Confidential Assistant to a Judge
TCOUS 60 Secretary and Confidential Assistant to a Judge
TCOUS 61 Secretary and Confidential Assistant to a Judge
TCOUS 62 Secretary and Confidential Assistant to a Judge
TCOUS 63 Secretary and Confidential Assistant to a Judge.
TCOUS 64 Secretary and Confidential Assistant to a Judge
TCOUS 65 Secretary and Confidential Assistant to a Judge
TCOUS 66 Trial Clerk to a Judge
TCOUS 67 Trial Clerk to a Judge
TCOUS 68 Trial Clerk to a Judge
TCOUS 69 Trial Clerk to a Judge
TCOUS 70 Trial Clerk to a Judge
TCOUS 71 Trial Clerk to a Judge
TCOUS 72 Trial Clerk to a Judge
TCOUS 74 Trial Clerk to a Judge
TCOUS 75 Trial Clerk to a Judge
TCOUS 77 Trial Clerk to a Judge
TCOUS 78 Trial Clerk to a Judge
TCOUS 79 Trial Clerk to a Judge
TCOUS 80 Secretary and Confidential Assistant to a Judge
TCOUS 81 Secretary and Confidential Assistant to a Judge
TCOUS 82 Secretary and Confidential Assistant to a Judge

Section 213.3327 Department of Veterans Affairs

VA 72 Special Assistant to the Assistant Secretary for Congressional Affairs
VA 73 Special Assistant to the Secretary of Veterans Affairs
VA 74 Special Assistant to the Secretary of Veterans Affairs
VA 77 Special Assistant to the Director, National Cemetery System
VA 78 Special Assistant to the Assistant Secretary for Finance and Information Resources Management
VA 79 Special Assistant to the Assistant Secretary for Human Resources and Administration
VA 81 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs
VA 83 Special Assistant to the Assistant Secretary for Policy and Planning
VA 84 Special Assistant to the Assistant Secretary for Congressional Affairs
VA 86 Executive Assistant to the Secretary of Veterans Affairs
VA 87 Special Assistant to the Secretary of Veterans Affairs

Section 213.3328 United States Information Agency

USIA 14 Program Officer to the Associate Director, Bureau of Information
USIA 22 Supervisory Public Affairs Specialist (New York, N.Y.) to the Associate Director Bureau of Information, Foreign Press Center
USIA 43 Director, Office of Citizen Exchanges to the Associate Director, Bureau of Educational and Cultural Affairs
USIA 54 Special Assistant to the Director, Office of Citizen Exchanges
USIA 67 Chief, Voluntary Visitors Division to the Director, Office of International Visitors, Bureau of Educational and Cultural Affairs
USIA 89 Staff Director, Advisory Board for Cuba Broadcasting to the Chairman of the Advisory Board
USIA 93 Program Officer to the Deputy Director, Office of European and NIS Affairs
USIA 99 White House Liaison to the Chief of Staff, Office of the Director
USIA 101 Public Affairs Specialist to the Director, New York Foreign Press Center, New York, NY
USIA 112 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 116 Special Projects Officer to the Director, Office of Citizen Exchanges
USIA 118 Special Assistant to the Chief of Staff, Office of the Director
USIA 124 Special Assistant to the Associate Director for Programs, Bureau of Information
USIA 125 Special Assistant to the Director, Office of Academic Affairs, Bureau of Educational and Cultural Affairs
USIA 126 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 127 Writer to the Director, Office of Policy
USIA 135 Senior Advisor to the Associate Director, Bureau of Information
USIA 136 Senior Advisor to the Director, Office of Public Liaison
USIA 137 Deputy Director to the Director, Office of Arts America
USIA 138 Senior Coordinator for Multi-Media Development to the Associate Director, Bureau of Information
USIA 141 Director, Office of Support Services to the Associate Director of the Bureau of Information
USIA 142 Confidential Assistant to the Director, Voice of America
USIA 143 Special Assistant to the Chief of Staff, Office of the Director
USIA 144 Director, Office of Congressional and Intergovernmental Affairs to the Director, U.S. Information Agency
USIA 145 Confidential Assistant to the Director, Office of Cuba Broadcasting
USIA 146 Confidential Assistant to the Director, U.S. Information Agency
USIA 147 Senior Coordinator for Public Diplomacy Programs to the Associate Director, Bureau of Information
USIA 148 Staff Assistant to the Director, Office of Public Liaison

Section 213.3330 Securities and Exchange Commission

SEC 3 Confidential Assistant to a Commissioner
SEC 4 Confidential Assistant to the Chief of Staff
SEC 5 Confidential Assistant to a Commissioner
SEC 6 Confidential Assistant to a Commissioner
SEC 8 Secretary (OA) to the Chief Accountant

SEC 9 Secretary to the General Counsel
SEC 11 Confidential Assistant to the Chairman
SEC 12 Director of Public Affairs to the Chairman
SEC 15 Secretary (OA) to the Director, Market Regulation
SEC 16 Secretary to the Director, Enforcement Division
SEC 18 Secretary to the Director, Investment Division
SEC 19 Secretary to the Director, Division of Corporate Finance
SEC 24 Secretary to the Chief Economist
SEC 27 Secretary (Typing) to the Director
SEC 28 Confidential Assistant to the Chairman
SEC 29 Secretary to the Deputy Director of Market Regulation
SEC 32 Confidential Assistant to the Director of Public Affairs, Policy Evaluation and Research
SEC 34 Secretary to the Executive Director
SEC 39 Director of Legislative Affairs to the Chairman
SEC 40 Special Assistant to the Chairman

Section 213.3331 Department of Energy

DOE 439 Public Affairs Specialist to the Director of Public and Consumer Affairs
DOE 580 Staff Assistant to the Director, Office of Nonproliferation and National Security
DOE 587 Staff Assistant to the Assistant Secretary for Environmental Safety and Health
DOE 591 Staff Assistant to the Deputy Assistant Secretary for Building Technologies
DOE 592 Staff Assistant to the Deputy Assistant Secretary for Gas and Technology
DOE 602 Senior Staff Advisor to the Director, Office of Energy Research
DOE 603 Special Assistant to the Director, Office of Strategic Planning and Analysis
DOE 604 Special Assistant to the Principal Deputy Assistant Secretary for Policy
DOE 606 Staff Assistant to the Senior Staff Assistant, Office of the Deputy Assistant Secretary for Gas and Petroleum Technology
DOE 610 Staff Assistant to the Director, Office of Energy Research
DOE 613 Special Assistant to the Assistant Secretary for Environmental Restoration and Waste Management
DOE 615 Staff Assistant to the Director, Office of Intelligence and National Security
DOE 622 Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison, Office of Congressional and Intergovernmental Affairs
DOE 625 Staff Assistant to the Associate Deputy Secretary for Field Management
DOE 626 Staff Assistant to the Assistant Secretary for Environmental Management
DOE 628 Staff Assistant to the Assistant Secretary, Office of Policy
DOE 631 Special Assistant to the Press Secretary, Press Services Division, Public and Consumer Affairs
DOE 642 Staff Assistant to the Assistant Secretary for Policy
DOE 644 Staff Assistant to the Assistant Secretary for Efficiency and Renewable Energy
DOE 645 Special Assistant to the Deputy Secretary of Energy
DOE 649 Special Assistant to the Director, Office of Public Accountability
DOE 654 Confidential Staff Assistant to the Director, Office of Economic Impact and Diversity
DOE 655 Special Assistant for Regulatory Compliance to the Deputy Assistant Secretary for Compliance and Program Coordination
DOE 657 Special Assistant to the Director, Office of Economic Impact and Diversity
DOE 658 Director, Office of Natural Gas Policy to the Principal Deputy Assistant Secretary for Policy
DOE 663 Assistant Director for Energy Research (Communications and Development) to the Director, Office of Energy Research
DOE 664 Staff Assistant to the Assistant Secretary for Environmental Management
DOE 665 Special Liaison (Federal Power Marketing Administration) to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 666 Special Assistant to the Director, Press Services Division
DOE 667 Special Assistant to the Assistant Secretary for Energy and Renewable Energy
DOE 668 Staff Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 670 Staff Assistant to the Director, Nuclear Energy
DOE 671 Staff Assistant to the Principal Deputy Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 672 Staff Assistant to the Assistant Secretary for Policy
DOE 674 Staff Assistant to the Deputy Assistant Secretary for Technical and Financial Assistance
DOE 676 Confidential Assistant to the Assistant Secretary for Environmental Management
DOE 677 Confidential Assistant to the General Counsel, Office of the General Counsel
DOE 678 Staff Assistant to the Assistant Secretary for Fossil Energy
DOE 679 Special Assistant to the Assistant Secretary for Policy
DOE 680 Staff Assistant to the Chief Financial Officer
DOE 681 Special Assistant to the Director, Office of Worker and Community Transition
DOE 682 Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 684 Program Specialist to the Director, International Policy and Analysis Division
DOE 685 Associate Director to the Director, Office of Nuclear Energy, Science and Technology
DOE 686 Associate Director to the Director, Office of Nuclear Energy, Science and Technology
DOE 687 Staff Assistant to the Director, Scheduling and Logistics
DOE 690 Staff Assistant to the Deputy Secretary
DOE 691 Special Assistant to the Deputy Secretary
DOE 692 Staff Assistant to the Assistant Secretary for Environment, Safety and Health
DOE 694 Staff Assistant to the Director, Office of Budget Planning and Customer Service
DOE 695 Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison
DOE 697 Special Assistant to the Assistant Secretary for Environmental Management
DOE 699 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 701 Special Assistant to the Assistant Secretary for Defense Programs
DOE 702 Special Assistant to the Director, Office for Worker and Community Transition
DOE 703 Special Assistant to the Under Secretary of Energy
DOE 704 Special Assistant to the Secretary of Energy
DOE 705 Special Assistant to the Secretary of Energy
DOE 707 Executive Assistant to the Secretary of Energy
DOE 708 Special Projects Liaison Specialist to the Director, Public Affairs
DOE 709 Senior Advisor to the Assistant Secretary for Environment, Safety and Health
DOE 710 Executive Assistant to the Deputy Secretary of Energy
DOE 711 Foreign Affairs Specialist to the Director, Office of Arms Control and Nonproliferation

DOE 712 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 713 Staff Assistant (Legal) to the Assistant Secretary for Environmental Management

Federal Energy Regulatory Commission

FERC 1 Executive Assistant to the Chairman
FERC 2 Attorney Advisor (Public Utilities) to the Chairman
FERC 3 Confidential Assistant to a Member

Section 213.3332 Small Business Administration

SBA 11 Deputy Assistant Administrator to the Assistant Administrator for Congressional and Legislative Affairs
SBA 19 Special Assistant to the Deputy Administrator
SBA 92 Deputy Scheduler to the Director of Scheduling
SBA 97 Confidential Assistant to the General Counsel
SBA 100 Special Assistant to the Regional Administrator, Dallas Regional Office
SBA 128 Assistant Administrator for Women's Business Ownership to the Associate Deputy Administrator for Economic Development
SBA 143 Special Assistant to the Administrator, Special Projects
SBA 168 Director of Intergovernmental Affairs to the Associate Administrator for Communications and Public Liaison
SBA 169 Regional Administrator, Region I, Boston, MA, to the Administrator
SBA 170 Regional Administrator, Region VIII, Denver, CO, to the Administrator
SBA 172 Regional Administrator, Region VII, Kansas City, MO, to the Administrator
SBA 173 Regional Administrator, Region VI, Dallas, TX, to the Administrator
SBA 174 Regional Administrator, Region V, Chicago, IL to the Administrator
SBA 175 Regional Administrator, Region IV, Atlanta, GA, to the Administrator
SBA 176 Regional Administrator, Region II, New York, NY, to the Administrator
SBA 178 Regional Administrator, Region III, Philadelphia, PA, to the Administrator
SBA 181 Associate Administrator for Field Operations to the Administrator
SBA 182 Assistant Administrator for Marketing and Outreach to the Associate Administrator for Communications and Public Liaison
SBA 188 Regional Administrator, Region IX, San Francisco, to the Administrator
SBA 189 Regional Administrator, Region X, Seattle, WA, to the Administrator
SBA 193 Director of International Trade to the Assistant Administrator for International Trade
SBA 196 Director of Communications to the Assistant Administrator of Communications

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 15 Secretary to the Chairman

Section 213.3334 Federal Trade Commission

FTC 2 Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman
FTC 14 Congressional Liaison Specialist to the Director of Congressional Relations
FTC 20 Special Assistant to a Commissioner
FTC 21 Special Assistant to a Commissioner
FTC 22 Secretary (Office Automation) to the Director, Bureau of Competition

Section 213.3337 General Services Administration

GSA 11 Special Assistant to the Associate Administrator for Enterprise Development
GSA 24 Special Assistant to the Commissioner, Public Buildings Service
GSA 26 Special Assistant to the Commissioner, Public Buildings Service
GSA 51 Special Assistant to the Administrator
GSA 52 Senior Advisor to the Commissioner, Public Buildings Service
GSA 69 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 75 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 82 Special Assistant to the Regional Administrator, Region 4, Atlanta, GA
GSA 88 Special Assistant to the Regional Administrator, Region 10, Auburn, Washington
GSA 89 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 91 Special Assistant to the Director for Workplace Initiatives
GSA 94 Congressional Relations Officer to the Associate Administrator, Office of Congressional and Intergovernmental Affairs
GSA 95 Deputy Chief of Staff to the Chief of Staff
GSA 114 Special Assistant to the Regional Administrator
GSA 118 Senior Advisor to the Regional Administrator
GSA 119 Special Assistant to the Regional Administrator, Great Lakes Region
GSA 128 Director of Industry and Public Outreach to the Commissioner, Information Resources Management Services
GSA 130 Special Assistant to the Regional Administrator, Region 7

Section 213.3339 U.S. International Trade Commission

ITC 1 Confidential Secretary (Office Automation) to the Chairman
ITC 3 Staff Assistant (Legal) to a Commissioner
ITC 5 Confidential Assistant to a Commissioner
ITC 15 Confidential Assistant to a Commissioner
ITC 17 Attorney-Advisor (General) to the Chairman
ITC 18 Staff Assistant (Legal) to a Commissioner
ITC 20 Staff Assistant (Economics) to a Commissioner
ITC 24 Staff Assistant (LEGAL) to the Chairman
ITC 25 Staff Assistant (Legal) to a Commissioner
ITC 31 Executive Assistant to a Commissioner
ITC 36 Confidential Assistant to a Commissioner

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3341 National Labor Relations Board

NLRB 1 Confidential Assistant to the Chairman

Section 213.3342 Export-Import Bank of the United States

EXIM 3 Administrative Assistant to the President and Chairman
EXIM 30 Administrative Assistant to the Director
EXIM 45 Administrative Assistant to the Director
EXIM 46 Administrative Assistant to the Chief of Staff
EXIM 47 Personal and Confidential Assistant to the President and Chairman
EXIM 48 Administrative Assistant to the Director
EXIM 49 Deputy Chief of Staff to the Chief of Staff and Vice President, Congressional and External Affairs

Section 213.3343 Farm Credit Administration

FCA 1 Special Assistant to the Chairman
FCA 8 Secretary to the Chairman
FCA 11 Special Assistant to a Member
FCA 12 Public & Congressional Affairs Specialist to the Director, Congressional and Public Affairs
FCA 15 Congressional and Public Affairs Specialist to the Director, Congressional and Public Affairs

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2 Special Assistant to the Chairman
OSHRC 6 Confidential Assistant to a Member (Commissioner)
OSHRC 8 Counsel to a Member (Commissioner)

Section 213.3346 Selective Service System

SSS 16 Special Assistant to the Director
SSS 17 Executive Director to the Director

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 8 Public Affairs Director to the Director
FMCS 9 Special Assistant to the Director

Section 213.3348 National Aeronautics and Space Administration

NASA 28 Public Affairs Specialist to the Associate Administrator for Public Affairs
NASA 31 Executive Assistant to the Administrator
NASA 32 Special Assistant to the Administrator
NASA 33 Legislative Affairs Specialist to the Associate Administrator, Legislative Affairs
NASA 34 Manager, Multimedia Relations to the Associate Administrator for Public Affairs
NASA 35 Director for Enterprise Liaison to the Associate Administrator for Aeronautics and Space Transport Technology
NASA 37 International Programs Specialist to the Associate Administrator, Office of External Programs

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 7 Attorney Advisor (General) to a Commissioner
FM 17 Confidential Assistant to the Chairman
FM 25 Attorney-Advisor to a Commissioner
FM 26 Attorney-Advisor (General) to the Chairman
FM 28 Confidential Assistant to a Commissioner
FM 29 Attorney-Advisor to a Commissioner

Section 213.3355 Social Security Administration

SSA 3 Speech Writer to the Deputy Commissioner for Communications
SSA 4 Special Assistant to the Chief of Staff
SSA 5 Executive Assistant to the Commissioner

Section 213.3356 Commission on Civil Rights

CCR 1 Special Assistant to the Staff Director
CCR 12 Special Assistant to a Commissioner
CCR 13 Special Assistant to a Commissioner
CCR 23 Special Assistant to a Commissioner
CCR 28 Special Assistant to a Commissioner
CCR 30 Special Assistant to a Commissioner
CCR 32 Special Assistant to a Commissioner

Section 213.3357 National Credit Union Administration

NCUA 9 Staff Assistant to the Chairman
NCUA 12 Executive Assistant to the Vice Chairman
NCUA 20 Executive Assistant to a Board Member
NCUA 21 Communications and Administrative Assistant to a Board Member
NCUA 23 Special Assistant to the Executive Director
NCUA 24 Writer-Editor to the Chairman

Section 213.3358 United States Court of Appeals for the Armed Forces

CAAF 1 Personal and Confidential Assistant to a Judge
CAAF 2 Personal and Confidential Assistant to the Chief Judge
CAAF 3 Private Secretary to a Judge
CAAF 4 Private Secretary to a Judge
CAAF 5 Personal and Confidential Assistant to a Judge
CAAF 6 Private Secretary to a Judge
CAAF 7 Private Secretary to a Judge
CAAF 8 Personal and Confidential Assistant to a Judge
CAAF 9 Personal and Confidential Assistant to a Judge
CAAF 10 Private Secretary to a Judge
CAAF 12 Paralegal Specialist to the Chief Judge

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Office of a Commissioner
CPSC 50 Staff Assistant to a Commissioner
CPSC 52 Director, Office of Information and Public Affairs to the Chairman
CPSC 53 Special Assistant to the Chairman
CPSC 55 Executive Assistant to the Chairman
CPSC 56 Director, Office of Congressional Relations to the Chairman
CPSC 60 Special Assistant to the Chairman
CPSC 61 Staff Assistant to a Commissioner
CPSC 62 Special Assistant to a Commissioner
CPSC 63 Special Assistant to a Commissioner
CPSC 64 Special Assistant (Legal) to a Commissioner

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 2 Secretary (Steno O/A) to the Deputy Director
ACDA 11 Congressional Affairs Specialist to the Director of Congressional Affairs
ACDA 17 Secretary (OA) to the Director
ACDA 23 Administrative Assistant to the Assistant Director, Multilateral Affairs Bureau
ACDA 27 Special Assistant to the Director
ACDA 28 Special Assistant to the Director
ACDA 31 Speechwriter to the Director
ACDA 35 Policy Analyst to the Director
ACDA 36 Director of Public Information to the Director

Section 213.3367 Federal Maritime Commission

FMC 5 Counselor to a Commissioner
FMC 10 Special Assistant to a Commissioner
FMC 30 Special Assistant to a Commissioner
FMC 34 Special Assistant to a Commissioner
FMC 35 Counsel to a Commissioner
FMC 37 Counsel to a Commissioner
FMC 40 Confidential Assistant to the Chairman

Section 213.3368 Agency for International Development

AID 125 Executive Assistant to the Chief of Staff
AID 127 Supervisory Public Affairs Specialist to the Director, Office of External Affairs
AID 131 Public Affairs Specialist to the Chief of Public Liaison Division, Office of External Affairs
AID 134 Special Assistant to the Chief of Public Relations, Office of External Affairs
AID 136 Congressional Liaison Officer to the Deputy Assistant Administrator, Legislative Affairs

AID 138 Public Affairs Specialist to the Assistant Administrator, Bureau of Legislative and Public Affairs
AID 141 Special Assistant and Legal Counsel to the General Counsel
AID 145 Public Affairs Specialist to the Chief, Public Liaison Office, Bureau for Legislation and Public Affairs
AID 147 Congressional Liaison Officer to the Deputy Assistant Administrator

Section 213.3371 Office of Government Ethics

OGE 2 Executive Secretary to the Director

Section 213.3373 United States Trade and Development Agency

TDA 1 Congressional Liaison Officer to the Director

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
ARC 13 Special Assistant to the Federal Co-Chairman
ARC 13 Policy Advisor to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 2 Special Assistant to the Chairman
EEOC 13 Confidential Assistant to the Director, Legal Counsel
EEOC 15 Media Contact Specialist to the Director, Office of Communications and Legislative Affairs
EEOC 25 Media Contact Specialist (Bilingual) to the Director, Communications and Legislative Affairs
EEOC 32 Senior Advisor to a Commissioner

Section 213.3379 Commodity Futures Trading Commission

CFTC 3 Administrative Assistant to a Commissioner
CFTC 4 Administrative Assistant to a Commissioner
CFTC 5 Administrative Assistant to a Commissioner
CFTC 6 Administrative Assistant to a Commissioner
CFTC 14 Special Assistant to a Commissioner
CFTC 26 Special Assistant to a Commissioner
CFTC 29 Special Assistant to a Commissioner
CFTC 30 General Attorney (Special Counsel) to the General Counsel

Section 213.3382 National Endowment for the Arts

NEA 9 Congressional Liaison Officer to the Chairman
NEA 68 Attorney Adviser to the Chairman
NEA 70 Special Assistant to the Chairman
NEA 72 Director of Policy, Planning and Research to the Chairman
NEA 73 Chief of Staff and White House Liaison to the Chairman
NEA 76 Executive Secretary to the Chairman
NEA 77 Director of Public Affairs to the Chairman
NEA 78 Special Assistant to the Chairman

Section 213.3382 National Endowment for the Humanities

NEH 68 Director of Enterprise and Congressional Liaison to the Chairman
NEH 69 Special Assistant to the Chairman

Section 213.3384 Department of Housing and Urban Development

HUD 39 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 41 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 64 Staff Assistant to the Assistant Secretary, Community Planning and Development
HUD 68 Special Assistant to the Deputy Assistant Secretary for Community Planning and Development
HUD 153 Executive Assistant to the President, Government National Mortgage Association
HUD 175 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 187 Special Assistant to the Deputy Assistant Secretary for Single Family Housing, Federal Housing Commission
HUD 188 Special Assistant to the Assistant Secretary for Administration
HUD 198 Special Assistant to the Senior Advisor to the Secretary
HUD 209 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 238 Special Assistant to the Secretary of Housing and Urban Development
HUD 249 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 260 Executive Assistant to the Assistant Secretary for Public and Indian Housing
HUD 272 Deputy Assistant Secretary for Grant Programs to the Assistant Secretary for Community Planning and Development
HUD 281 Special Administrator to Regional Administrator
HUD 288 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 292 Special Assistant to the Deputy Assistant Secretary for Economic Development
HUD 328 Deputy Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs
HUD 337 Special Assistant to the Assistant Secretary for Public Affairs
HUD 340 Special Assistant to the Secretary
HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 363 Special Assistant to the Assistant Secretary for Policy Development and Research
HUD 372 Staff Assistant (Advance) to the Assistant Secretary for Administration, Office of Executive Scheduling
HUD 384 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 390 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 402 Special Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
HUD 410 Special Assistant to the General Counsel
HUD 412 Executive Assistant to the Secretary
HUD 419 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs
HUD 420 Scheduling Coordinator to the Director, Office of Scheduling
HUD 421 Assistant Director to the Director, Executive Secretariat, Office of Administration
HUD 435 Deputy Assistant Secretary for Operations to the Assistant Secretary for Housing-Federal Housing Commissioner
HUD 437 Special Assistant to the Deputy Assistant Secretary for Public Affairs
HUD 438 Director, Hospital Mortgage Insurance Staff to the Assistant Secretary for Housing-Federal Housing Commissioner
HUD 441 Deputy Assistant Secretary for Policy Development to the Assistant Secretary for Policy Development and Research
HUD 445 Special Assistant to the Deputy Assistant Secretary for Operations
HUD 446 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 458 Special Assistant to the Assistant Secretary for Administration

HUD 462 Staff Assistant to the Director, Office of Executive Scheduling
HUD 478 Special Projects Officer to the Senior Advisor to the Secretary
HUD 480 Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing
HUD 482 Special Projects Officer to the Director, Special Actions Office
HUD 483 Special Assistant (Advance/Security) to the Director, Executive Scheduling
HUD 487 Advance Coordinator to the Director, Office of Scheduling
HUD 492 Special Assistant to the Deputy Assistant Assistant Secretary for Economic Development
HUD 494 Intergovernmental Relations Specialist to the Deputy Assistant Secretary, Intergovernmental Relations
HUD 498 Special Projects Officer to the Senior Advisor to the Secretary
HUD 500 Deputy Assistant Secretary for Plans and Policy to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 503 Special Projects Officer to the Deputy Secretary, Field Management
HUD 505 Legislative Officer to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 506 Deputy Assistant Secretary for Community Empowerment to the Assistant Secretary for Community Planning and Development
HUD 507 Field Operations Officer to the Secretary's Representative
HUD 508 Deputy Chief of Staff for Operations to the Chief of Staff
HUD 511 Special Projects Officer to the Secretary's Representative, Mid-Atlantic Office
HUD 512 Deputy Assistant for Legislation to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 513 Deputy Assistant Secretary for Long Range Planning to the Assistant Secretary for Public Affairs
HUD 514 Special Assistant to the Secretary's Representative
HUD 520 Special Assistant to the Chief Financial Officer
HUD 524 Special Counsel to the General Counsel
HUD 525 Confidential Assistant to the Secretary
HUD 526 Intergovernmental Relations Specialist to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 527 Public Affairs Coordinator to the Assistant Secretary for Public Affairs
HUD 528 Director, Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 529 Intergovernmental Relations Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 530 Special Assistant to the Director, Executive Scheduling
HUD 531 Director, Executive Secretariat to the Deputy Chief of Staff for Operations
HUD 534 Special Assistant for Inter-Faith Community Outreach to the Director, Office of Special Actions
HUD 535 Special Assistant to the Assistant Secretary for Public and Indian Housing

Section 213.3389 National Mediation Board

NMB 52 Confidential Assistant to a Board Member
NMB 53 Confidential Assistant to a Board Member
NMB 54 Confidential Assistant to a Board Member
NMB 55 Staff Assistant to a Board Member

Section 213.3391 Office of Personnel Management

OPM 62 Confidential Assistant to the Director
OPM 63 Confidential Assistant to the Director, Office of Congressional Relations
OPM 65 Special Assistant to the Director, Office of Congressional Relations
OPM 67 Executive Assistant to the Deputy Director
OPM 76 Speech Writer to the Director, Office of Communications
OPM 79 Special Assistant to the Director of Congressional Relations
OPM 80 Deputy Director of Communications to the Director of Communications
OPM 81 Communications Assistant to the Director of Communications
OPM 82 Deputy Director of Communications to the Director of Communications
OPM 83 Legislative Assistant to the Director, Office of Congressional Relations
OPM 84 White House Liaison to the Deputy Chief of Staff

Section 213.3392 Federal Labor Relations Authority

FLRA 19 Staff Assistant to the Chairman
FLRA 21 Director of External Affairs/Special Projects to the Chair, Federal Labor Relations Board

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 7 Assistant Executive Director for Legislative Affairs to the Executive Director
PBGC 11 Special Assistant to the Deputy Executive Director and Chief Financial Officer
PBGC 14 Special Assistant to the Deputy Executive Director and Chief Financial Officer

Section 213.3394 Department of Transportation

DOT 38 Special Assistant to the Deputy Administrator, National Highway Traffic Safety Administration
DOT 54 Congressional Liaison Officer to the Director, Office of Congressional Affairs
DOT 61 Special Assistant to the Deputy Secretary of Transportation
DOT 69 Director, Office of Public Affairs to the Federal Railroad Administrator
DOT 70 Special Assistant to the Assistant Secretary for Governmental Affairs
DOT 100 Chief, Consumer Information Division to the Director, Office of Public and Consumer Affairs
DOT 105 Staff Assistant to the Administrator, Federal Highway Administration
DOT 117 Special Assistant to the Secretary of Transportation
DOT 121 Deputy Director of Congressional Affairs to the Director, Office of Congressional Affairs
DOT 127 Special Assistant and Chief, Administrative Operations Staff to the Assistant Secretary for Budget and Programs
DOT 129 Special Assistant to the General Counsel
DOT 141 Special Assistant to the Secretary of Transportation
DOT 147 Special Assistant to the Assistant to Secretary and Director of Public Affairs
DOT 148 Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs
DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration
DOT 151 Special Assistant to the Secretary of Transportation
DOT 173 Special Assistant to the Administrator, Federal Railroad Administration
DOT 217 Special Assistant to the Administrator, Research and Special Programs Administration
DOT 235 Director for Scheduling and Advance to the Chief of Staff
DOT 242 Deputy Director, Executive Secretariat to the Director, Executive Secretariat
DOT 254 White House Liaison to the Chief of Staff
DOT 279 Associate Director for Speechwriting and Research to the Assistant to the Secretary and Director of Public Affairs

DOT 287 Scheduling Assistant to the Special Assistant for Scheduling and Advance, Office of the Secretary

DOT 294 Special Assistant to the Associate Deputy Secretary

DOT 301 Director, Office of Intergovernmental Affairs and Consumer Affairs to the Assistant Secretary for Governmental Affairs

DOT 320 Special Assistant to the Chief of Staff

DOT 338 Special Assistant to the Deputy Administrator, Federal Highway Administration

DOT 342 Special Assistant to the Special Assistant for Scheduling and Advance

DOT 351 Special Assistant to the Deputy Secretary

DOT 352 Regional Administrator, Region II, New York, N.Y. to the Deputy Administrator, Federal Transit Administration

DOT 355 Director for Drug Enforcement and Program Compliance to the Chief of Staff

DOT 356 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs

Section 213.3395 Federal Emergency Management Agency

FEMA 53 Policy Advisor to the Director, Federal Emergency Management Agency

FEMA 54 Director, Office of Emergency Information and Media Affairs to the Director, Federal Emergency Management Agency

Section 213.3396 National Transportation Safety Board

NTSB 1 Special Assistant to the Chairman
NTSB 25 Special Assistant to the Board Member
NTSB 30 Confidential Assistant to the Chairman
NTSB 31 Public and Family Affairs Specialist to the Director, Office of Government, Public, and Family Affairs
NTSB 92 Director, Office of Government Affairs to the Chairman
NTSB 102 Special Assistant to the Member
NTSB 106 Director, Office of Governmental Affairs to the Director, Government, Public and Family Affairs

Section 213.3397 Federal Housing Finance Board

FHFB 4 Special Assistant to the Chairman

Senior Level Schedule C Positions (Above GS–15)

Section 213.3342 Export-Import Bank

Chief of Staff and Vice President for Congressional and External Affairs to the President and Chairman
Assistant to the President and Chairman
Assistant to the President and Chairman
Vice President for Communications to the President and Chairman
General Counsel to the President and Chairman

Section 213.3382 National Endowment for the Arts

Executive Director, President's Commission on the Arts and Humanities to the President of the United States

Section 213.3357 National Credit Union Administration

Executive Director to the Chairman

Section 213.3343 Farm Credit Administration

Secretary of the Board to the Chairman
Executive Assistant to the Chairman
Director, Congressional and Public Affairs, to the Chairman

Section 213.3393 Pension Benefit Guaranty Corporation

Deputy Executive Director and Chief Negotiator to the Executive Director
Deputy Executive Director and Chief Financial Officer to the Executive Director

Section 213.3333 Federal Deposit Insurance Corporation

General Counsel to the Chairman
Director, Office of Corporate Communication to Deputy to the Chairman for Policy
Deputy to the Chairman for Policy to the Chairman

Section 213.3305 Department of the Treasury

Advisor to the Assistant Secretary for Tax Policy

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–24676 Filed 9–17–97; 8:45 am]

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Federal Register

Thursday
September 18, 1997

Part IV

Federal Retirement Thrift Investment Board

5 CFR Part 1650

Methods of Withdrawing Funds From the Thrift Savings Plan; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Methods of Withdrawing Funds From the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a final rule to implement two provisions of the Thrift Savings Plan Act of 1996. The first specifies how long a separated participant can maintain a Thrift Savings Plan (TSP) account and the second expands TSP withdrawal options by allowing in-service withdrawals.

DATES: This final rule is effective September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest, (202) 942–1662.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514 (codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479). The TSP is a tax-deferred retirement savings plan for Federal employees which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code.

On September 30, 1996, the President signed the Thrift Savings Plan Act of 1996 (the TSPA), Pub. L. 104–208, div. A, title I, sec. 101(f), section 659. Before passage of the TSPA, a participant was required to make a valid withdrawal election by February 1 of the year following the latest of (1) the date upon which the participant attained age 65, (2) the date that was 10 years after the effective date of the participant's first TSP contribution, or (3) the date the participant separated from Federal service. The Board was required by 5 U.S.C. 8433(f)(2) to purchase an annuity for a participant who did not make such an election. However, the Board never purchased an annuity for a participant under this rule because the tenth anniversary of the first TSP contributions did not occur until April 1997.

Section 203(a)(4) of the TSPA amended FERSA to provide that a participant must withdraw his or her account balance in a single payment or begin receiving his or her TSP account balance in monthly payments (or in the form of a TSP annuity) by April 1 of the later of (1) the year following the year in which the participant reaches age 70½, or (2) the year following the year in which the participant separates from Federal service. If the participant does not make an election so that payment can be made by this deadline, the Board must use his or her TSP account to purchase an annuity for the participant. The first calendar year in which withdrawals will be required under the amendment is 1998.

Before passage of the TSPA, FERSA also provided at 5 U.S.C. 8433(a) that a TSP participant could only withdraw his or her account after separating from Government employment. Therefore, in-service TSP withdrawals were not permitted. Section 203(a)(6) of the TSPA amended FERSA to allow in-service withdrawals under two circumstances. Under 5 U.S.C. 8433(h)(1)(A), a participant who has turned age 59½ can withdraw an amount up to his or her entire vested TSP account balance before separating from Government employment. A participant is allowed only one withdrawal under this provision. In addition, under section 8433(h)(1)(B), a participant can obtain a withdrawal before separating from Government employment on the basis of financial hardship. A financial hardship withdrawal is limited to the amount the participant contributed to the TSP (plus the earnings attributed to those contributions). There is no limit on the number of such withdrawals.

This rule reorganizes and amends the Board's withdrawal regulations at 5 CFR part 1650 to implement the TSPA amendments. Subpart A of part 1650 contains general information and rules. This rule adds new definitions to section 1650.1 and rewrites the sections that describe withdrawal eligibility (section 1650.2) and the effect of a freeze on a participant's account (renumbered as section 1650.3) to make subpart A apply to both post-employment and in-service withdrawals. Also, this rule removes section 1650.5 (regarding outstanding loans) as an independent section within subpart A. Before its removal, section 1650.5 explained that a participant must repay an outstanding TSP loan or that his or her loan must be declared a taxable distribution before the participant could obtain a post-employment withdrawal. An outstanding TSP loan will not prevent an in-service withdrawal. Because the substance of section 1650.5 is still a principle of post-employment withdrawal eligibility, it has been moved to new section 1650.2(d).

Subparts B and C describe post-employment withdrawals and explain the post-employment withdrawal process. The procedures which govern post-employment withdrawals will remain essentially the same, with only two substantive changes. The first is a revision of section 1650.15 (section 1650.13 in the Board's previous regulations) to reflect the new required date for receiving a post-employment withdrawal. The second is a revision of 1650.16 (section 1650.14 in the previous regulations) to eliminate the restrictions on a participant's ability to change or cancel a withdrawal election if he or she had any part of his or her TSP account invested in the Common Stock Index Investment Fund (C Fund) or the Fixed Income Index Investment Fund (F-Fund). In addition, to make room for the two new subparts which govern in-service withdrawals, the subparts B and C headings have been renamed and each of the subparts' sections have been renumbered. To provide a more convenient resource to the reader, the Board has republished subparts B and C in their entirety.

This rule creates new subparts D and E in part 1650 to describe in-service withdrawals and explain the in-service withdrawal process. Section 1650.30 describes the age-based in-service withdrawal; section 1650.40 explains how to obtain one; and section 1650.42(a) describes the participant's payment options. A participant is allowed only one age-based in-service withdrawal. A participant who has reached age 59½ can withdraw up to his or her entire vested TSP account balance as a single payment. Because an age-based in-service withdrawal is an eligible rollover distribution, a participant can ask the TSP to transfer all or a portion of the withdrawal to an Individual Retirement Arrangement (IRA) or other eligible retirement plan. Any amount withdrawn but not transferred is subject to mandatory 20 percent Federal income tax withholding. An age-based in-service withdrawal is not subject to the additional 10 percent tax imposed by the Internal Revenue Code (I.R.C. 72(t)) on the early withdrawal of retirement savings.

Section 1650.31 describes the financial hardship in-service withdrawal; section 1650.41 explains how to obtain one; and section 1650.42(b) describes the participant's payment options. Only financial hardships described under section 1650.31 can be used as the basis for requesting an in-service withdrawal, and only sums contributed by the participant and their attributable earnings can be withdrawn for this purpose.

There are two types of qualifying financial hardships: insufficient cash flow and extraordinary expenses. Under 1650.31(a)(1), a participant will show financial hardship by demonstrating that his or her monthly cash flow cannot meet ordinary monthly household expenses. Under 1650.31(a)(2), a participant will show financial hardship by demonstrating that he or she has incurred an unreimbursed and unpaid extraordinary expense which cannot be met by his or her monthly cash flow. Extraordinary expenses are limited to medical expenses relating to the care or treatment of the participant, the participant's spouse, or the participant's dependents; household improvements needed on account of a medical condition, illness or injury to the participant, the participant's spouse, or the participant's dependents; personal casualty loss suffered by the participant; and legal costs associated with the participant's separation and divorce. A participant can qualify for a financial hardship withdrawal by meeting one of the tests or by showing a combination of negative cash flow and extraordinary expenses.

Like an age-based withdrawal, a financial hardship withdrawal is an eligible rollover distribution; therefore, the participant may ask the TSP to transfer all or a portion of the withdrawal to an IRA or other eligible retirement plan. The TSP will withhold for Federal income tax purposes 20 percent of any amount withdrawn but not transferred. The hardship withdrawal applicant can ask the TSP to increase his or her withdrawal so that the net disbursement after the mandatory withholding will be the amount requested (or the maximum amount for which the participant qualifies, if less than the amount requested). This is subject to the availability of employee contributions and earnings in the participant's account.

Section 1650.32 explains that a participant can continue to contribute to the TSP after obtaining an age-based withdrawal, but is not eligible to contribute to the TSP for a period of six months after obtaining a financial hardship withdrawal. After six-months ineligibility to contribute, the participant can resume TSP contributions only by making a new TSP election on Form TSP–1. Generally, a participant whose TSP contributions were discontinued because of a financial hardship withdrawal is not required to wait until a TSP open season to submit Form TSP–1. A FERS participant's agency automatic (1%) contributions will continue following either type of in-service withdrawal.

Finally, section 1650.33 explains that a TSP loan and an in-service withdrawal are not interchangeable and that a TSP withdrawal cannot be repaid.

In addition to amending the withdrawal provisions of part 1650, this rule amends the spousal rights provisions. The TSPA provides that the spouse of a FERS participant must consent to an in-service withdrawal and that the spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal. These spousal rights, which mirror those applicable to TSP loans, will be incorporated into the withdrawal regulations. This rule makes no other changes to the spousal rights provisions of the withdrawal regulations other than by reorganizing them for purposes of clarity and ease of reading.

These regulations were published in proposed form in the **Federal Register** on August 7, 1997 (62 FR 42418), and the Board received one comment. A Federal agency requested a clarification of the first sentence of section 1650.32(a), which describes the period during which a participant who obtains a financial hardship in-service withdrawal cannot contribute to the TSP. In response, the Board revised the first sentence of section 1650.32(b) to more explicitly describe the 6-month period of contribution ineligibility.

Regulatory Flexibility Act

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

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before the publications of this rule in today's **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2)

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. These regulations will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1650

Employee benefit plans, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,

Executive Director.

For the reasons set out in the preamble, the Federal Retirement Thrift Investment Board revises 5 CFR Part 1650 to read as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

Subpart A—General

Sec.

Subpart B—Post-Employment Withdrawals

Subpart C—Procedures for Post-Employment Withdrawals

Subpart D—In-Service Withdrawals

Subpart E—Procedures for In-Service Withdrawals

Subpart F—[Reserved]

Subpart G—Spousal Rights

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

Subpart A—General

§ 1650.1 Definitions.

As used in this part:

Account balance means, unless otherwise specified, the nonforfeitable valued account balance of a TSP participant as of the most recent month-end before the date a withdrawal occurs.

Board means the Federal Retirement Thrift Investment Board established pursuant to 5 U.S.C. 8472.

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent retirement system.

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent retirement system.

In-service withdrawal means an age-based or financial hardship withdrawal from the TSP obtained by a participant who is still employed by the Government.

Monthly processing cycle means the process, beginning on the evening of the fourth business day of the month, by which the record keeper allocates the amount of earnings to be credited to participant accounts in the Plan and authorizes disbursements from the Plan.

Participant means any person with an account in the Thrift Savings Plan.

Post-employment withdrawal means a withdrawal from the TSP obtained by a participant who has separated from Government employment, as defined in this section.

Reimbursement means a payment made to or on behalf of a participant by any person or entity (including an insurance company) to cover the cost of an extraordinary expense described in § 1650.31(a)(2).

Separation from Government employment means the cessation of employment with the Federal Government or the U.S. Postal Service (or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP) for at least 31 full calendar days.

Spouse means the person to whom a TSP participant is married on the date he or she signs forms on which the TSP requests spouse information including a spouse from whom the participant is legally separated, and including a person with whom a participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live.

Thrift Savings Plan, TSP, or *Plan* means the Federal Retirement Thrift Savings Plan, established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401–8479.

Thrift Savings Plan (TSP) contribution election means a request by an employee to start contributing to the TSP, to terminate contributions to the TSP, to change the amount of contributions made to the TSP each pay period, or to change the allocation of future TSP contributions among the investment funds, and made effective pursuant to 5 CFR part 1600.

Thrift Savings Plan Service Office means the office established by the Board to service participants. This office's current address is: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500.

Valuation date means, for purposes of a required minimum distribution, the last day of the calendar year immediately preceding the year for which a distribution is made.

§ 1650.2 Eligibility for a TSP withdrawal.

(a) A participant who separates from Government employment, as defined in § 1650.1, can withdraw his or her account by one of the withdrawal methods described in subpart B of this part using the procedures set out in subpart C of this part.

(b) A separated participant who is reemployed in a position in which he or she is eligible to participate in the TSP is subject to the following withdrawal eligibility rules:

(1) A participant who is reemployed in a TSP-eligible position on or before the 31st full calendar day after separation cannot withdraw his or her TSP account (except for an in-service withdrawal described in subpart D of this subpart). If the participant is scheduled for an automatic cashout, as described in § 1650.22, the cashout will be canceled if the participant informs the TSP that he or she has been reemployed or expects to be reemployed within 31 full calendar days of separation.

(2) A participant who is reemployed in a TSP-eligible position more than 31 full calendar days after separation may withdraw the portion of his or her account balance which is attributable to the earlier period of employment. If the amount attributable to the earlier period of employment is greater than $3,500, the participant must submit a properly completed withdrawal request (Form TSP–70) selecting a withdrawal option that results in an immediate withdrawal. However, a Form TSP–70 will not be accepted unless the TSP records indicate that the former employing agency reported the participant as separated from Government employment. If a participant has elected to receive monthly payments under § 1650.11, upon report by the agency that the participant is not separated, payments will not be made and, if already started, will stop.

(c) A participant who has not separated from Government employment can elect a withdrawal option described in subpart D of this part by following the procedures set out in subpart E of this part.

(d) A participant cannot make a post-employment withdrawal until any outstanding TSP loan has been either repaid in full or declared to be a taxable distribution. An outstanding TSP loan does not affect a participant's eligibility for an in-service withdrawal.

(e) All withdrawals are subject to the rules relating to spouse's rights (found in subpart G of this part), domestic relations orders, alimony and child support legal process, and child abuse enforcement orders (5 CFR part 1653). Post-employment withdrawals are also subject to the Internal Revenue Code's required minimum distribution rules.

§ 1650.3 Frozen accounts.

A participant may not withdraw any portion of his or her account balance if the account is frozen as a result of a pending retirement benefits court order, an alimony or child support enforcement order, a child abuse enforcement order, or as a result of a freeze placed on the account by the Board for another reason.

Subpart B—Post-Employment Withdrawals

§ 1650.10 Single payment.

A participant can withdraw his or her entire account in a single payment.

§ 1650.11 Monthly payments.

(a) A participant can withdraw his or her account balance in two or more substantially equal monthly payments, to be calculated under one of the following methods:

(1) *A fixed monthly payment amount.* The amount must be at least $25 per month and must satisfy any minimum distribution requirements. Payments will be made each month until the account is expended. If the last scheduled payment would be less than

the chosen amount, it will be combined and paid with the previous payment;

(2) *A fixed number of monthly payments.* The participant's month-end account balance for the month preceding the month of the first payment will be divided by the number of payments chosen in order to determine the monthly amount. The amount must be at least $25 per month and must satisfy any minimum distribution requirements. In January of each subsequent year, the TSP will divide the December 31 account balance from the prior year by the remaining number of payments in order to determine that year's monthly payments. If the monthly payment amount is less than $25, it will be increased to $25. This process will be repeated each year until the account is expended; or

(3) *A monthly payment amount calculated using the factors set forth in Internal Revenue Service expected return multiply table V, 26 CFR 1.72–9.* There is no $25 minimum monthly payment under this method. In the year payments begin, the monthly payment amount is calculated by dividing the month-end account balance for the month preceding the month of the first payment by the factor from table V based upon the participant's age as of his or her birthday in that year. This amount is then divided by 12 to yield the monthly payment amount. In subsequent years, the monthly payment amount is recalculated each January by dividing the December 31 account balance from the previous year by the factor from Table V based upon the participant's age as of his or her birthday in the year payments will be made. That amount is divided by 12 to yield the monthly payment amount.

(b) A participant who chooses to receive monthly payments calculated using one of the three methods set forth in paragraph (a) of this section cannot change the method after payments begin. Also, except as provided in paragraph (c) of this section, the participant cannot change the number of payments or the payment amount after payments begin.

(c) A participant receiving monthly payments can choose to receive the remainder of his or her account balance in a final single payment.

(d) A participant receiving monthly payments may invest his or her account balance as provided in 5 CFR part 1601.

§ 1650.12 Annuities.

(a) A participant can withdraw his or her entire account balance in the form of a life annuity. The participant's account balance must be $3,500 or more in order for the TSP to purchase an annuity. The TSP will send forms to a participant who chooses this method which ask him or her to choose an annuity method, name a beneficiary (if required), and provide any necessary spousal waiver or spousal information. Upon receipt of the required information, the TSP will purchase the annuity from the TSP's annuity vendor using the participant's entire account balance, except for any amount necessary to satisfy minimum distribution requirements. The first annuity payment will be made approximately 30 calendar days after the purchase of the annuity. The annuity will provide a payment for life to the participant and, if applicable, the participant's survivor, in accordance with the type of annuity chosen.

(b) The following types of annuities are available to participants:

(1) *A single life annuity with level payments.* This annuity is based upon the life expectancy of the participant at the time of purchase and provides monthly payments to the participant as long as the participant lives.

(2) *A joint life annuity for the participant and his or her spouse with level payments.* This annuity is based upon the combined life expectancies of the participant and the spouse and provides monthly payments to the participant, as long as both the participant and spouse are alive, and monthly payments to the survivor, as long as he or she is alive.

(3) *Either a single life or joint life annuity (as described in paragraph (b)(l) or (b)(2) of this section) where the amount of the monthly payment can increase each year on the anniversary date of the first annuity payment.* The amount of the increase is based on the average annual change in the Consumer Price Index for Urban Wage Earners and Clerical Workers as measured between the period of July through September in the second calendar year preceding the anniversary date and July through September in the calendar year preceding the anniversary date. For example, if the anniversary of an increasing annuity occurs in November of 1995, the amount of the increase will be calculated based upon the change in the index between the July-September period in 1993 and the July-September period in 1994. Monthly payments cannot decrease, nor can they increase more than 3 percent each year. If this option is chosen in conjunction with a joint life annuity with the spouse, the annual increase continues to apply to benefits received by the survivor.

(4) *A joint life annuity, with level payments, for the participant and another person who either is a former spouse or has an insurable interest in the participant.* This annuity is based upon the combined life expectancies of the participant and the other person. It provides monthly payments to the participant as long as both the participant and the joint annuitant are alive, and monthly payments to the survivor as long as he or she is alive. Increasing payments cannot be chosen for a joint annuity with a person other than the spouse.

(i) A person has an ''insurable interest'' in a participant if the person is financially dependent on the participant and could reasonably expect to derive financial benefit from the participant's continued life.

(ii) A relative (whether blood or adopted, but not by marriage) who is closer than a first cousin will be presumed to have an insurable interest in the participant.

(iii) A participant can establish that a person not described in paragraph (b)(4)(ii) of this section has an insurable interest in him or her by submitting with the annuity request an affidavit from a person other than the participant or the joint annuitant demonstrating that the designated joint annuitant has an insurable interest (as defined in paragraph (b)(4)(i) of this section) in the participant.

(c) Participants who choose a joint life annuity (with either a spouse or a person with an insurable interest) must choose either a 50 percent or a 100 percent survivor benefit. A 50 percent survivor benefit provides a monthly payment to the survivor which is 50 percent of the payment made when both the participant and the joint annuitant are alive. A 100 percent survivor benefit provides a monthly payment to the survivor which is the same amount as the payment made when both the participant and the survivor are alive. Either the 50 percent or the 100 percent survivor benefit may be combined with any joint life annuity option, except that the 100 percent survivor benefit can be combined with a joint annuity with a person other than the spouse (or a former spouse, if required by a retirement benefits court order) only if the joint annuitant is not more than 10 years younger than the participant.

(d) The following mutually exclusive features can be combined with certain types of annuities, as indicated:

(1) *Cash refund.* This feature provides that, if the participant (and joint annuitant, if applicable) dies before an amount equal to the balance used to purchase the annuity has been paid out, the difference between the balance used to purchase the annuity and the sum of

monthly payments already made will be paid to the named beneficiaries. The participant (or the joint annuitant, if the participant is deceased) may name or change the beneficiaries. This feature can be combined with any other annuity option.

(2) *Ten-year certain.* This feature provides that, if the participant dies before annuity payments have been made for 10 years (120 payments), monthly payments will continue to be made to the beneficiaries selected by the participant until 120 payments have been made. This feature can be combined with any single life annuity option, but cannot be selected in conjunction with any joint life annuity option.

(e) The Board can, from time to time, establish other types of annuities, other levels of survivor benefits, and other annuity features.

(f) The Board can, from time to time, eliminate a type of annuity (except for those annuities described in paragraph (b) of this section), a survivor benefit level, or an annuity feature. However, if the Board does so, it must continue to allow participants to purchase annuities of the eliminated type or containing the eliminated feature for five years after the date the decision to eliminate the annuity type or feature is published in the **Federal Register**.

(g) Once an annuity has been purchased, the type of annuity, any annuity features, and the identity of the annuitant cannot be changed, and the annuity cannot be terminated.

§ 1650.13 Transfer of withdrawal payments.

(a) At the participant's request, the TSP will transfer directly to an eligible retirement plan all or part of any withdrawal that is an ''eligible rollover distribution,'' as defined in 26 U.S.C. 402(c)(4). A withdrawal method that is not an eligible rollover distribution cannot be transferred.

(b) The following TSP withdrawal methods are considered eligible rollover distributions:

(1) A single payment, as described in § 1650.10;

(2) Monthly payments, as described in § 1650.11, where payments are expected to last less than 10 years at the time they begin, according to the following rules:

(i) If the participant elects a number of monthly payments, the number of payments must be fewer than 120;

(ii) If the participant elects a monthly payment amount, the amount, when divided into the participant's account balance as of the end of the month prior to the first payment, must yield a number less than 85;

(3) A final single payment, as described in § 1650.11(c).

(c) The following withdrawal methods are not eligible rollover distributions:

(1) Any annuity purchased by the TSP.

(2) Any monthly payment that does not meet the rules set forth in paragraph (b)(2) of this section, including any monthly payment computed based on the Internal Revenue Service expected return multiple table V (see § 1650.11(a)(3)).

(3) Any minimum distribution payment or any portion of another payment which represents a minimum distribution payment.

(d) An eligible retirement plan is a plan defined in 26 U.S.C. 402(c)(8). There are three types of eligible retirement plans: an Individual Retirement Arrangement (IRA) (which can be either an individual retirement account or an individual retirement annuity), a plan qualified under 26 U.S.C. 401(a), and a plan described in 26 U.S.C. 403(a). An IRA or other eligible retirement plan must be maintained in the United States, which means one of the 50 states or the District of Columbia.

§ 1650.14 Deferred withdrawal elections.

(a) Subject to paragraph (b) of this section, a participant who separates from Government employment and elects to withdraw his or her account under one of the methods provided in §§ 1650.10, 1650.11 or 1650.12 may specify a future date (which shall be a month and year) for payment of the withdrawal.

(b) The future date chosen under this section cannot be later than March of the year following the year in which the participant becomes age 70½. If that date has already passed when the participant makes an election, the participant cannot choose a future date.

(c) If the withdrawal method chosen for future payment is a single payment or monthly payments (and the date specified for payment is more than four months in the future on the date the election form is processed), the participant will be notified before the date chosen that such payments are scheduled to begin. If the payments are eligible roll-over distributions, the participant may choose to transfer all or part of the payments to an Individual Retirement Arrangement (IRA) or another eligible retirement plan.

(d) If the withdrawal method chosen for future payment is an annuity (and the date specified for payment is more than four months in the future on the date the election form is processed), the participant will be notified before the date chosen. At that time, the participant will be sent information asking him or her to choose an annuity method, name a beneficiary (if the cash refund or 10-year certain feature is chosen), and provide any necessary spousal waiver or spousal information.

§ 1650.15 Required withdrawal date.

(a)(1) A participant must withdraw his or her account under § 1650.10 or begin receiving payments under §§ 1650.11 or 1650.12 by April 1 of the year following the later of the year in which:

(i) The participant turns 70½; or

(ii) The participant separates from Government employment.

(2) However, in no event will a withdrawal be required under paragraph (a)(1) of this section until 1998.

(b) A separated participant may elect to withdraw his or her account or begin receiving payments before the date described in paragraph (a) of this section, but is not required to do so.

§ 1650.16 Changes and cancellation of withdrawal election.

Subject to the rules relating to spouses' rights in subpart G of this part, a participant who has separated from Government employment can change his or her withdrawal election to any other withdrawal election or can cancel his or her withdrawal election if the change or cancellation can be processed before the withdrawal is disbursed.

Subpart C—Procedures for Post-Employment Withdrawals

§ 1650.20 Information to be provided by agency.

(a) *Information to be provided to the TSP.* When a TSP participant separates from Government employment, his or her employing agency must report the separation (including the date of separation) to the TSP record keeper. Until the TSP record keeper receives this information from the employing agency, it cannot process a post-employment withdrawal for the participant. A post-employment withdrawal cannot occur until at least 30 full calendar days have elapsed after the date of separation except when the § 1650.22(a) procedures apply.

(b) *Information to be provided to the participant.* When a TSP participant separates from Government employment, his or her employing agency must furnish the participant with the most recent copies of the TSP withdrawal booklet, withdrawal forms, and tax notice. The employing agency is also responsible for counseling participants concerning TSP withdrawals.

§ 1650.21 Accounts of more than $3,500.

A participant whose account balance is more than $3,500 must submit a properly completed withdrawal election on Form TSP–70, Withdrawal Request, and any other form required by the TSP, in order to elect a post-employment withdrawal of his or her account balance.

§ 1650.22 Accounts of $3,500 or less.

(a) Unless he or she has already submitted a complete withdrawal election and can be scheduled for payment, a participant whose account balance is $3,500 or less as of the month end following receipt of separation information from the employing agency will be sent a notice informing him or her that the account balance will be paid directly to the participant automatically in the third monthly processing cycle following the date of the notice if the account is still $3,500 or less on the date of payment. The notice will inform the participant that he or she can:

(1) Choose to transfer all or part of the payment to an Individual Retirement Arrangement (IRA) or other eligible retirement plan;

(2) Choose another withdrawal method (as described in subpart B of this part);

(3) Choose to have the payment made directly to him or her as soon as possible; or

(4) Choose to leave his or her money in the Plan.

(b) If the participant does not take one of the actions described in paragraph (a) of this section, payment will be made as scheduled.

(c) No spousal rights attach to any post-employment withdrawals made to a participant whose account balance is $3,500 or less.

(d) If a participant's account balance is $3,500 or less after separation but later increases to more than $3,500, this section will cease to apply to that participant.

(e) This section does not apply to accounts containing a balance of less than $5.00.

Subpart D—In-Service Withdrawals

§ 1650.30 Age-based withdrawals.

(a) A participant who reached age 59½ and who has not separated from Government employment is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. The amount of an age-based in-service withdrawal request must be at least $1,000.

(b) The participant may request that the TSP transfer all or a portion of the withdrawal to an Individual Retirement Arrangement (IRA) or other eligible retirement plan. If a participant chooses to receive directly all or a portion of the withdrawal, the TSP will withhold for Federal income tax purposes 20 percent of all amounts paid directly to the participant.

(c) A participant is permitted only one age-based in-service withdrawal.

§ 1650.31 Financial hardship withdrawals.

(a) A participant who has not separated from Government employment and who demonstrates financial hardship is eligible to withdraw all or a portion of his or her own contributions to the TSP and their attributable earnings in a single payment to meet certain specified financial obligations. The amount of a financial hardship in-service withdrawal request must be at least $1,000. A participant will demonstrate financial hardship if he or she meets one or both of the following tests:

(1) The participant's monthly cash flow is negative, *i.e.*, net income is less than ordinary monthly household expenses based on TSP calculations; and/or

(2) The participant has incurred or will incur within the next six months an extraordinary expense which he or she has not paid, for which there has not been and will not be reimbursement (as defined in § 1650.1), and which cannot be met by his or her monthly cash flow over a period of six months. Extraordinary expenses are limited to the following four types:

(i) Medical expenses payable by the participant and related to the treatment of the participant, the participant's spouse, or the participant's dependents. Generally, eligible expenses are those that would be eligible for deduction for Federal income tax purposes, but without regard to the Internal Revenue Service's (IRS) income limitations on deductions. However, the following IRS allowable expenses are excluded from TSP unreimbursed medical expenses: health insurance premiums and expenses associated with household improvements required as a result of a medical condition, illness, or injury to the participant, the participant's spouse, or the participant's dependents. These items are already taken into account elsewhere in the financial hardship determination;

(ii) The cost of household improvements required as a result of a medical condition, illness or injury to the participant, the participant's spouse, or the participant's dependents, which is eligible for deduction as a medical expense for Federal income tax purposes, but without regard to the IRS income limitations on deductions or the fair market value of the property. Household improvements are changes to the participant's living quarters or the installation of special equipment that is necessary to accommodate the circumstances of the incapacitated person;

(iii) The cost of repairs or replacement resulting from casualty loss that would be eligible for deduction for Federal income tax purposes, but without regard to the IRS income limitations on deductions, fair market value of the property, or number of events. This is sudden property loss resulting from damage or destruction by fire, storm, or other casualty, or due to theft of property; and

(iv) Legal costs, which are defined as attorney fees and court costs, associated with separation or divorce. Unpaid legal costs do not include alimony or child support payments or settlements a participant must pay a spouse or former spouse.

(b) The amount of a participant's financial hardship withdrawal cannot exceed the smallest of the following:

(1) The amount requested;

(2) The amount in the participant's account that is equal to his or her own contributions and attributable earnings; or

(3) The gross amount which would, subject to a request made under § 1650.42(b), result in a net disbursement to the participant (after the mandatory Federal income tax with holding) of enough funds to both:

(i) Make up the participant's negative cash flow for a period of six months in the case of a financial hardship withdrawal based on ordinary monthly household expenses; and

(ii) Pay the extraordinary expense upon which the participant's financial hardship withdrawal is based. If the participant has a negative cash flow, the amount of the net disbursement based on extraordinary expense is equal to the amount of the extraordinary expense. If there is a positive cash flow, the amount is equal to the amount of the expense minus six times the amount of the calculated monthly positive cash flow.

§ 1650.32 Contributing to the TSP after an in-service withdrawal.

(a) A participant's TSP contribution election will not be affected by an age-based in-service withdrawal; there fore, his or her TSP contributions will continue without interruption.

(b) A participant who obtains a financial hardship in-service withdrawal may not contribute to the TSP for any pay date falling within a

period of six months, beginning on the 46th day after the date of the withdrawal and ending 180 days after this beginning date; therefore, his or her TSP contributions (and any applicable matching contributions) will be discontinued by his or her agency upon notification by the TSP. A participant whose TSP contributions were discontinued by his or her agency because of a hardship withdrawal can resume contributions any time after expiration of the six month period by submitting a new TSP Election Form (TSP–1). If a participant voluntarily terminated TSP contributions, he or she can resume contributions at the expiration of the six-month period, or in the next open season during which the participant would be eligible to submit a new Form TSP–1, whichever is later.

§ 1650.33 Uniqueness of loans and withdrawals.

An outstanding TSP loan cannot be converted into an in-service withdrawal, and *vice versa*; nor can an in-service withdrawal be returned or repaid.

Subpart E—Procedures for In-Service Withdrawals

§ 1650.40 How to obtain an age-based in-service withdrawal.

To request an age-based in-service withdrawal, a participant must submit to the TSP Service Office a properly completed withdrawal election on Form TSP–75, Age-Based In-Service Withdrawal Request.

§ 1650.41 How to obtain a financial hardship in-service withdrawal.

To request a financial hardship in-service withdrawal, a participant must submit to the TSP Service Office a properly completed request for withdrawal on Form TSP–76, Financial Hardship In-Service Withdrawal Request, a current earnings and leave statement, and supporting documentation for any extraordinary expenses listed on the application.

§ 1650.42 Taxes related to in-service withdrawals.

(a) An in-service withdrawal is an eligible rollover distribution under the Internal Revenue Code (IRC), and the IRC requires that the Board withhold at least 20 percent for Federal income tax purposes from any portion of the withdrawal that is not directly transferred to an Individual Retirement Arrangement (IRA) or other eligible retirement plan. A participant who wants the TSP to transfer all or a portion of an in-service withdrawal to an IRA or other eligible retirement plan must submit to the TSP Service Office a properly completed Form TSP–75–T, Transfer of In-Service Withdrawal. If the participant does not make a transfer election, the withdrawal will be disbursed in the form of a single payment minus the mandatory tax withholding. The mandatory withholding cannot be waived, although a participant can elect to have additional taxes withheld by submitting Form W–4P, Withholding Certificate for Pension or Annuity Payments, to the TSP Service Office.

(b) If a participant applies for a financial hardship in-service withdrawal and does not make a transfer election, he or she can request the TSP to remove additional amounts from his or her TSP account so that the amount received after the mandatory 20 percent tax withholding is the amount requested (or for which the participant qualifies, if that amount is less than the amount requested). This option may be limited by the amount of employee contributions and attributable earnings available for withdrawal.

Subpart F—[Reserved]

Subpart G—Spousal Rights

§ 1650.60 Spousal rights pertaining to post-employment withdrawals.

(a) The spousal rights described in this section only apply to post-employment withdrawals when the participant's vested TSP account balance exceeds $3,500.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal, unless the participant was granted an exception under § 1650.63 to the spouse notification requirement within one year of the date the withdrawal form is processed by the TSP. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the most recent address provided by the participant.

(c) The spouse of a FERS participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund when the participant elects a post-employment withdrawal. The participant may make a different withdrawal election only if his or her spouse waives the right to this annuity. To show that the spouse has waived the right to this annuity, the participant must submit to the TSP record keeper Form TSP–70, Withdrawal Election, or Form TSP–11–C, Spouse Information and Waiver, signed by his or her spouse. Once a form containing the spouse's waiver has been submitted to the TSP record keeper, the spouse's waiver is irrevocable for purposes of that form.

§ 1650.61 Spousal rights when a separated participant changes post-employment withdrawal election.

(a) The spousal rights described in this section only apply to post-employment withdrawals when the participant's vested TSP account balance exceeds $3,500.

(b) The spouse of a CSRS participant is entitled to notice if the participant changes his or her post-employment withdrawal election, unless the participant was granted an exception under § 1650.63 to the spouse notification requirement within one year of the date the form requesting the change is processed by the TSP. The participant must provide the TSP record keeper with the spouse's current address. The TSP record keeper will send the required notice by first class mail to the most recent address provided by the participant.

(c)(1) A married FERS participant who has made a post-employment withdrawal election and who wants to elect another withdrawal method (other than the annuity required in § 1650.60(c)) must obtain a waiver from the spouse to whom he or she is married on the date the new withdrawal form is signed, unless:

(i) That spouse previously signed a waiver of the required annuity in connection with an earlier post-employment withdrawal election made by the participant; or

(ii) The participant was granted within one year of the date on which the new withdrawal form is received by the TSP an exception under § 1650.64 to the requirement to obtain that spouse's signature for an in-service or post-employment withdrawal election.

(2) Once a form containing the spouse's waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for purposes of that form.

§ 1650.62 Spousal rights pertaining to in-service withdrawals.

(a) The spousal rights described in this section apply to all in-service withdrawals and do not depend on the amount of the participant's vested account balance or the amount requested to be withdrawn.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal, unless the participant was granted within one year of the date on which the withdrawal form is received

by the TSP an exception to the notice requirement under § 1650.63. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the most recent address provided by the participant.

(c) A participant covered by FERS must obtain the consent of his or her spouse before obtaining an in-service withdrawal unless the participant was granted, within one year of the date on which the new withdrawal form is received by the TSP, an exception to a signature requirement under § 1650.64. To show spousal consent, a participant must submit to the TSP record keeper Form TSP–75, Age-Based In-Service Withdrawal Request, or Form TSP–76, Financial Hardship In-Service Withdrawal Request, signed by his or her spouse. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for purposes of that form.

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception to a notification requirement based on unknown whereabouts must be submitted to the Executive Director on Form TSP–16, Exception to Spousal Requirements, accompanied by one of the following:

(1) A judicial determination (court order) stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination signed by the appropriate department or division head which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons that meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, and state the efforts the participant has made to locate the spouse. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories or directory assistance for the city of the spouse's last known address. Negative statements such as ''I have not seen nor heard from him'' or ''I have not had contact with her'' are not sufficient.

(ii) The statements from two other persons must support the participant's statement that the participant does not know the whereabouts of his or her spouse.

(iii) Each statement must be signed and dated and must state the following:

I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both.

(b) A withdrawal election received within one year of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

§ 1650.64 Executive Director's exception to requirement to obtain the spouse's signature.

(a) Wherever this subpart requires a spouse's consent to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of § 1650.63; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be otherwise inappropriate.

(i) An exception to the spousal signature requirement may be granted based on exceptional circumstances only when the participant presents a judicial determination (court order) or a governmental agency determination signed by the appropriate department or division head. A court order or a governmental agency determination must contain a finding or a recitation of such exceptional circumstances regarding the spouse as would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed and include circumstances such as when a court order:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her Thrift Savings Plan account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A withdrawal election by a separated participant or an in-service withdrawal request by a participant in the Federal service received within one year of an approved exception will be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

(c) The requirements for establishing an exception for a withdrawal by a separated participant or an in-service withdrawal by a participant in the Federal service and the one-year period of validity of an approved exception also apply to exceptions for loans under 5 CFR 1655.18.

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